

# HOUSE BILL REPORT

## HB 1139

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**As Passed House:**  
February 12, 1999

**Title:** An act relating to judicial removal of a director of a nonprofit corporation from office.

**Brief Description:** Removing a director of a nonprofit corporation from office.

**Sponsors:** Representatives Sheahan, Constantine and Kenney.

**Brief History:**

**Committee Activity:**

Judiciary: 1/28/99, 2/2/99 [DP].

**Floor Activity:**

Passed House: 2/12/99, 94-0.

**Brief Summary of Bill**

- Allows a superior court to remove a director of a nonprofit corporation under certain circumstances.

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### HOUSE COMMITTEE ON JUDICIARY

**Majority Report:** Do pass. Signed by 12 members: Representatives Carrell, Republican Co-Chair; Constantine, Democratic Co-Chair; Hurst, Democratic Vice Chair; Lambert, Republican Vice Chair; Cox; Dickerson; Edmonds; Esser; Kastama; Lantz; McDonald and Schindler.

**Staff:** Trudes Hutcheson (786-7384).

**Background:**

A nonprofit corporation is a corporation that does not have or issue shares of stock and that cannot distribute any part of the corporation's income to its members, directors, or officers. Nonprofit corporations may sue and be sued, make contracts, elect or appoint officers and agents, and generally do that which is necessary to lawfully conduct its business.

The corporation's board of directors manages the affairs of the corporation. A director has the duty to perform his or her functions in good faith, in a manner he or she believes to be in the best interests of the corporation, and with the care that a reasonable person in that position would use. The corporation's bylaws or articles of incorporation may establish how many directors the corporation has and in what manner the directors are elected or appointed.

The bylaws or articles of incorporation may also contain procedures for removing directors. If the articles of incorporation or bylaws do not contain such procedures, then the statute contained in the nonprofit corporation act govern. Under the act, a director may be removed, with or without cause, by two-thirds of the votes cast by the members having voting rights with regard to the election of a director.

A superior court may liquidate the assets and dissolve the corporation in an action by a member, director, or the attorney general under certain circumstances. Situations in which a court can dissolve a corporation include, for example, when the actions of the directors are illegal, oppressive, or fraudulent, when corporate assets are being misapplied or wasted, or when the corporation is unable to carry out its purposes.

The statutes governing corporations for profit allow a court to remove a director in a proceeding commenced by the corporation or its shareholders when the director has engaged in fraudulent or dishonest conduct regarding the corporation and the removal is in the best interest of the corporation. The statutes governing nonprofit corporations do not contain such a provision allowing for the judicial removal of a director.

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**Summary of Bill:**

A superior court may remove a director of a nonprofit corporation in a proceeding commenced by the corporation when the court finds that the director engaged in fraudulent or dishonest conduct regarding the corporation and removal is in the best interest of the corporation. The court may bar the director from reelection for specified periods.

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**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** This bill is necessary for situations where a corporation has only one or two directors who are abusing their powers, and the bylaws do not provide any mechanism for removing a director.

**Testimony Against:** None.

**Testified:** (In support) Douglas Lawrence, Washington State Bar Association.