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H. B. No. 42

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Skindell, G. Smith, S. Smith, D. Stewart, Strahorn, Sykes
Senators Goodman, Austria, Clancy**

—

A BILL

To amend sections 1702.01, 1702.02, 1702.08, 1702.11, 1
1702.17, 1702.18, 1702.19, 1702.20, 1702.22, 2
1702.25, 1702.27, 1702.31, 1702.33, 1702.38, 3
1702.39, 1702.42, 1702.47, and 1702.58 of the 4
Revised Code relating to the use of authorized 5
communications equipment, including electronic or 6
telephonic transmissions, in certain meetings and 7
votings of nonprofit corporations and the 8
authority to take action on behalf of a nonprofit 9
corporation without a meeting of incorporators, 10
directors, or members. 11

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 1702.01, 1702.02, 1702.08, 1702.11, 12
1702.17, 1702.18, 1702.19, 1702.20, 1702.22, 1702.25, 1702.27, 13

1702.31, 1702.33, 1702.38, 1702.39, 1702.42, 1702.47, and 1702.58 14
of the Revised Code be amended to read as follows: 15

Sec. 1702.01. As used in this chapter, unless the context 16
otherwise requires: 17

(A) "Corporation" or "domestic corporation" means a nonprofit 18
corporation formed under the laws of this state, or a business 19
corporation formed under the laws of this state that, by amendment 20
to its articles as provided by law, becomes a nonprofit 21
corporation. 22

(B) "Foreign corporation" means a nonprofit corporation 23
formed under the laws of another state. 24

(C) "Nonprofit corporation" means a domestic or foreign 25
corporation that is formed otherwise than for the pecuniary gain 26
or profit of, and whose net earnings or any part of them is not 27
distributable to, its members, directors, officers, or other 28
private persons, except that the payment of reasonable 29
compensation for services rendered and the distribution of assets 30
on dissolution as permitted by section 1702.49 of the Revised Code 31
is not pecuniary gain or profit or distribution of net earnings. 32
In a corporation all of whose members are nonprofit corporations, 33
distribution to members does not deprive it of the status of a 34
nonprofit corporation. 35

(D) "State" means the United States; any state, territory, 36
insular possession, or other political subdivision of the United 37
States, including the District of Columbia; any foreign country or 38
nation; and any province, territory, or other political 39
subdivision of a foreign country or nation. 40

(E) "Articles" includes original articles of incorporation, 41
agreements of merger or consolidation if and only to the extent 42
that articles of incorporation are adopted or amended in the 43

agreements, amended articles, and amendments to any of these, and, 44
in the case of a corporation created before September 1, 1851, the 45
special charter and any amendments to it made by special act of 46
the General Assembly or pursuant to general law. 47

(F) "Incorporator" means a person who signed the original 48
articles of incorporation. 49

(G) "Member" means one having membership rights and 50
privileges in a corporation in accordance with its articles or 51
regulations. 52

(H) "Voting member" means a member possessing voting rights, 53
either generally or in respect of the particular question 54
involved, as the case may be. 55

(I) "Person" includes, but is not limited to, a nonprofit 56
corporation, a business corporation, a partnership, an 57
unincorporated society or association, and two or more persons 58
having a joint or common interest. 59

(J) The location of the "principal office" of a corporation 60
is the place named as such in its articles. 61

(K) "Directors" means the persons vested with the authority 62
to conduct the affairs of the corporation irrespective of the 63
name, such as trustees, by which they are designated. 64

(L) "Insolvent" means that the corporation is unable to pay 65
its obligations as they become due in the usual course of its 66
affairs. 67

(M)(1) Subject to division (M)(2) of this section, 68
"volunteer" means a director, officer, or agent of a corporation, 69
or another person associated with a corporation, who satisfies 70
both of the following: 71

(a) Performs services for or on behalf of, and under the 72
authority or auspices of, that corporation; 73

(b) Does not receive compensation, either directly or 74
indirectly, for performing those services. 75

(2) For purposes of division (M)(1) of this section, 76
"compensation" does not include any of the following: 77

(a) Actual and necessary expenses that are incurred by a 78
volunteer in connection with the services performed for a 79
corporation, and that are reimbursed to the volunteer or otherwise 80
paid; 81

