

**Chapter 23B.07 RCW
SHAREHOLDERS**

Sections

- 23B.07.010 Annual meeting.
- 23B.07.020 Special meeting.
- 23B.07.030 Court-ordered meeting.
- 23B.07.035 Inspectors to act at meetings—Appointment—Duties—
Certain corporations.
- 23B.07.040 Corporate action without a meeting or a vote.
- 23B.07.050 Notice of meeting.
- 23B.07.060 Waiver of notice.
- 23B.07.070 Record date.
- 23B.07.080 Shareholder participation by means of communication
equipment.
- 23B.07.200 Shareholders' list for meeting.
- 23B.07.210 Voting entitlement of shares.
- 23B.07.220 Proxies.
- 23B.07.230 Shares held by nominees.
- 23B.07.240 Corporation's acceptance or rejection of votes, ballots,
consents, waivers, or proxy appointments.
- 23B.07.250 Quorum and voting requirements.
- 23B.07.260 Corporate action by single and multiple voting groups.
- 23B.07.270 Greater or lesser quorum or voting requirements.
- 23B.07.280 Voting for directors—Cumulative voting.
- 23B.07.300 Voting trusts.
- 23B.07.310 Voting agreements.
- 23B.07.320 Agreements among shareholders—Acquisition of shares
after agreement—Liability.
- 23B.07.400 Derivative proceedings procedure.

RCW 23B.07.010 Annual meeting. (1) Except as provided in subsections (2) and (6) of this section, a corporation shall hold a meeting of shareholders annually for the election of directors at a time stated in or fixed in accordance with the bylaws.

(2)(a) If the articles of incorporation or the bylaws of a corporation registered as an investment company under the investment company act of 1940 so provide, the corporation is not required to hold an annual meeting of shareholders in any year in which the election of directors is not required by the investment company act of 1940.

(b) If a corporation is required under (a) of this subsection to hold an annual meeting of shareholders to elect directors, the meeting shall be held no later than one hundred twenty days after the occurrence of the event requiring the meeting.

(3) Subject to subsection (4) of this section:

(a) Annual shareholders' meetings may be held in or out of this state at the place stated in or fixed in accordance with the bylaws; and

(b) If no place is stated in or fixed in accordance with the bylaws, annual meetings shall be held at the corporation's principal office.

(4) Unless the articles of incorporation or bylaws provide otherwise, if the board of directors or another person is authorized in the bylaws to determine the place of annual meetings, the board of

directors or such other person may, in the sole discretion of the board of directors or such other person, determine that an annual meeting will not involve a physical assembly of shareholders at a particular geographic location, but instead will be held solely by means of remote communication, in accordance with RCW 23B.07.080.

(5) The failure to hold an annual meeting at the time stated in or fixed in accordance with a corporation's bylaws does not affect the validity of any corporate action.

(6) Shareholders may elect directors by written consent as permitted by RCW 23B.07.040 in lieu of holding an annual meeting. [2020 c 57 § 47; 2018 c 55 § 1; 2002 c 297 § 20; 1994 c 256 § 28; 1989 c 165 § 60.]

Findings—Construction—1994 c 256: See RCW 43.320.007.

RCW 23B.07.020 Special meeting. (1) A corporation shall hold a special meeting of shareholders:

(a) On call of its board of directors or the person or persons authorized to do so by the articles of incorporation or bylaws; or

(b) Except as set forth in subsections (2) and (3) of this section, if shareholders holding at least ten percent of all the votes entitled to be cast on any issue proposed to be considered at the proposed special meeting execute, date, and deliver to the corporation one or more written demands for the meeting describing the purpose or purposes for which it is to be held.

(2) The right of shareholders of a public company to call a special meeting may be limited or denied to the extent provided in the articles of incorporation.

(3) If the corporation is other than a public company, the articles of incorporation or bylaws may require the demand specified in subsection (1)(b) of this section be made by a greater percentage, not in excess of twenty-five percent, of all the votes entitled to be cast on any issue proposed to be considered at the proposed special meeting.

(4) If not otherwise fixed under RCW 23B.07.030 or 23B.07.070, the record date for determining shareholders entitled to demand a special meeting is the first date on which an executed shareholder demand is delivered to the corporation. No written demand for a special meeting will be effective unless, within 60 days after the earliest date on which a demand delivered to the corporation as required by this section was executed, written demands executed by shareholders holding at least the percentage of votes specified in subsection (1)(b) of this section or, if applicable, fixed in accordance with subsection (2) or (3) of this section, have been delivered to the corporation.

(5) Subject to subsection (6) of this section:

(a) Special shareholders' meetings may be held in or out of this state at the place stated in or fixed in accordance with the bylaws; and

(b) If no place is stated or fixed in accordance with the bylaws, special meetings shall be held at the corporation's principal office.

