

Chapter 23B.25 RCW
SOCIAL PURPOSE CORPORATIONS

Sections

23B.25.005	Becoming or ceasing to be a social purpose corporation.
23B.25.010	Powers, rights, and obligations—Definition—Application of RCW 23B.03.010.
23B.25.020	General social purposes.
23B.25.030	Specific social purposes.
23B.25.040	Articles of incorporation—Required and optional provisions—Notice—Availability of copies.
23B.25.050	Duties of director—Standards—Liabilities.
23B.25.060	Duties of officer—Standards—Liabilities.
23B.25.070	Shares—Represented by certificate—Not represented by certificate.
23B.25.080	Instituting or maintaining proceedings—Shareholders only.
23B.25.090	Amendment to articles of incorporation—Change to social purposes—Voting requirements.
23B.25.100	Plan of merger or share exchange—Status as social purpose corporation—Voting requirements.
23B.25.110	Selling, leasing, exchanging, or disposing of property—Voting requirements.
23B.25.120	Shareholder dissent—Payment of fair value, when.
23B.25.130	Corporation converting to a social purpose corporation—Conditions—Election.
23B.25.140	Corporation ceasing to be a social purpose corporation—Conditions—Election.
23B.25.150	Social purpose report required—Timing—Information—Failure to comply.

RCW 23B.25.005 Becoming or ceasing to be a social purpose corporation. (1) Any corporation may elect to be governed as a social purpose corporation by one of the following means:

(a) One or more persons may act as incorporator or incorporators of a social purpose corporation by delivering articles of incorporation that conform to the requirements of this chapter to the secretary of state for filing; or

(b) Any corporation which is not a social purpose corporation may elect to become a social purpose corporation by complying with RCW 23B.25.130.

(2) Any social purpose corporation may elect to cease to be governed as a social purpose corporation by complying with RCW 23B.25.140. [2012 c 215 § 1.]

RCW 23B.25.010 Powers, rights, and obligations—Definition—Application of RCW 23B.03.010. (1) Except as otherwise expressly stated in this chapter, the provisions of this title and all powers, rights, and obligations thereunder shall apply to social purpose corporations organized under this chapter, and references in this title to the term "corporation" shall be read to include social purpose corporations organized under this chapter.

(2) Subject to any limitations contained in the articles of incorporation, a social purpose corporation may engage in any lawful business under RCW 23B.03.010. [2012 c 215 § 2.]

RCW 23B.25.020 General social purposes. Every corporation governed by this chapter must be organized to carry out its business purpose under RCW 23B.03.010 in a manner intended to promote positive short-term or long-term effects of, or minimize adverse short-term or long-term effects of, the corporation's activities upon any or all of (1) the corporation's employees, suppliers, or customers; (2) the local, state, national, or world community; or (3) the environment. [2012 c 215 § 3.]

RCW 23B.25.030 Specific social purposes. In addition to the general social purpose set forth in RCW 23B.25.020, every corporation governed by this chapter may have one or more specific social purposes for which the corporation is organized. [2012 c 215 § 4.]

RCW 23B.25.040 Articles of incorporation—Required and optional provisions—Notice—Availability of copies. (1) In addition to the matters required to be set forth in the articles of incorporation pursuant to *RCW 23B.02.020 (1) and (2), the articles of incorporation of a social purpose corporation must set forth:

(a) A corporate name for the social purpose corporation that contains the words "social purpose corporation" or "SPC" as an abbreviation of those words;

(b) A statement that the corporation is organized as a social purpose corporation governed by this chapter;

(c) A statement setting forth the general social purpose or purposes for which the corporation is organized pursuant to RCW 23B.25.020;

(d) If the corporation has designated one or more specific social purpose or purposes pursuant to RCW 23B.25.030, a statement setting forth such specific social purpose or purposes; and

(e) A provision that states the following: "The mission of this social purpose corporation is not necessarily compatible with and may be contrary to maximizing profits and earnings for shareholders, or maximizing shareholder value in any sale, merger, acquisition, or other similar actions of the corporation."