(b) Insurance premiums paid on behalf of a volunteer, and 82
amounts paid or reimbursed, pursuant to division (E) of section 83
1702.12 of the Revised Code; 84

(c) Modest perquisites. 85

(N) "Business corporation" means any entity, as defined in 86
section 1701.01 of the Revised Code, other than a public benefit 87
corporation or a mutual benefit corporation, that is organized 88
pursuant to Chapter 1701. of the Revised Code. 89

(O) "Mutual benefit corporation" means any corporation 90
organized under this chapter other than a public benefit 91
corporation. 92

(P) "Public benefit corporation" means a corporation that is 93
recognized as exempt from federal income taxation under section 94
501(c)(3) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 95
26 U.S.C. 1, as amended, or is organized for a public or 96
charitable purpose and that upon dissolution must distribute its 97
assets to a public benefit corporation, the United States, a state 98
or any political subdivision of a state, or a person that is 99
recognized as exempt from federal income taxation under section 100
501(c)(3) of the "Internal Revenue Code of 1986," as amended. 101
"Public benefit corporation" does not include a nonprofit 102
corporation that is organized by one or more municipal 103

corporations to further a public purpose that is not a charitable
purpose. 104
105

(O) "Authorized communications equipment" means any 106
communications equipment to which both of the following apply: 107

(1) The articles, regulations, or bylaws, or the regulations, 108
constitution, or other fundamental agreement if section 1702.08 of 109
the Revised Code applies, permit the use of the communications 110
equipment for the purpose of giving notice of meetings or any 111
notice required by this chapter, attending and participating in 112
meetings, giving a copy of any document or transmitting any 113
writing required or permitted under this chapter, or voting. 114

(2) The communications equipment provides a transmission, 115
including, but not limited to, by telephone, telecopy, or any 116
electronic means, from which it can be determined that the 117
transmission was authorized by, and accurately reflects the 118
intention of, the member or director involved and, with respect to 119
meetings, allows all persons participating in the meeting to 120
contemporaneously communicate with each other. 121

Sec. 1702.02. (A) Unless another form of notice is required 122
by the articles, the regulations, the bylaws, or by applicable 123
law, any notice required by this chapter shall be in writing and 124
shall be delivered personally or sent by telegram, ~~telecopy, or~~ 125
~~electronic mail transmission~~ by the use of authorized 126
communications equipment, or by United States mail, express mail, 127
or courier service, with postage or fees prepaid. 128

(B) In computing the period of time for the giving of a 129
notice required or permitted under this chapter, or under the 130
articles, the regulations, or the bylaws of a corporation, or a 131
resolution of its members or directors, the day on which the 132
notice is given shall be excluded, and the day when the act for 133

which notice is given is to be done shall be included, unless the
instrument calling for the notice otherwise provides. If notice is
given by personal delivery or transmitted by telegram, ~~teletype,~~
or ~~electronic mail~~ by the use of authorized communications
equipment, the notice shall be deemed to have been given when
delivered or transmitted. If notice is sent by United States mail,
express mail, or courier service, the notice shall be deemed to
have been given when deposited in the mail or with the courier
service.

(C) A written notice or report delivered as part of a
newsletter, magazine, or other publication regularly sent to
members shall constitute a written notice or report if addressed
or delivered to the member's address shown in the corporation's
current list of members, or, in the case of members who are
residents of the same household and who have the same address in
the corporation's current list of members, if addressed or
delivered to one of ~~such~~ those members at the address appearing on
the corporation's current list of members.

Sec. 1702.08. (A) When an unincorporated society or
association, organized for any of the purposes for which a
corporation could be formed under this chapter, authorizes the
incorporation of ~~such~~ that society or association, by the same
procedure and affirmative vote of its voting members ~~as~~ that the
regulations, constitution, or other fundamental agreement of ~~such~~
the society or association requires for an amendment to ~~such~~ that
fundamental agreement or, if no such vote is specified, by a
majority vote of the voting members present in person or, if
permitted, by mail ~~or~~, by proxy, or by the use of authorized
communications equipment, at a duly convened meeting the purpose
of which is stated in the notice of the meeting, then upon the
filing of the articles under section 1702.04 of the Revised Code

setting forth ~~such~~ those facts and that ~~such~~ the required vote has 165
been obtained, ~~such~~ that society or association shall become a 166
corporation, and the members of ~~such~~ the society or association 167
shall become members of ~~such~~ that corporation in accordance with 168
provisions in the articles to that effect. 169