(6) Unless the articles of incorporation or bylaws provide otherwise, if the board of directors or another person is authorized in the bylaws to determine the place of special meetings, the board of directors or such other person may, in the sole discretion of the

board of directors or such other person, determine that a special meeting will not involve a physical assembly of shareholders at a particular geographic location, but instead will be held solely by means of remote communication, in accordance with RCW 23B.07.080.

(7) Only business within the purpose or purposes described in the meeting notice required by RCW 23B.07.050(3) may be conducted at a special shareholders' meeting. [2022 c 42 § 104; 2020 c 57 § 48; 2018 c 55 § 2; 2002 c 297 § 21; 1989 c 165 § 61.]

RCW 23B.07.030 Court-ordered meeting. (1) The superior court of the county in which the corporation's registered office is located may, after notice to the corporation, summarily order a meeting to be held:

(a) On application of any shareholder of the corporation entitled to vote in the election of directors at an annual meeting, if an annual meeting was not held within the earlier of six months after the end of the corporation's fiscal year or fifteen months after its last annual meeting or approval of corporate action by shareholder consent in lieu of such a meeting; or

(b) On application of a shareholder who executed a demand for a special meeting valid under RCW 23B.07.020, if:

(i) Notice of the special meeting was not given within thirty days after the date the demand was delivered to the corporation's secretary; or

(ii) The special meeting was not held in accordance with the notice.

(2) The court may, after notice to the corporation, fix the time and place of the meeting, determine the shares and shareholders entitled to participate in the meeting, specify a record date for determining shareholders entitled to notice of and to vote at the meeting, prescribe the manner, form, and content of the meeting notice, fix the quorum required for specific matters to be considered at the meeting, or direct that the votes represented at the meeting constitute a quorum for approval of those matters, and enter other orders necessary to accomplish the purpose or purposes of the meeting. [2009 c 189 § 13; 2002 c 297 § 22; 1989 c 165 § 62.]

RCW 23B.07.035 Inspectors to act at meetings—Appointment—Duties—Certain corporations. (1) A corporation having any shares listed on a national securities exchange or regularly traded in a market maintained by one or more members of a national or affiliated securities association shall, and any other corporation may, appoint one or more inspectors to act at a meeting of shareholders in connection with determining voting results. Each inspector shall verify in writing that the inspector will faithfully execute the duties of inspector with strict impartiality and according to the best of the inspector's ability.

(2) The inspectors shall:

(a) Ascertain the number of shares outstanding and the voting power of each;

(b) Determine the shares represented at a meeting;

(c) Determine the validity of proxy appointments and ballots;

(d) Count the votes and ballots; and

(e) Make a written report of the results.

(3) An inspector may be an officer or employee of the corporation.

(4) If no challenge of a determination by the inspectors is timely made, such determination is conclusive. Challenge of any determination by the inspectors may be made in a court of competent jurisdiction. [2020 c 57 § 49; 2007 c 467 § 6.]

RCW 23B.07.040 Corporate action without a meeting or a vote.

(1)(a) Corporate action required or permitted by this title to be approved by a shareholder vote at a meeting may be approved without a meeting or a vote if either:

(i) The corporate action is approved by all shareholders entitled to vote on the corporate action; or

(ii) The corporate action is approved by shareholders holding of record or otherwise entitled to vote in the aggregate not less than the minimum number of votes that would be necessary to approve such corporate action at a meeting at which all shares entitled to vote on the corporate action were present and voted, and at the time the corporate action is approved the corporation is authorized to approve such corporate action under this subsection (1)(a)(ii) by a general or limited authorization contained in its articles of incorporation, except that if a corporation's articles of incorporation authorize shareholders to cumulate their votes when electing directors pursuant to RCW 23B.07.280, shareholders may not elect directors by less than unanimous written consent.

(b) Corporate action may be approved by shareholders without a meeting or a vote if the approval is evidenced by one or more written consents:

(i) Executed by shareholders holding of record or otherwise entitled to vote in the aggregate not less than the minimum number of votes necessary under (a)(i) or (ii) of this subsection;

(ii) Indicating the date of execution, which date must be on or after the applicable record date determined in accordance with subsection (2) of this section;

(iii) Describing the corporate action being approved; and

(iv) Delivered to the corporation for filing by the corporation with the minutes or corporate records in accordance with subsection (4) of this section. When delivered to each shareholder for execution, the consent must include or be accompanied by the same material that would have been required by this title to be delivered to shareholders in or accompanying a notice of meeting at which the proposed corporate action would have been submitted for shareholder approval. A shareholder may withdraw an executed shareholder consent by delivering a written notice of withdrawal to the corporation prior to the time when shareholder consents sufficient to approve the corporate action have been delivered to the corporation.

(c) A written consent in the form of an electronic transmission will be deemed to have been executed by a shareholder if it indicates that shareholder's present intent to approve the corporate action and contains or is accompanied by information from which the corporation can determine that the electronic transmission was transmitted by the shareholder and the date on which the shareholder transmitted the electronic transmission.

