

2 **HB 1074** - S COMM AMD

3 By Committee on Law & Justice

4

5 Strike everything after the enacting clause and insert the
6 following:

7 **"Sec. 1.** RCW 18.100.120 and 1982 c 35 s 169 are each amended to
8 read as follows:

9 Corporations organized pursuant to this chapter shall render
10 professional service and exercise its authorized powers under a name
11 permitted by law and the professional ethics of the profession in which
12 the corporation is so engaged. (~~In the event that the words~~
13 ~~"company", "corporation" or "incorporated" or any other word,~~
14 ~~abbreviation, affix or prefix indicating that it is a corporation shall~~
15 ~~be used, it shall be accompanied with the abbreviation "P.S." or "P.C."~~
16 ~~or the words "professional service".~~) The corporate name of a
17 professional service corporation must contain either the words
18 "professional service" or "professional corporation" or the
19 abbreviation "P.S." or "P.C." The corporate name may also contain
20 either the words "corporation," "incorporated," "company," or
21 "limited," or the abbreviation "corp.," "inc.," "co.," or "ltd." With
22 the filing of its first annual report and any filings thereafter,
23 professional service corporation shall list its then shareholders:
24 PROVIDED, That notwithstanding the foregoing provisions of this
25 section, the corporate name of a corporation organized to render dental
26 services shall contain the full names or surnames of all shareholders
27 and no other word than "chartered" or the words "professional services"
28 or the abbreviation "P.S." or "P.C."

29 **Sec. 2.** RCW 50.04.165 and 1991 c 72 s 57 are each amended to read
30 as follows:

31 (~~(1)~~) Services performed by (~~corporate officers as defined in~~
32 ~~subsection (2) of this section, [other than those]~~) a person appointed
33 as an officer of a corporation under RCW 23B.08.400, other than those
34 covered by chapter 50.44 RCW, shall not be considered services in
35 employment. However, a corporation may elect to cover not less than

1 all of its corporate officers under RCW 50.24.160. If an employer does
2 not elect to cover its corporate officers under RCW 50.24.160, the
3 employer must notify its corporate officers in writing that they are
4 ineligible for unemployment benefits. If the employer fails to notify
5 any corporate officer, then that person shall not be considered to be
6 a corporate officer for the purposes of this section.

7 ~~((2) The officers of a corporation shall consist of a president,
8 one or more vice presidents as may be prescribed by the bylaws, a
9 secretary, and a treasurer.))~~

10 **Sec. 3.** RCW 23B.14.300 and 1989 c 165 s 163 are each amended to
11 read as follows:

12 The superior courts may dissolve a corporation:

13 (1) In a proceeding by the attorney general if it is established
14 that:

15 (a) The corporation obtained its articles of incorporation through
16 fraud; or

17 (b) The corporation has continued to exceed or abuse the authority
18 conferred upon it by law;

19 (2) In a proceeding by a shareholder if it is established that:

20 (a) The directors are deadlocked in the management of the corporate
21 affairs, the shareholders are unable to break the deadlock, and
22 irreparable injury to the corporation is threatened or being suffered,
23 or the business and affairs of the corporation can no longer be
24 conducted to the advantage of the shareholders generally, because of
25 the deadlock;

26 (b) The directors or those in control of the corporation have
27 acted, are acting, or will act in a manner that is illegal, oppressive,
28 or fraudulent;

29 (c) The shareholders are deadlocked in voting power and have
30 failed, for a period that includes at least two consecutive annual
31 meeting dates, to elect successors to directors whose terms have
32 expired; ~~((or))~~

33 (d) The corporate assets are being misapplied or wasted; or

34 (e) The corporation has ceased all business activity and has
35 failed, within a reasonable time, to dissolve, to liquidate its assets,
36 or to distribute its remaining assets among its shareholders;

37 (3) In a proceeding by a creditor if it is established that:

1 (a) The creditor's claim has been reduced to judgment, the
2 execution on the judgment was returned unsatisfied, and the corporation
3 is insolvent; or

4 (b) The corporation has admitted in writing that the creditor's
5 claim is due and owing and the corporation is insolvent; or

6 (4) In a proceeding by the corporation to have its voluntary
7 dissolution continued under court supervision.