(B) All the rights, privileges, immunities, powers, 170
franchises, and authority, and all the property and obligations of 171
~~such~~ that unincorporated society or association, shall thereupon 172
pass to, vest in, and (in the case of liabilities and obligations) 173
be obligations of the corporation so formed. 174

Sec. 1702.11. (A) Without limiting the generality of such 175
authority, the regulations, whether designated a constitution or 176
rules, or by some other term, may include provisions with respect 177
to the following: 178

(1) The ~~time and place, if any, and time~~ for holding, the 179
manner of and authority for calling, giving notice of, and 180
conducting, and the requirements of a quorum for, meetings of 181
members, or their elected representatives or delegates; 182

(2) The qualifications, admission, voluntary withdrawal, 183
censure, and suspension of members, and the termination of 184
membership; 185

(3) The fees and dues of members; 186

(4) The rights of members or classes of members, or of their 187
elected representatives or delegates, to vote; the manner of 188
conducting votes of members on matters, including any right to 189
vote by mail, by the use of authorized communications equipment, 190
if permitted by this chapter, or by proxy; the specification of 191
the relative rights and privileges among members and in the 192
property of the corporation; and limitations upon or regulations 193
governing the right of members to examine the books and records of 194

the corporation;	195
(5) The election of representatives or delegates of members and their authority, rights, and privileges;	196 197
(6) The number, classification, manner of fixing or changing the number, qualifications, term of office, voting rights, compensation or manner of fixing compensation, and the removal of directors;	198 199 200 201
(7) The time and place, if any, and time for holding, the manner of and authority for calling, giving notice of, and conducting, and the requirements of a quorum for, meetings of the directors;	202 203 204 205
(8) The appointment of an executive and other committees of the directors or of members, their authority, and the method by which they take action;	206 207 208
(9) The titles, qualifications, duties, term of office, compensation or manner of fixing compensation, and the removal, of officers;	209 210 211
(10) Defining, limiting, or regulating the exercise of the authority of the corporation, the directors, the officers, the members, or any class of members;	212 213 214
(11) The method by which voting members may change the regulations;	215 216
<u>(12) Providing for the use of authorized communications equipment.</u>	217 218
(B)(1) In the absence of provisions in the articles or the regulations with respect to the method of changing the regulations, the regulations may be amended, or new regulations may be adopted, by the voting members at a meeting held for such purpose, <u>if a quorum is present</u> , by the affirmative vote of a majority of the voting members present in person or, if permitted,	219 220 221 222 223 224

by mail, by the use of authorized communications equipment, or by 225
proxy, ~~if a quorum is present.~~ 226

(2) For purposes of division (B)(1) of this section, 227
participation by a member in a meeting through the use of any of 228
the means of communication described in that division constitutes 229
presence in person of that member at the meeting for purposes of 230
determining a quorum. 231

(C) The members of a nonprofit corporation may adopt or 232
authorize the directors to adopt, either before or during an 233
emergency, as defined in division (U) of section 1701.01 of the 234
Revised Code, emergency regulations operative only during an 235
emergency. The emergency regulations may include ~~such~~ those 236
provisions ~~as~~ that are authorized to be included in regulations by 237
divisions (A) and (B) of this section. In addition, unless 238
expressly prohibited by the articles or regulations, and 239
notwithstanding any different provisions in this chapter and any 240
different provision in the articles or regulations that are not 241
expressly stated to be operative during an emergency, the 242
emergency regulations may make any provision that may be practical 243
or necessary with respect to meetings, committees, vacancies, and 244
temporary appointments of the directors, and the rank and 245
succession of officers, the same as may be done by corporations 246
for profit under division (C) of section 1701.11 of the Revised 247
Code. 248

(D) Any change in the regulations made in accordance with 249
their provisions or pursuant to division (B) of this section shall 250
be binding on all members. 251