(2) In addition to the matters that must be set forth in the articles of incorporation in accordance with subsection (1) of this section and the provisions that may be set forth in the articles of incorporation pursuant to *RCW 23B.02.020 (5) and (6), the articles of incorporation of a social purpose corporation may contain the following provisions:

(a) A provision requiring the corporation's directors or officers to consider the impacts of any corporate action or proposed corporate action upon one or more of the social purposes of the corporation;

(b) A provision requiring the corporation to furnish to the shareholders an assessment of the overall performance of the corporation with respect to its social purpose or purposes, prepared in accordance with a third-party standard;

(c) A provision requiring, for any or all corporate actions, the vote of a larger proportion or of all of the shares of any class or series, or the vote or quorum for taking action of a larger proportion or of all of the directors, than is otherwise required by this title or this chapter;

(d) A provision requiring the approval of the shareholders for any corporate action, even though not otherwise required by this title; and

(e) A provision limiting the duration of the corporation's existence to a specified date.

(3) Prior to the issuance of shares, the corporation shall furnish a prospective shareholder with a copy of the articles of incorporation.

(4) Prior to the transfer of shares, the transferor shareholder must deliver written notice of the transfer to the corporation. Within a reasonable time after receiving notice, the corporation shall provide the prospective transferee with a copy of the articles of incorporation. [2020 c 57 § 77; 2012 c 215 § 5.]

***Reviser's note:** RCW 23B.02.020 was amended by 2020 c 194 § 2, deleting subsection (2) and changing subsections (5) and (6) to subsections (2) and (3), respectively.

RCW 23B.25.050 Duties of director—Standards—Liabilities. (1) A director of a social purpose corporation shall discharge the duties of a director, including duties as a member of any committee of the board upon which the director may serve, in good faith, with the care an ordinarily prudent person in a like position would exercise under similar circumstances, and in a manner the director reasonably believes to be in the best interests of the corporation in accordance with RCW 23B.08.300.

(2) Unless the articles of incorporation provide otherwise, in discharging his or her duties as a director, the director of a social purpose corporation may consider and give weight to one or more of the social purposes of the corporation as the director deems relevant.

(3) Any action taken as a director of a social purpose corporation, or any failure to take any action, that the director reasonably believes is intended to promote one or more of the social purposes of the corporation shall be deemed to be in the best interests of the corporation.

(4) A director of a social purpose corporation is not liable for any action taken as a director, or any failure to take any action, if the director performed the duties of the director's office in compliance with this section.

(5) Nothing in this chapter creates any liability or grants any right in or for any person or any cause of action by or for any person, and a director shall not be responsible to any party other than the corporation and its shareholders.

(6) Nothing in this chapter alters the general standards for any director of a corporation that is not a social purpose corporation. [2012 c 215 § 6.]

RCW 23B.25.060 Duties of officer—Standards—Liabilities. (1) An officer of a social purpose corporation with discretionary authority shall discharge the officer's duties under that authority in good

faith, with the care an ordinarily prudent person in a like position would exercise under similar circumstances, and in a manner the officer reasonably believes to be in the best interests of the corporation in accordance with RCW 23B.08.420.

(2) Unless the articles of incorporation provide otherwise, in discharging his or her duties as an officer, the officer of a social purpose corporation may consider and give weight to one or more of the social purposes of the corporation as the officer deems relevant.

(3) Any action taken as an officer of a social purpose corporation, or any failure to take any action, that the officer reasonably believes is intended to promote one or more of the social purposes of the corporation shall be deemed to be in the best interests of the corporation.

(4) An officer of a social purpose corporation is not liable for any action taken as an officer, or any failure to take any action, if the officer performed the duties of the officer's office in compliance with this section.

(5) Nothing in this chapter creates any liability or grants any right in or for any person or any cause of action by or for any person, and an officer shall not be responsible to any party other than the corporation and its shareholders.

