

# HOUSE RESEARCH

## Bill Summary

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- 1 Citation.** Provides that the chapter may be cited as the “Minnesota Public Benefits Corporation Act.”
- 2 Application and effect of chapter.**
  - Subd. 1. General rule.** Provides that this chapter applies to all public benefit corporations.
  - Subd. 2. Laws applicable.** Provides that chapter 302A, the Minnesota Business Corporation Act, applies to all public benefits corporations but that if a law in that chapter conflicts with a law in 304A, then the law in 302A governs the public benefits corporation.
  - Subd. 3. Chapter not to be varied.** Requires that the articles, shareholder control agreement, or bylaws of a public benefit corporation may not limit or supersede the laws in this chapter.
- 3 Definitions.** Provides definitions for the Minnesota Public Benefits Corporation Act including, “general benefit corporation” as a corporation that elects to pursue general public benefits and may also indicate specific public benefits to pursue; “general public benefit” which means a positive impact on society, the environment, and the well-being of present and future generations; “specific public benefit corporation” as a public benefit corporation that in its article a specific public benefit to pursue; and “specific public benefit” meaning one or more positive impacts or reduction of negative impacts on specific categories of

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natural persons, entities, communities, or interests other than shareholders.

- 4 Incorporation of a public benefit corporation.** Provides that a public benefit corporation must state that it is either a general benefits corporation, a general benefits corporation that elects to also pursue a specific public benefit, or a specific benefits corporation. The corporation must also include “general benefits corporation” or “GBC” or “specific benefits corporation” or “SBC” in the name of their corporation.
- 5 Election of public benefits corporation status.** Allows an existing corporation to become a public benefits corporation but requires a “minimum status vote,” which is a two-thirds affirmative vote of the outstanding shares, and requires that the dissenting shareholders may obtain payment for the shareholder’s shares or member’s membership interests in the event of an election of public benefits corporation status.
- 6 Termination of public benefit corporation status.**
- Subd. 1. Termination.** Allows a public benefits corporation to terminate its status by amending its articles to remove the designation as a general or specific benefits corporation and changing its name to remove the term “general benefits corporation” or “GBC” or “specific benefits corporation” or “SBC.”
- Subd. 2. Merger, exchange, conversion, or transfer.** Requires a two-thirds vote to approve a merger, exchange, conversion that would have the effect of terminating the public benefit corporation.
- Subd. 3. Rights of dissenting shareholders.** Allows shareholders to obtain payment for the fair value of the shareholder’s share in the event of a termination of the public benefits corporation in the same manner that is available under the business corporation statutes, sections 302A.471 to 302A.473.
- Subd. 4. Effects of termination.** Prohibits an organization from becoming a public benefits corporation for three years if it has terminated its status or if it has had its status revoked as a public benefits corporation more than once.
- 7 Public benefit corporation purposes.**
- Subd. 1. General benefit corporation purpose.** Purpose is to pursue general public benefit. Permits the corporation to state in its articles one or more specific public benefit purposes, in addition to the purposes under section 302A.101
- Subd. 2. Specific benefit corporation purpose.** Requires a specific benefit corporation to have a purpose of pursuing one or more specific public benefit purposes stated in its articles, in addition to those under section 302A.101. The corporation may pursue a purpose under this subdivision without pursuing one under subdivision 1.
- Subd. 3. Effect of purpose.** Pursuit of a public benefit, general or specific, under subdivision 1 or 2, is in the best interests of a public benefit corporation.
- Subd. 4. Amendment of a specific public benefit purpose.** Permits a general

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benefit or specific benefit corporation to amend its articles to add, amend, or delete a specific public benefit purpose, unless the amendment would cause a termination of public benefit status under section 304A.103.

**8 Standard of conduct for directors.** Provides the considerations for a director of a general benefits corporation and a specific benefits corporation, including that they may not give regular priority to the pecuniary interests of the shareholders. This section also provides that a director who performs duties as a director is not liable for performing those duties and that the director is subject to the same liability and conduct requirements as the business corporations law, section 302A.251. This section allows for the articles of a public benefits corporation to include that a disinterested failure to comply with this section shall not constitute a breach of the duty of loyalty.

**9 Rights of action.**

**Subd. 1. Standing and grounds for claims.** Provides that only a shareholder can sue for failure to create a general or specific public benefit and that the public benefit corporation is not liable for monetary damages for failure to pursue or create general or specific public benefits.

**Subd. 2. Grounds for relief.** Provides that the court may grant equitable relief under the business corporation statute related to shareholder's actions, when the director of a public benefits corporation has breached the standards of conduct for directors, or when the corporation has for an unreasonably long time failed to pursue a general or specific public benefit.

**Subd. 3. Particular relief available.** Provides that the relief can include terminating the public benefits corporation, removing a director, or appointing a receiver to wind up and liquidate the corporation or to carry out the business of the corporation, as well as the relief available under the business corporations statute 302A.751.

**10 Annual benefit report.**

**Subd. 1. Report required.** Requires a public benefits corporation to provide a current annual report to the secretary of state every calendar year and pay a \$35 fee.

**Subd. 2. Annual benefits report for a specific benefits corporation.** Provides specific requirements for the annual benefits report for a specific benefits corporation.

**Subd. 3. Annual benefit report for a general benefit corporation.** Provides specific requirements for the annual benefits report for a general benefits corporation.

**Subd. 4. Audit not required.** Allows annual reports to be filed without an audit or other evaluation.

**Subd. 5. Failure to file an annual benefits report.** Provides that if a public benefits corporation fails to file a report within 90 days of the date it is due, the secretary of state

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shall revoke the corporation's status as a public benefits corporation

**Subd. 6. Effects of revocation; reinstatement.** Provides that a public benefits corporation loses the benefits of its status as of the date of the revocation; however the public benefits corporation has 30 days to cure the revocation by filing a renewal and paying a \$500 fee to reinstate the public benefits corporation.

**Subd. 7. Intentional failure to file an annual benefits report.** Provides that an intentional failure to file an annual benefits report allows a shareholder of a public benefits corporation to obtain fair value for the share's under the business corporation statute 302A.473.

**11**      **Effective Date:** Sections 1 to 10 are effective January 1, 2015.