(E) If, ~~pursuant to~~ the regulations, ~~such regulations~~ are 252
amended or new regulations adopted without a meeting of the voting 253
members, the secretary of the corporation shall send by mail, 254
overnight delivery service, or authorized communications equipment 255
a copy of the amendment or the new regulations to each voting 256

member who would have been entitled to vote on the amendment or 257
new regulations and did not participate in the adoption of the 258
amendment or new regulations. If the secretary of the corporation 259
mails the copy or sends it by overnight delivery service, the 260
secretary shall send the copy of the amendment or the new 261
regulations to the voting member at the voting member's address as 262
it appears on the records of the corporation. If the secretary 263
sends the copy by means of authorized communications equipment, 264
the secretary shall send the copy of the amendment or the new 265
regulations to the address provided by the voting member for 266
transmissions by authorized communications equipment. 267

(F) No person dealing with the corporation shall be charged 268
with constructive notice of the regulations. 269

(G) Unless expressly prohibited by the articles or 270
regulations, or unless otherwise provided by the emergency 271
regulations, and notwithstanding any different provision in this 272
chapter, the special rules provided for corporations for profit 273
under division (F) of section 1701.11 of the Revised Code are 274
applicable to a nonprofit corporation during an emergency, as 275
defined in division (U) of section 1701.01 of the Revised Code. 276

Sec. 1702.17. (A) Meetings of voting members may be called by 277
any of the following: 278

(1) The chairperson of the board, the president, or, in case 279
of the president's absence, death, or disability, the 280
vice-president authorized to exercise the authority of the 281
president; 282

(2) The directors by action at a meeting, or a majority of 283
the directors acting without a meeting; 284

(3) The lesser of (a) ten per cent of the voting members or 285
(b) twenty-five of ~~such~~ the voting members, unless the articles or 286

the regulations specify for such purpose a smaller or larger 287
proportion or number, but not in excess of fifty per cent of ~~such~~ 288
the voting members; 289

(4) ~~Such~~ Any other officers or persons ~~as~~ that the articles 290
or the regulations authorize to call such meetings. 291

(B) ~~Meetings~~ If so provided in the articles or the 292
regulations, meetings of voting members may be held either within 293
or without this state ~~if so provided in the articles or the~~ 294
~~regulations~~ or solely by means of authorized communications 295
equipment. In the absence of any such provision, all meetings 296
shall be held at the principal office of the corporation in this 297
state. 298

(C) If authorized by the directors, the voting members and 299
proxyholders who are not physically present at a meeting of voting 300
members may attend the meeting by the use of authorized 301
communications equipment that enables the voting members and 302
proxyholders an opportunity to participate in the meeting and to 303
vote on matters submitted to the voting members, including an 304
opportunity to read or hear the proceedings of the meeting, 305
participate in the proceedings, and contemporaneously communicate 306
with the persons who are physically present at the meeting. Any 307
voting member who uses authorized communications equipment under 308
this division is deemed to be present in person at the meeting 309
whether the meeting is held at a designated place or solely by 310
means of authorized communications equipment. The directors may 311
adopt procedures and guidelines for the use of authorized 312
communications equipment in connection with a meeting of voting 313
members to permit the corporation to verify that a person is a 314
voting member or proxyholder and to maintain a record of any vote 315
or other action taken at the meeting. 316

Sec. 1702.18. Unless the articles or the regulations provide 317

for notice of meetings otherwise than as provided in this section, 318
written notice stating the ~~time and place, if any, and the time~~ of 319
a meeting ~~of~~ and the means, if any, by which the voting members 320
can be present and vote at the meeting through the use of 321
authorized communications equipment, and, in case of a special 322
meeting, the purpose or purposes for which the meeting is called, 323
shall be given in the manner described in section 1702.02 of the 324
Revised Code, not less than ten or not more than sixty days before 325
the date of the meeting: (A) to each member entitled to notice of 326
the meeting; (B) by or at the direction of the president or the 327
secretary or any other person required or permitted by the 328
regulations to give notice or the officers or persons calling the 329
meeting. If mailed or sent by overnight delivery service, ~~such~~ 330
that notice shall be addressed to the member at the member's 331
address as it appears on the records of the corporation. If sent 332
by means of authorized communications equipment, that notice shall 333
be sent to the address furnished by the voting member for 334
transmissions by authorized communications equipment. Notice of 335
adjournment of a meeting need not be given if the ~~time and place,~~ 336
if any, and the time to which it is adjourned and the procedure by 337
which the voting members can be present and vote at the adjourned 338
meeting through the use of authorized communications equipment are 339
fixed and announced at ~~such~~ the meeting. 340