(2) The record date for determining shareholders entitled to approve a corporate action without a meeting may be fixed under RCW 23B.07.030 or 23B.07.070, but if not so fixed shall be the date of

execution indicated on the earliest dated shareholder consent executed under subsection (1) of this section, even though such shareholder consent may not have been delivered to the corporation on that date.

(3) (a) Notice that shareholder consents are being sought under subsection (1)(a) of this section must be given, by the corporation or by another person soliciting such consents, on or promptly after the record date, to all shareholders entitled to vote on the record date who have not yet executed the shareholder consent and, if this title would otherwise require that notice of a meeting of shareholders to consider the proposed corporate action be given to nonvoting shareholders, to all nonvoting shareholders as of the record date. Notice given under this subsection (3)(a) must include or be accompanied by the same information required to be included in or to accompany the shareholder consent under subsection (1)(b)(iii) and (iv) of this section.

(b) Notice that sufficient written consents have been executed to approve the proposed corporate action under either of subsection (1)(a)(i) or (ii) of this section must be given by the corporation, promptly after delivery to the corporation of written consents sufficient to approve the corporate action in accordance with subsection (4) of this section, to all shareholders entitled to vote on the record date and, if this title would otherwise require that notice of a meeting of shareholders to consider the proposed corporate action be given to nonvoting shareholders, to all nonvoting shareholders as of the record date.

(4) Unless the consent executed by shareholders specifies a later time as the time at which the approval of the corporate action is to be effective, shareholder approval obtained under this section is effective when:

(a) Executed shareholder consents sufficient to approve the proposed corporate action have been delivered to the corporation in any manner authorized by RCW 23B.01.410; and

(b) Any period of advance notice required by the corporation's articles of incorporation to be given to any nonconsenting shareholders has been satisfied. No written consent is effective to approve a proposed corporate action unless, within sixty days after the earliest date on which a consent delivered to the corporation as required by this section was executed, written consents executed by a sufficient number of shareholders to approve the corporate action are delivered to the corporation.

(5) Approval of corporate action by written consents under this section has the effect of a meeting vote and may be described as such in any document, except that, if the corporate action requires the filing of a certificate under any other section of this title, the certificate so filed shall state, in lieu of any statement required by that section concerning any vote of shareholders, that shareholder approval has been obtained in accordance with this section and that notice to any nonconsenting shareholders has been given to the extent required by this section.

(6) The notice requirements in subsection (3)(a) and (b) of this section will not delay the effectiveness of approval of corporate action by written consents, and failure to comply with those notice requirements will not invalidate approval of corporate action by written consents; except that this subsection is not intended to limit judicial power to fashion any appropriate remedy in favor of a shareholder adversely affected by a failure to give such notice in accordance with those subsections. [2021 c 84 § 4. Prior: 2020 c 194

§ 15; 2020 c 57 § 50; 2009 c 189 § 14; 2002 c 297 § 23; 1997 c 19 § 2; 1991 c 72 § 33; 1989 c 165 § 63.]

RCW 23B.07.050 Notice of meeting. (1) A corporation shall notify shareholders of the date, time, and place of each annual and special shareholders' meeting. Such notice shall be given no fewer than ten nor more than sixty days before the meeting date, except that notice of a shareholders' meeting to act on an amendment to the articles of incorporation, a plan of merger or share exchange, a proposed disposition of property and assets pursuant to RCW 23B.12.020, or the dissolution of the corporation shall be given no fewer than twenty nor more than sixty days before the meeting date. Unless this title or the articles of incorporation require otherwise, the corporation is required to give notice only to shareholders entitled to vote at the meeting.

(2) Unless this title or the articles of incorporation require otherwise, notice of an annual meeting need not include a description of the purpose or purposes for which the meeting is called.

(3) Notice of a special meeting must include a description of the purpose or purposes for which the meeting is called.

(4) Unless the bylaws require otherwise, if an annual or special shareholders' meeting is adjourned to a different date, time, or place, notice need not be given of the new date, time, or place if the new date, time, or place is announced at the meeting before adjournment. If a new record date for the adjourned meeting is or must be fixed under RCW 23B.07.070, however, notice of the adjourned meeting must be given under this section to persons who are shareholders as of the new record date. [2017 c 28 § 13; 1989 c 165 § 64.]

RCW 23B.07.060 Waiver of notice. (1) A shareholder may waive any notice required by this title, the articles of incorporation, or bylaws before or after the date and time stated in the notice, or in the case of notice required by RCW 23B.07.040(3), before or after the corporate action to be approved by written consent becomes effective. Except as provided by subsections (2) and (3) of this section, the waiver must be in writing, be executed by the shareholder entitled to the notice, and be delivered to the corporation for filing by the corporation with the minutes or corporate records.