(6) Nothing in this chapter alters the general standards for any officer of a corporation that is not a social purpose corporation. [2012 c 215 § 7.]

RCW 23B.25.070 Shares—Represented by certificate—Not represented by certificate. (1) Shares issued by a social purpose corporation may but need not be represented by certificates.

(2) If shares are represented by certificates, in addition to the information required on certificates by RCW 23B.06.250 (2) and (3), each share certificate must state on its face the following language in a conspicuous manner:

"This entity is a social purpose corporation organized under Title 23B RCW of the Washington business corporation act. The articles of incorporation of this corporation state one or more social purposes of this corporation. The corporation will furnish the shareholder this information without charge on request in writing."

(3) If shares are not represented by certificates, within a reasonable time after the issue or transfer of such shares, the corporation shall deliver to the shareholder a written statement of the information required on certificates pursuant to RCW 23B.06.260(2) and the language required on certificates by subsection (2) of this section. [2020 c 57 § 78; 2012 c 215 § 8.]

RCW 23B.25.080 Instituting or maintaining proceedings—Shareholders only. (1) No proceeding may be instituted or maintained in the right of any social purpose corporation under this title by any party other than a shareholder of the social purpose corporation.

(2) A person may not commence a proceeding in the right of a social purpose 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.

(3) Any proceeding instituted or maintained in the right of a social purpose corporation must comply with the procedure set forth in RCW 23B.07.400. [2012 c 215 § 9.]

RCW 23B.25.090 Amendment to articles of incorporation—Change to social purposes—Voting requirements. If a proposed amendment to a social purpose corporation's articles of incorporation would materially change one or more of the social purposes of the corporation, in addition to approval in accordance with RCW 23B.10.030, the amendment to be adopted must be approved by two-thirds of the voting group comprising all the votes entitled to be cast on the proposed amendment, and by two-thirds of the holders of the outstanding shares of each class or series, voting as separate voting groups, and of each other voting group entitled under the articles of incorporation to vote separately on the proposed amendment. The articles of incorporation may require a greater vote than that provided for in this section. [2012 c 215 § 10.]

RCW 23B.25.100 Plan of merger or share exchange—Status as social purpose corporation—Voting requirements. (1) In addition to approval in accordance with RCW 23B.11.030, a plan of merger or share exchange pursuant to which a social purpose corporation would not be the surviving corporation must be approved by two-thirds of the voting group comprising all the votes of the corporation entitled to be cast on the plan, and by two-thirds of the holders of the outstanding shares of each class or series, voting as separate voting groups, and of each other voting group entitled under the articles of incorporation to vote separately on the proposed plan. The articles of incorporation may require a greater vote than that provided for in this subsection.

(2) The additional approval described in subsection (1) of this section is not required if the surviving corporation of the plan of merger or share exchange is a social purpose corporation governed by this chapter and includes a specific social purpose or purposes that do not materially differ from the disappearing corporation's specific social purpose or purposes, if any. [2012 c 215 § 11.]

RCW 23B.25.110 Selling, leasing, exchanging, or disposing of property—Voting requirements. (1) In addition to approval in accordance with RCW 23B.12.020, a proposed transaction in which the social purpose corporation is to sell, lease, exchange, or otherwise dispose of all, or substantially all, of its property, otherwise than in the usual and regular course of business, must be approved by two-thirds of the voting group comprising all the votes entitled to be cast on the transaction, and by two-thirds of the holders of the outstanding shares of each class or series, voting as separate voting groups, and of each other voting group entitled under the articles of incorporation to vote separately on the proposed transaction. The articles of incorporation may require a greater vote than that provided for in this section.

(2) The additional approval described in subsection (1) of this section is not required if the acquirer of such property is a social purpose corporation governed by this chapter and includes a specific social purpose or purposes that do not materially differ from the disposing corporation's specific social purpose or purposes, if any. [2012 c 215 § 12.]