Sec. 1702.19. (A) Notice of the ~~time,~~ time, place, if any, the 341
time, and the purposes of any meeting of voting members or 342
directors, as the case may be, whether required by law, the 343
articles, the regulations, or (in the case of directors) the 344
bylaws, may be waived in writing, either before or after the 345
holding of such meeting, by any member, or by any director, which 346
writing shall be filed with or entered upon the records of the 347
meeting. ~~The attendance of any member or any director at any such~~ 348

~~meeting~~ A transmission by authorized communications equipment that 349
contains a waiver is a writing for purposes of this division. 350

(B) If a member or director attends a meeting described in 351
division (A) of this section without protesting, prior to or at 352
the commencement of the meeting, then the lack of proper notice 353
shall be deemed to be a waiver by the member or director of notice 354
of ~~such~~ the meeting. 355

(C) A member or director shall be considered in attendance at 356
a meeting described in division (A) of this section, if the member 357
or director is present in person or, if permitted by the 358
regulations, is present by the use of authorized communications 359
equipment. 360

Sec. 1702.20. (A) Except as otherwise provided in the 361
articles or the regulations, each member, regardless of class, 362
shall be entitled to one vote on each matter properly submitted to 363
the members for their vote, consent, waiver, release, or other 364
action. ~~The~~ 365

(B) The articles or the regulations may provide that voting 366
at elections and votes on other matters may be conducted by mail 367
or by the use of authorized communications equipment. Unless 368

(C) Participation by a member in a meeting through the use of 369
any of the means of communication described in division (B) of 370
this section constitutes presence in person of that member at the 371
meeting. The directors may adopt procedures and guidelines for the 372
use of authorized communications equipment to permit the 373
corporation to verify that a person is a voting member and to 374
maintain a record of any vote. 375

(D) Unless the articles or the regulations otherwise provide, 376
no member who is a natural person shall vote or act by proxy. 377

378

Sec. 1702.22. Unless the articles or the regulations 379
otherwise provide: 380

(A)(1) The voting members present in person or, if permitted, 381
by mail ~~or~~, by proxy, or by the use of authorized communications 382
equipment at any meeting of voting members shall constitute a 383
quorum for ~~such~~ the meeting. ~~The~~ 384

(2) The affirmative vote of a majority of the voting members 385
present at a meeting at which a quorum is present as provided in 386
division (A)(1) of this section shall be necessary for the 387
authorization or taking of any action voted upon by the members, 388
except that no action required by law, the articles, or the 389
regulations to be authorized or taken by a specified proportion or 390
number of the voting members or of any class of voting members may 391
be authorized or taken by a lesser proportion or number. 392

(B) A majority of the voting members present at a meeting, 393
whether or not a quorum is present, may adjourn ~~such~~ the meeting 394
from time to time. 395

Sec. 1702.25. (A) Unless the articles or the regulations 396
prohibit the authorization or taking of any action of the 397
incorporators, the members, or the directors without a meeting, 398
any action that may be authorized or taken at a meeting of the 399
incorporators, the members, or the directors, as the case may be, 400
may be authorized or taken without a meeting with the affirmative 401
vote or approval of, and in a writing or writings signed by, all 402
of the incorporators, all of the members, or all of the directors, 403
as the case may be, who would be entitled to notice of a meeting 404
for ~~such~~ that purpose, or, in the case of members, ~~such~~ any other 405
proportion or number of voting members, not less than a majority, 406
~~as~~ that the articles or the regulations permit. Any such writing 407
shall be filed with or entered upon the records of the 408

corporation. Any certificate with respect to the authorization or 409
taking of any ~~such~~ action described in this division that is 410
required to be filed in the office of the secretary of state shall 411
recite that the authorization or taking of ~~such that~~ action was in 412
a writing or writings approved and signed as specified in this 413
section. 414