(2) A shareholder's attendance at a meeting waives objection to lack of notice or defective notice of the meeting, unless the shareholder at the beginning of the meeting objects to holding the meeting or transacting business at the meeting.

(3) A shareholder waives objection to consideration of a particular matter at a meeting that is not within the purpose or purposes described in the meeting notice, unless the shareholder objects to considering the matter when it is presented. [2020 c 57 § 51; 2009 c 189 § 15; 2002 c 297 § 24; 1991 c 72 § 34; 1989 c 165 § 65.]

RCW 23B.07.070 Record date. (1) The bylaws may fix or provide the manner of fixing the record date for one or more voting groups in order to determine the shareholders entitled to notice of a shareholders' meeting, to demand a special meeting, to vote, or to

approve any other corporate action. If the bylaws do not fix or provide for fixing a record date, the board of directors of the corporation may fix the record date, which date may not precede the date on which the resolution fixing the record date is approved.

(2) If not otherwise fixed under subsection (1) of this section or RCW 23B.07.030, the record date for determining shareholders entitled to notice of and to vote at an annual or special shareholders' meeting is the day before the first notice is delivered to shareholders.

(3) A record date fixed under this section may not be more than seventy days before the meeting of shareholders or more than ten days prior to the date on which the first shareholder consent is executed under RCW 23B.07.040(1)(b).

(4) A determination of shareholders entitled to notice of or to vote at a shareholders' meeting is effective for any adjournment of the meeting unless the board of directors fixes a new record date, which it must do if the meeting is adjourned to a date more than one hundred twenty days after the date fixed for the original meeting.

(5) If a court orders a meeting adjourned to a date more than one hundred twenty days after the date fixed for the original meeting, it may provide that the original record date continues in effect or it may fix a new record date. [2022 c 42 § 105; 2009 c 189 § 16; 1989 c 165 § 66.]

RCW 23B.07.080 Shareholder participation by means of communication equipment. (1) Unless the articles of incorporation or bylaws provide otherwise, a corporation may permit any or all shareholders to participate in any meeting of shareholders by means of, or conduct the meeting solely through the use of, remote communication. Subject to the provisions of subsection (2) of this section, participation by remote communication is to be subject to any guidelines and procedures adopted by or pursuant to the authority of the board of directors.

(2) If a corporation elects to permit participation by means of, or conduct a meeting solely through the use of, remote communication:

(a) The notice of the meeting must specify how a shareholder may participate in the meeting by means of remote communication; and

(b) The corporation must implement reasonable measures to (i) verify that each person participating remotely as a shareholder or proxy holder is a shareholder or proxy holder, and (ii) provide each person participating remotely as a shareholder or proxy holder a reasonable opportunity to participate in the meeting and to vote on matters submitted to the shareholders, including an opportunity to read or hear the proceedings of the meeting substantially concurrently with those proceedings.

(3) Participation in a meeting in accordance with this section constitutes presence in person at that meeting.

(4) If the board of directors or another authorized person determines to hold a shareholders' meeting without a physical assembly of shareholders in accordance with RCW 23B.07.010(4) or 23B.07.020(6), all shareholders entitled to vote at such meeting must have the opportunity to participate in the meeting by remote communication in accordance with this section. [2018 c 55 § 3; 1989 c 165 § 67.]

RCW 23B.07.200 Shareholders' list for meeting. (1) After fixing a record date for a meeting, a corporation shall prepare an alphabetical list of the names of all its shareholders on the record date who are entitled to notice of a shareholders' meeting. The list must be arranged by voting group, and within each voting group by class or series of shares, and show the address of and number of shares held by each shareholder. Nothing contained in this section requires the corporation to include on such list the electronic mail address or other electronic contact information of a shareholder.

(2) The shareholders' list must be available for inspection by any shareholder, beginning ten days prior to the meeting and continuing through the meeting either: (a) On a reasonably accessible electronic network, on condition that the information necessary to gain access to the list is provided in or accompanies the notice of the meeting; or (b) at the corporation's principal office or at a place identified in the meeting notice in the city where the meeting will be held. If the corporation elects to make the list available on an electronic network, the corporation may take reasonable steps to ensure that such information is available only to shareholders or their agents or attorneys. A shareholder, the shareholder's agent, or the shareholder's attorney is entitled to inspect the list, during regular business hours and at the shareholder's expense, during the period it is available for inspection.

(3) The corporation must make the shareholders' list available at the meeting, and any shareholder, the shareholder's agent, or the shareholder's attorney is entitled to inspect the list at any time during the meeting or any adjournment. If the meeting is held solely by means of remote communication in accordance with RCW 23B.07.010(4) or 23B.07.020(6), then the list must be available for inspection by any shareholder, the shareholder's agent, or the shareholder's attorney during the whole time of the meeting on a reasonably accessible electronic network, and the information required to access the list must be provided with the notice of the meeting.