RCW 23B.25.120 Shareholder dissent—Payment of fair value, when.

In addition to the corporate actions set forth in RCW 23B.13.020(1), a shareholder is entitled to dissent from, and obtain payment of the fair value of the shareholder's shares in the event of, any of the following corporate actions:

(1) An election by a corporation to become a social purpose corporation, which has become effective, to which the corporation is a party if shareholder approval was required for the election by RCW 23B.25.130 or the articles of incorporation;

(2) An election to cease to be a social purpose corporation, which has become effective, to which the corporation is a party if shareholder approval was required for the election by RCW 23B.25.140 or the articles of incorporation, and the shareholder was entitled to vote on the election; and

(3) An amendment of the social purpose corporation's articles of incorporation that would materially change one or more of the social purposes of the corporation. [2012 c 215 § 13.]

RCW 23B.25.130 Corporation converting to a social purpose corporation—Conditions—Election.

(1) Any corporation that is not a social purpose corporation may elect to become a social purpose corporation if, pursuant to the proposed election, each of the following conditions are met:

(a) Each share of the same class or series of the electing corporation shall, unless all shareholders of the class or series consent, be treated equally with respect to any cash, rights, securities, or other property to be received by, or any obligations or restrictions to be imposed on, the holder of that share;

(b) The board of directors of the electing corporation must recommend the election to the shareholders, unless the board of directors determines that because of conflict of interest or other special circumstances it should make no recommendation and communicates the basis for its determination to the shareholders with the proposed election; and

(c) In addition to any other voting conditions imposed by the board of directors under subsection (2) of this section, the election must be approved by an affirmative vote of at least two-thirds of the voting group comprising all the votes of the electing corporation's shareholders entitled to be cast on the corporate action, and by two-thirds of the holders of the outstanding shares of each class or series, voting as separate voting groups, and each other voting group entitled under the articles of incorporation to vote separately on the corporate action.

(2) The board of directors of a corporation electing to become a social purpose corporation may condition its submission of the proposed election on any basis, including the affirmative vote of holders of a specified percentage of shares held by any group of

shareholders not otherwise entitled to vote as a separate group on the proposed election.

(3) To elect to become a social purpose corporation, an electing corporation must amend its articles of incorporation to include the matters required to be set forth in the articles of incorporation pursuant to RCW 23B.25.040(1).

(4) After an election to become a social purpose corporation is approved, and at any time prior to filing the articles of amendment to amend the electing corporation's articles of incorporation in compliance with subsection (3) of this section, the planned election may be abandoned by the electing corporation, subject to any contractual rights, without further shareholder approval, in the manner determined by the board of directors.

(5) The election to become a social purpose corporation shall be effective upon the later of the filing of the articles of amendment with the secretary of state or the effective date or time set forth in the articles of amendment.

(6) Upon the effective time of the election to become a social purpose corporation, the electing corporation shall thereafter be a social purpose corporation and shall be subject to all of the provisions of this chapter and the existence of the social purpose corporation shall be deemed to have commenced on the date the electing corporation was incorporated.

(7) The election to become a social purpose corporation shall not be deemed to affect any obligations or liabilities of the electing corporation incurred prior to its election to become a social purpose corporation or the personal liability of any person incurred prior to such election. [2012 c 215 § 14.]

RCW 23B.25.140 Corporation ceasing to be a social purpose corporation—Conditions—Election. (1) Any social purpose corporation may elect to cease to be a social purpose corporation if, pursuant to the proposed election, each of the following conditions are met:

(a) Each share of the same class or series of the electing social purpose corporation shall, unless all shareholders of the class or series consent, be treated equally with respect to any cash, rights, securities, or other property to be received by, or any obligations or restrictions to be imposed on, the holder of that share;

(b) The board of directors of the electing social purpose corporation must recommend the election to the shareholders, unless the board of directors determines that because of conflict of interest or other special circumstances it should make no recommendation and communicates the basis for its determination to the shareholders with the proposed election; and

(c) In addition to any other voting conditions imposed by the board of directors under subsection (2) of this section, the election must be approved by an affirmative vote of at least two-thirds of the voting group comprising all the votes of the electing social purpose corporation's shareholders entitled to be cast on the corporate action, and by two-thirds of the holders of the outstanding shares of each class or series, voting as separate voting groups, and each other voting group entitled under the articles of incorporation to vote separately on the corporate action.