(B) Any transmission by authorized communications equipment 415
that contains an affirmative vote or approval of the person 416
described in division (A) of this section is a signed writing for 417
purposes of this section. The date on which that transmission by 418
authorized communications equipment is sent is the date on which 419
the writing is signed. 420

Sec. 1702.27. (A) Except as provided in division (B) of this 421
section and section 1702.521 of the Revised Code: 422

(1) The number of directors as fixed by the articles or the 423
regulations shall be not less than three or, if not so fixed, the 424
number shall be three, except that if there are only one or two 425
members of the corporation, the number of directors may be less 426
than three but not less than the number of members. 427

(2) ~~Unless~~ (a) Subject to division (A)(2)(c) of this section, 428
unless the articles or the regulations fix the number of directors 429
or provide the manner in which ~~such that~~ number may be fixed or 430
changed by the voting members, the number may be fixed or changed 431
at a meeting of the voting members called for the purpose of 432
electing directors, if a quorum is present, by the affirmative 433
vote of a majority of the voting members present in person or, if 434
permitted, by mail, by the use of authorized communications 435
equipment, or by proxy, ~~if.~~ 436

(b) For purposes of division (A)(2)(a) of this section, 437
participation by a voting member in a meeting through the use of 438

any of the means of communication described in that division 439
constitutes presence in person of that voting member at the 440
meeting for purposes of determining a quorum is present, but no, 441

(c) No reduction in the number of directors shall of itself 442
have the effect of shortening the term of any incumbent director. 443

(3) The director shall have ~~such~~ the qualifications, if any, 444
~~as that~~ are stated in the articles or the regulations. 445

(4) The articles or the regulations may provide that persons 446
occupying certain positions within or without the corporation 447
shall be ex officio directors, but, unless otherwise provided in 448
the articles or the regulations, such ex officio directors shall 449
not be considered for quorum purposes and shall have no vote. 450

(B) The court of common pleas of the county in which the 451
corporation maintains its principal office may, pursuant to 452
division (A) of section 1702.521 of the Revised Code, order the 453
appointment of a provisional director for the corporation without 454
regard to the number or qualifications of directors stated in the 455
articles or regulations of the corporation. 456

Sec. 1702.31. Unless otherwise provided in the articles, 457
regulations, or bylaws, and subject to the exceptions applicable 458
during an emergency for which provision is made in division (G) of 459
section 1702.11 of the Revised Code: 460

(A) Meetings of the directors may be called by the 461
chairperson of the board, the president, any vice-president, or 462
any two directors~~+~~. 463

(B) Meetings of the directors may be held at any place within 464
or without the state ~~and~~, including by means of authorized 465
communications equipment, unless the articles or regulations 466
prohibit participation by directors at a meeting by means of 467
authorized communications equipment, ~~meetings of the directors may~~ 468

~~be held through any communications equipment if all persons~~ 469
~~participating can hear each other and participation. Participation~~ 470
in a meeting pursuant to this division ~~shall constitute~~ 471
constitutes presence at ~~such that~~ meeting~~7~~. 472

(C) ~~Written notice~~ Notice of the ~~time and~~ place, if any, and 473
time of each meeting of the directors shall be given to each 474
director either by personal delivery or by mail, ~~telegram by~~ 475
overnight delivery service, or ~~cablegram by~~ means of authorized 476
communications equipment at least two days before the meeting~~7~~ 477
~~which. That~~ notice need not specify the purposes of the meeting~~7~~. 478

(D) Notice of adjournment of a meeting need not be given if 479
the time and place to which it is adjourned are fixed and 480
announced at ~~such that~~ meeting. 481

Sec. 1702.33. (A) The regulations may provide for the 482
creation by the directors of an executive committee or any other 483
committee of the directors, to consist of one or more directors, 484
and may authorize the delegation to any such committee of any of 485
the authority of the directors, however conferred. 486

(B) The directors may appoint one or more directors as 487
alternate members of any ~~such~~ committee described in division (A) 488
of this section, who may take the place of any absent member or 489
members at any meeting of the particular committee. 490

(C) Each ~~such~~ committee described in division (A) of this 491
section shall serve at the pleasure of the directors, shall act 492
only in the intervals between meetings of the directors, and shall 493
be subject to the control and direction of the directors. 494

