

**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 s 4. Prior: 2020 c 194 s 15; 2020 c 57 s 50; 2009 c 189 s 14; 2002 c 297 s 23; 1997 c 19 s 2; 1991 c 72 s 33; 1989 c 165 s 63.]