(4) If the corporation refuses to allow a shareholder, the shareholder's agent, or the shareholder's attorney to inspect the shareholders' list before or at the meeting, the superior court of the county where a corporation's principal office, or, if none in this state, its registered office, is located, on application of the shareholder, may summarily order the inspection at the corporation's expense and may postpone the meeting for which the list was prepared until the inspection is complete.

(5) A shareholder's right to copy the shareholders' list, and a shareholder's right to otherwise inspect and copy the record of shareholders, is governed by RCW 23B.16.020(3).

(6) Refusal or failure to prepare or make available the shareholders' list does not affect the validity of corporate action approved at the meeting. [2022 c 42 § 106; 2020 c 57 § 52; 2009 c 189 § 17; 1989 c 165 § 68.]

RCW 23B.07.210 Voting entitlement of shares. (1) Except as provided in subsections (2) and (3) of this section or unless the articles of incorporation provide otherwise, each outstanding share, regardless of class or series, is entitled to one vote on each matter voted on at a shareholders' meeting. Only shares are entitled to vote.

(2) Shares of a corporation are not entitled to vote if they are owned by or otherwise belong to the corporation, directly or

indirectly, or by a second corporation, domestic or foreign, and the first corporation owns, through an entity of which a majority of the voting power is held directly or indirectly by the corporation or which is otherwise controlled by the corporation.

(3) Shares held by the corporation in a fiduciary capacity for the benefit of any person are entitled to vote unless they are held for the benefit of, or otherwise belong to, the corporation directly or indirectly through an entity of which a majority of the voting power is held directly or indirectly by the corporation or which is otherwise controlled by the corporation.

(4) Redeemable shares are not entitled to vote after delivery of written notice of redemption is effective and a sum sufficient to redeem the shares has been deposited with a bank, trust company, or other financial institution under an irrevocable obligation to pay the holders the redemption price on surrender of the shares. [2020 c 194 § 13; 1989 c 165 § 69.]

RCW 23B.07.220 Proxies. (1) A shareholder may vote the shareholder's shares in person or by proxy.

(2) A shareholder or the shareholder's agent or attorney-in-fact may appoint a proxy to vote or otherwise act for the shareholder by executing an appointment form, or by an electronic transmission. An electronic transmission must contain or be accompanied by information from which the recipient can determine the date of the transmission and that the transmission was authorized by the sender or the sender's agent or attorney-in-fact.

(3) An appointment of a proxy is effective when an executed appointment form or an electronic transmission of the appointment is received by the inspector of election or the officer or agent of the corporation authorized to tabulate votes. An appointment is valid for the term provided in the appointment form or electronic transmission, and, if no term is provided, is valid for eleven months unless the appointment is irrevocable under subsection (4) of this section.

(4) An appointment of a proxy is revocable by the shareholder unless the appointment form or electronic transmission states that it is irrevocable and the appointment is coupled with an interest. Appointments coupled with an interest include the appointment of:

- (a) A pledgee;
- (b) A person who purchased or agreed to purchase the shares;
- (c) A creditor of the corporation who extended it credit under terms requiring the appointment;
- (d) An employee of the corporation whose employment contract requires the appointment; or
- (e) A party to a voting agreement created under RCW 23B.07.310.

(5) The death or incapacity of the shareholder appointing a proxy does not affect the right of the corporation to accept the proxy's authority unless notice of the death or incapacity is received by the officer or agent of the corporation authorized to tabulate votes before the proxy exercises the proxy's authority under the appointment.

(6) An appointment made irrevocable under subsection (4) of this section is revoked when the interest with which it is coupled is extinguished.

(7) A transferee for value of shares subject to an irrevocable appointment may revoke the appointment if the transferee did not know of its existence when the transferee acquired the shares and the

existence of the irrevocable appointment was not noted conspicuously on the certificate representing the shares or on the information statement for shares without certificates.

(8) Subject to RCW 23B.07.240 and to any express limitation on the proxy's authority stated in the appointment form or electronic transmission, a corporation is entitled to accept the proxy's vote or other action as that of the shareholder making the appointment. [2020 c 57 § 53; 2002 c 297 § 25; 2000 c 168 § 2; 1989 c 165 § 70.]

RCW 23B.07.230 Shares held by nominees. (1) A corporation may establish a procedure by which the beneficial owner of shares that are registered in the name of a nominee is recognized by the corporation as the shareholder. The extent of this recognition may be determined in the procedure.

(2) The procedure may set forth:

(a) The types of nominees to which it applies;

(b) The rights or privileges that the corporation recognizes in a beneficial owner;

(c) The manner in which the procedure is selected by the nominee;

(d) The information that must be provided when the procedure is selected;

(e) The period for which selection of the procedure is effective; and

(f) Other aspects of the rights and duties created. [1989 c 165 § 71.]