(2) The board of directors of a social purpose corporation electing to cease to be a social purpose corporation may condition its

submission of the proposed election on any basis, including the affirmative vote of holders of a specified percentage of shares held by any group of shareholders not otherwise entitled to vote as a separate group on the proposed election.

(3) To elect to cease to be a social purpose corporation, an electing social purpose corporation must amend its articles of incorporation to remove the matters required to be set forth in the articles of incorporation pursuant to RCW 23B.25.040(1) (a) and (b).

(4) After an election to cease to be a social purpose corporation is approved, and at any time prior to the filing of the articles of amendment to amend the electing social purpose corporation's articles of incorporation in compliance with subsection (3) of this section, the planned election may be abandoned by the electing social purpose corporation, subject to any contractual rights, without further shareholder approval, in the manner determined by the board of directors.

(5) The election to cease to be a social purpose corporation shall be effective upon the later of the filing of the articles of amendment with the secretary of state or the effective date or time set forth in the articles of amendment.

(6) Upon the effective time of the election to cease to be a social purpose corporation, the electing social purpose corporation shall thereafter be a corporation which is not a social purpose corporation and shall be subject to all of the provisions of this title applicable to corporations generally and the existence of the corporation shall be deemed to have commenced on the date the electing social purpose corporation was incorporated.

(7) The election to cease to be a social purpose corporation shall not be deemed to affect any obligations or liabilities of the electing social purpose corporation incurred prior to its election to cease to be a social purpose corporation or the personal liability of any person incurred prior to such election. [2012 c 215 § 15.]

RCW 23B.25.150 Social purpose report required—Timing—Information—Failure to comply. (1) The board of directors of a social purpose corporation shall cause a social purpose report to be furnished to the shareholders by making such report publicly accessible, free of charge, at the corporation's principal internet website address, not later than four months after the close of the corporation's fiscal year, and such report shall remain available on that website through the end of the corporation's fiscal year.

(2) The social purpose report shall include a narrative discussion concerning the social purpose or purposes of the corporation, including the corporation's efforts intended to promote its social purpose or purposes. The narrative discussion may include the following information:

(a) Identification and discussion of the short-term and long-term objectives of the corporation relating to its social purpose or purposes;

(b) Identification and discussion of the material actions taken by the corporation during the fiscal year to achieve its social purpose or purposes;

(c) Identification of material actions that the corporation expects to take in the future with respect to achievement of its social purpose or purposes; and

(d) A description of the financial, operating, or other measures used by the corporation during the fiscal year for evaluating its performance in achieving its social purpose or purposes.

(3) The requirements of subsection (1) of this section shall be satisfied if a social purpose corporation with an outstanding class of securities registered under section 12 of the securities exchange act of 1934 both complies with section 240.14a-16 of Title 17 of the Code of Federal Regulations, as amended from time to time, with respect to the obligation of a corporation to furnish an annual report to shareholders pursuant to section 240.14a-3(b) of Title 17 of the Code of Federal Regulations, and includes the information required by subsection (2) of this section in the annual report.

(4) The failure to furnish to shareholders a social purpose report required by subsection (1) of this section does not affect the validity of any corporate action.

(5) The superior court of the county in which the social purpose corporation's registered office is located may, after notice to the corporation, summarily order a social purpose report to be furnished to shareholders on application of any shareholder of a social purpose corporation if a social purpose report was not furnished to shareholders for at least two consecutive fiscal years. [2012 c 215 § 16.]