8 NEW SECTION. **Sec. 4.** A new section is added to chapter 23B.07 RCW
9 to read as follows:

10 (1) An agreement among the shareholders of a corporation that
11 complies with this section is effective among the shareholders and the
12 corporation even though it is inconsistent with one or more other
13 provisions of this title in that it:

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

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

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

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

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

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

33 (g) Resolves any issue about which there exists a deadlock among
34 directors or shareholders;

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

1 (i) Otherwise governs the exercise of the corporate powers or the
2 management of the business and affairs of the corporation or the
3 relationship among the shareholders, the directors, and the
4 corporation, or among any of them, and is not contrary to public
5 policy.

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

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

10 (b) Subject to amendment only by all persons who are shareholders
11 at the time of the amendment, unless the agreement provides otherwise;
12 and

13 (c) Valid for ten years, unless the agreement provides otherwise.

14 (3) The existence of an agreement authorized by this section shall
15 be noted conspicuously on the front or back of each certificate for
16 outstanding shares or on the information statement required by RCW
17 23B.06.260(2). If at the time of the agreement the corporation has
18 shares outstanding represented by certificates, the corporation shall
19 recall the outstanding certificates and issue substitute certificates
20 that comply with this subsection. The failure to note the existence of
21 the agreement on the certificate or information statement shall not
22 affect the validity of the agreement or any action taken pursuant to
23 it. Any purchaser of shares who, at the time of purchase, did not have
24 knowledge of the existence of the agreement shall be entitled to
25 rescission of the purchase. A purchaser shall be deemed to have
26 knowledge of the existence of the agreement if its existence is noted
27 on the certificate or information statement for the shares in
28 compliance with this subsection and, if the shares are not represented
29 by a certificate, the information statement is delivered to the
30 purchaser at or prior to the time of purchase of the shares. An action
31 to enforce the right of rescission authorized by this subsection must
32 be commenced within the earlier of ninety days after discovery of the
33 existence of the agreement or two years after the time of purchase of
34 the shares.

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

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

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

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

16 **Sec. 5.** RCW 23B.16.220 and 1991 c 72 s 41 are each amended to read
17 as follows:

18 (1) Each domestic corporation, and each foreign corporation
19 authorized to transact business in this state, shall deliver to the
20 secretary of state for filing initial and annual reports that set
21 forth:

22 (a) The name of the corporation and the state or country under
23 whose law it is incorporated;

24 (b) The street address of its registered office and the name of its
25 registered agent at that office in this state;

26 (c) In the case of a foreign corporation, the address of its
27 principal office in the state or country under the laws of which it is
28 incorporated;

29 (d) The address of the principal place of business of the
30 corporation in this state;

31 (e) The names and addresses of its directors, if the corporation
32 has dispensed with or limited the authority of its board of directors
33 pursuant to RCW 23B.08.010, in an agreement authorized under section 4
34 of this act, or analogous authority, the names and addresses of persons
35 who will perform some or all of the duties of the board of directors;

36 (f) A brief description of the nature of its business; and

37 (g) The names and addresses of its chairperson of the board of
38 directors, if any, president, secretary, and treasurer, or of

1 individuals, however designated, performing the functions of such
2 officers.

3 (2) Information in an initial report or an annual report must be
4 current as of the date the report is executed on behalf of the
5 corporation.

6 (3) A corporation's initial report must be delivered to the
7 secretary of state within one hundred twenty days of the date on which
8 the articles of incorporation for a domestic corporation were filed, or
9 on which a foreign corporation's certificate of authority was filed.
10 Subsequent annual reports must be delivered to the secretary of state
11 on, or prior to, the date on which the domestic or foreign corporation
12 is required to pay its annual corporate license fee, and at such
13 additional times as the corporation elects."

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17 On page 1, line 1 of the title, after "corporations;" strike the
18 remainder of the title and insert "amending RCW 18.100.120, 50.04.165,
19 23B.14.300, and 23B.16.220; and adding a new section to chapter 23B.07
20 RCW."

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