RCW 23B.07.240 Corporation's acceptance or rejection of votes, ballots, consents, waivers, or proxy appointments. (1) If the name executed on a vote, ballot, consent, waiver, or proxy appointment corresponds to the name of a shareholder, the corporation, if acting in good faith, is entitled to accept the vote, ballot, consent, waiver, or proxy appointment and give it effect as the act of the shareholder.

(2) If the name executed on a vote, ballot, consent, waiver, or proxy appointment does not correspond to the name of its shareholder, the corporation, if acting in good faith, is nevertheless entitled to accept the vote, ballot, consent, waiver, or proxy appointment and give it effect as the act of the shareholder if:

(a) The shareholder is an entity and the name executed purports to be that of an officer, partner, or agent of the entity;

(b) The name executed purports to be that of an administrator, executor, guardian, or conservator representing the shareholder and, if the corporation requests, evidence of fiduciary status acceptable to the corporation has been presented with respect to the vote, ballot, consent, waiver, or proxy appointment;

(c) The name executed purports to be that of a receiver or trustee in bankruptcy of the shareholder and, if the corporation requests, evidence of this status acceptable to the corporation has been presented with respect to the vote, consent, waiver, or proxy appointment;

(d) The name executed purports to be that of a pledgee, beneficial owner, or attorney-in-fact of the shareholder and, if the corporation requests, evidence acceptable to the corporation of the signatory's authority to execute for the shareholder has been

presented with respect to the vote, ballot, consent, waiver, or proxy appointment; or

(e) Two or more persons are the shareholder as cotenants or fiduciaries and the name executed purports to be the name of at least one of the co-owners and the person signing appears to be acting on behalf of all the co-owners.

(3) The corporation is entitled to reject a vote, ballot, consent, waiver, or proxy appointment if the person authorized to count votes, acting in good faith, has reasonable basis for doubt about the validity of its execution.

(4) Neither the corporation nor the person authorized to count votes, including an inspector of election under RCW 23B.07.035, that accepts or rejects a vote, ballot, consent, waiver, or proxy appointment in good faith and in accordance with the standards of this section or RCW 23B.07.220(2) is liable in damages to the shareholder for the consequences of the acceptance or rejection.

(5) Corporate action based on the acceptance or rejection of a vote, ballot, consent, waiver, or proxy appointment under this section, or RCW 23B.07.220(2) is valid unless a court of competent jurisdiction determines otherwise. [2020 c 57 § 54; 2002 c 297 § 26; 2000 c 168 § 3; 1989 c 165 § 72.]

RCW 23B.07.250 Quorum and voting requirements. (1) Shares entitled to vote as a separate voting group may approve a corporate action at a meeting only if a quorum of those shares exists with respect to that corporate action. Unless the articles of incorporation or this title provide otherwise, a majority of the votes entitled to be cast on the corporate action by the voting group constitutes a quorum of that voting group for approval of that corporate action.

(2) Once a share is represented for any purpose at a meeting other than solely to object to holding the meeting or transacting business at the meeting, it is deemed present for quorum purposes for the remainder of the meeting and for any adjournment of that meeting unless a new record date is or must be set for that adjourned meeting.

(3) If a quorum exists, a corporate action, other than the election of directors, is approved by a voting group if the votes cast within the voting group favoring the corporate action exceed the votes cast within the voting group opposing the corporate action, unless the articles of incorporation or this title require a greater number of affirmative votes.

(4) An amendment of articles of incorporation adding, changing, or deleting either (i) [(a)] a quorum for a voting group greater or lesser than specified in subsection (1) of this section, or (ii) [(b)] a voting requirement for a voting group greater than specified in subsection (3) of this section, is governed by RCW 23B.07.270.

(5) The election of directors is governed by RCW 23B.07.280. [2009 c 189 § 18; 1989 c 165 § 73.]

RCW 23B.07.260 Corporate action by single and multiple voting groups. (1) If the articles of incorporation or this title provide for voting on a corporate action by all shares entitled to vote thereon, voting together as a single voting group and do not provide for separate voting by any other voting group or groups with respect to that corporate action, that corporate action is approved when voted upon by that single voting group as provided in RCW 23B.07.250.

(2) If the articles of incorporation or this title provide for voting by two or more voting groups on a corporate action, that corporate action is approved only when voted upon by each of those voting groups as provided in RCW 23B.07.250. [2009 c 189 § 19; 2003 c 35 § 2; 1989 c 165 § 74.]

RCW 23B.07.270 Greater or lesser quorum or voting requirements.

(1) The articles of incorporation may provide for a greater or lesser quorum, but not less than one-third of the votes entitled to be cast, for shareholders, or voting groups of shareholders, than is provided for by this title.

(2) The articles of incorporation may provide for a greater voting requirement for shareholders, or voting groups of shareholders, than is provided for by this title.

(3) Under RCW 23B.10.030, 23B.11.030, 23B.12.020, and 23B.14.020, the articles of incorporation may provide for a lesser vote than is otherwise prescribed in those sections or for a lesser vote by separate voting groups, so long as the vote provided for each voting group entitled to vote separately on the plan or transaction is not less than a majority of all the votes entitled to be cast on the plan or transaction by that voting group.

(4) Except as provided in subsection (5) of this section, an amendment to the articles of incorporation that adds, changes, or deletes a greater or lesser quorum or voting requirement for a particular corporate action must meet the same quorum requirement and be adopted by the same vote and voting groups as are required under the quorum and voting requirements then in effect for approval of the corporate action.

(5) An amendment to the articles of incorporation that adds, changes, or deletes a greater or lesser quorum or voting requirement for a merger, share exchange, sale of substantially all assets, or dissolution must be adopted by the same vote and voting groups as are required under the quorum and voting requirements then in effect for approval of the particular corporate action, or the quorum and voting requirements then in effect for amendments to articles of incorporation, whichever is greater. [2009 c 189 § 20; 1990 c 178 § 11; 1989 c 165 § 75.]

Effective date—1990 c 178: See note following RCW 23B.01.220.

RCW 23B.07.280 Voting for directors—Cumulative voting. (1)

Shareholders do not have a right to cumulate their votes for directors unless the articles of incorporation provide otherwise or as set forth in subsection (2) of this section. A statement included in the articles of incorporation that "[all] [a designated voting group of] shareholders are entitled to cumulate their votes for directors," or words of similar import, means that the shareholders designated are entitled to multiply the number of votes they are entitled to cast by the number of directors for whom they are entitled to vote and to cast the product for a single candidate or distribute the product among two or more candidates.

(2) With respect to a corporation formed before January 1, 2020, unless otherwise provided in the articles of incorporation, shareholders entitled to vote at any election of directors are

entitled to cumulate votes by multiplying the number of votes they are entitled to cast by the number of directors for whom they are entitled to vote and to cast the product for a single candidate or distribute the product among two or more candidates.

(3) Shares otherwise entitled to vote cumulatively may not be voted cumulatively at a particular meeting unless:

(a) The meeting notice or proxy statement accompanying the notice states conspicuously that cumulative voting is authorized; or

(b) A shareholder who has the right to cumulate the shareholder's votes gives notice to the corporation not less than seventy-two hours before the time set for the meeting of the shareholder's intent to cumulate votes during the meeting, and if one shareholder gives this notice all other shareholders in the same voting group participating in the election are entitled to cumulate their votes without giving further notice.

(4) Unless otherwise provided in the articles of incorporation or in a bylaw adopted under RCW 23B.10.205, in any election of directors the candidates elected are those receiving the largest numbers of votes cast by the shares entitled to vote in the election, up to the number of directors to be elected by such shares. [2019 c 141 § 3; 2009 c 189 § 21; 1989 c 165 § 76.]

RCW 23B.07.300 Voting trusts. (1) One or more shareholders may create a voting trust, conferring on a trustee the right to vote or otherwise act for them, by executing an agreement setting out the provisions of the trust, which may include anything consistent with its purpose, and transferring their shares to the trustee. When a voting trust agreement is executed, the trustee shall prepare a list of the names and addresses of all voting trust beneficial owners, together with the number and class of shares each voting trust beneficial owner transferred to the trust, and deliver copies of the list and agreement to the corporation's principal office.

(2) A voting trust becomes effective on the date the first shares subject to the trust are registered in the trustee's name.

(3) Limits, if any, on the duration of a voting trust are to be as set forth in the voting trust agreement. A voting trust that became effective when this section limited the term of a voting trust to ten years will remain governed by the provisions of this section then in effect relating to the duration of voting trusts, unless the voting trust agreement is amended to provide otherwise by unanimous agreement of the parties to that agreement. [2020 c 57 § 55; 2017 c 28 § 15; 1989 c 165 § 77.]

RCW 23B.07.310 Voting agreements. (1) Two or more shareholders may provide for the manner in which they will vote their shares by executing an agreement for that purpose. A voting agreement created under this section is not subject to the provisions of RCW 23B.07.300.

(2) A voting agreement created under this section is specifically enforceable. [2020 c 57 § 56; 1989 c 165 § 78.]

RCW 23B.07.320 Agreements among shareholders—Acquisition of shares after agreement—Liability. (1) An agreement among the shareholders of a corporation that is not contrary to public policy

and that complies with this section is effective among the shareholders and the corporation even though it is inconsistent with one or more other provisions of this title in that it:

(a) Eliminates the board of directors or restricts the discretion or powers of the board of directors;

(b) Governs the approval or making of distributions whether or not in proportion to ownership of shares, subject to the limitations in RCW 23B.06.400;

(c) Establishes who shall be directors or officers of the corporation, or their terms of office or manner of selection or removal;

(d) Governs, in general or in regard to specific matters, the exercise or division of voting power by or between the shareholders and directors or by or among any of them, including use of weighted voting rights or director proxies;

(e) Establishes the terms and conditions of any agreement for the transfer or use of property or the provision of services between the corporation and any shareholder, director, officer, or employee of the corporation or among any of them;

(f) Transfers to one or more shareholders or other persons all or part of the authority to exercise the corporate powers or to manage the business and affairs of the corporation;

(g) Provides a process by which a deadlock among directors or shareholders may be resolved;

(h) Requires dissolution of the corporation at the request of one or more shareholders or upon the occurrence of a specified event or contingency; or

(i) Otherwise governs the exercise of the corporate powers or the management of the business and affairs of the corporation or the relationship among the shareholders, the directors, and the corporation, or among any of them.

(2) An agreement authorized by this section shall be:

(a) Set forth in a written agreement that is executed by all persons who are shareholders at the time of the agreement and is made known to the corporation; and

(b) Subject to amendment only by all persons who are shareholders at the time of the amendment, unless the agreement provides otherwise.

(3) The existence of an agreement authorized by this section shall be noted conspicuously on the front or back of each certificate for outstanding shares or on the information statement required by RCW 23B.06.260(2). If at the time of the agreement the corporation has shares outstanding represented by certificates, the corporation shall recall the outstanding certificates and issue substitute certificates that comply with this subsection. The failure to note the existence of the agreement on the certificate or information statement shall not affect the validity of the agreement or any action taken pursuant to it. Unless the agreement provides otherwise, any person who acquires outstanding or newly issued shares in the corporation after an agreement authorized by this section has been effected, whether by purchase, gift, operation of law, or otherwise, is deemed to have assented to the agreement and to be a party to the agreement. A purchaser of shares who is aggrieved because he or she at the time of purchase did not have actual or constructive knowledge of the existence of the agreement may either: (a) Bring an action to rescind the purchase within the earlier of ninety days after discovery of the existence of the agreement or two years after the purchase of the shares; or (b) continue to hold the shares subject to the agreement

but with a right of action for any damages resulting from nondisclosure of the existence of the agreement. A purchaser shall be deemed to have constructive knowledge of the existence of the agreement if its existence is noted on the certificate or information statement for the shares in compliance with this subsection and, if the shares are not represented by a certificate, the information statement is delivered to the purchaser at or prior to the time of purchase of the shares.

(4) An agreement authorized by this section shall cease to be effective when shares of the corporation are listed on a national securities exchange or regularly traded in a market maintained by one or more members of a national or affiliated securities association.

(5) An agreement authorized by this section that limits the discretion or powers of the board of directors shall relieve the directors of, and impose upon the person or persons in whom such discretion or powers are vested, liability for acts or omissions imposed by law on directors to the extent that the discretion or powers of the directors are limited by the agreement.

(6) The existence or performance of an agreement authorized by this section shall not be a ground for imposing personal liability on any shareholder for the acts or debts of the corporation even if the agreement or its performance treats the corporation as if it were a partnership or results in failure to observe the corporate formalities otherwise applicable to the matters governed by the agreement.

(7) Incorporators or subscribers for shares may act as shareholders with respect to an agreement authorized by this section if no shares have been issued when the agreement is made.

(8) Limits, if any, on the duration of an agreement governed by this section are to be as set forth in the agreement. An agreement governed by this section that became effective when this section limited the term of such an agreement to ten years unless the agreement provided otherwise will remain governed by the provisions of this section then in effect relating to the duration of agreements among shareholders. [2020 c 57 § 57; 2017 c 28 § 16; 2009 c 189 § 22; 1995 c 47 § 6; 1993 c 290 § 4.]

RCW 23B.07.400 Derivative proceedings procedure. (1) A person may not commence a proceeding in the right of a domestic or foreign corporation unless the person was a shareholder of the corporation when the transaction complained of occurred or unless the person became a shareholder through transfer by operation of law from one who was a shareholder at that time.

(2) A complaint in a proceeding brought in the right of a corporation must be verified and allege with particularity the demand made, if any, to obtain action by the board of directors and either that the demand was refused or ignored or why a demand was not made. Whether or not a demand for action was made, if the corporation commences an investigation of the charges made in the demand or complaint, the court may stay any proceeding until the investigation is completed.

(3) A proceeding commenced under this section may not be discontinued or settled without the court's approval. If the court determines that a proposed discontinuance or settlement will substantially affect the interest of the corporation's shareholders or a class of shareholders, the court shall direct that notice be given to the shareholders affected.

(4) On termination of the proceeding the court may require the plaintiff to pay any defendant's reasonable expenses, including counsel fees, incurred in defending the proceeding if it finds that the proceeding was commenced without reasonable cause.

(5) For purposes of this section, "shareholder" includes a beneficial owner whose shares are held in a voting trust or held by a nominee on behalf of the beneficial owner. [1989 c 165 § 79.]