(D) Unless otherwise provided in the regulations or ordered 495
by the directors, any ~~such~~ committee described in division (A) of 496
this section may act by a majority of its members at a meeting or 497
by a writing or writings signed by all of its members. 498

(E) ~~Unless~~ Meetings of committees described in division (A) 499
of this section may be held by any means of authorized 500
communications equipment, unless participation by members of ~~any~~ 501
~~such~~ the committee at a meeting by means of authorized 502
communications equipment is prohibited by the articles, the 503
regulations, or an order of the directors, ~~meetings of the~~ 504
~~particular committee may be held through any communications~~ 505
~~equipment if all persons participating can hear each other.~~ 506
Participation in a meeting pursuant to this division constitutes 507
presence at the meeting. 508

(F) An act or authorization of an act by any ~~such~~ committee 509
described in division (A) of this section within the authority 510
delegated to it shall be as effective for all purposes as the act 511
or authorization of the directors. 512

Sec. 1702.38. (A) The articles may be amended from time to 513
time in any respect if the articles as amended set forth all ~~such~~ 514
the provisions ~~as~~ that are required in, and only ~~such~~ those 515
provisions ~~as~~ that may properly be in, original articles filed at 516
the time of adopting the amendment, other than with respect to the 517
initial directors, except that a public benefit corporation shall 518
not amend its articles in such manner that it will cease to be a 519
public benefit corporation. 520

(B) Without limiting the generality of ~~such~~ the authority 521
described in division (A) of this section, the articles may be 522
amended to: 523

(1) Change the name of the corporation; 524

(2) Change the place in this state where its principal office 525
is to be located; 526

(3) Change, enlarge, or diminish its purpose or purposes; 527

(4) Change any provision of the articles or add any provision 528

that may properly be included ~~therein~~ in the articles. 529

(C)(1) The voting members present in person or, if permitted, 530
by mail ~~or~~, by proxy, or by use of authorized communications 531
equipment, at a meeting held for ~~such that~~ purpose, may adopt an 532
amendment by the affirmative vote of a majority of the voting 533
members present if a quorum is present, or, if the articles or the 534
regulations provide or permit, by the affirmative vote of a 535
greater or lesser proportion or number of the voting members, and 536
by ~~such the~~ affirmative vote of the voting members of any 537
particular class ~~as that~~ is required by the articles or the 538
regulations. 539

(2) For purposes of division (C)(1) of this section, 540
participation by a voting member at a meeting through the use of 541
any of the means of communication described in that division 542
constitutes presence in person of that voting member at the 543
meeting for purposes of determining a quorum. 544

(D) In addition to or in lieu of adopting an amendment to the 545
articles, the voting members may adopt amended articles by the 546
same action or vote as that required to adopt the amendment. 547

(E) The directors may adopt amended articles to consolidate 548
the original articles and all previously adopted amendments to the 549
articles that are in force at the time, or the voting members at a 550
meeting held for ~~such that~~ purpose may adopt ~~such the~~ amended 551
articles by the same vote as that required to adopt an amendment. 552

(F) Amended articles shall set forth all ~~such the~~ provisions 553
~~as that~~ are required in, and only ~~such the~~ provisions ~~as that~~ may 554
properly be in, original articles filed at the time of adopting 555
the amended articles, other than with respect to the initial 556
directors, and shall contain a statement that they supersede the 557
existing articles. 558

(G) Upon the adoption of any amendment or amended articles, a 559

certificate containing a copy of the resolution adopting the
amendment or amended articles, a statement of the manner of its
adoption, and, in the case of adoption of the resolution by the
directors, a statement of the basis for such adoption, shall be
filed with the secretary of state, and ~~thereupon~~ upon that filing
the articles shall be amended accordingly, and the amended
articles shall supersede the existing articles. The certificate
shall be signed by any authorized officer of the corporation.

(H) A copy of an amendment or amended articles changing the
name of a corporation or its principal office in this state,
certified by the secretary of state, may be filed for record in
the office of the county recorder of any county in this state, and
for ~~such that~~ recording the county recorder shall charge and
collect the same fee as provided for in division (A) of section
317.32 of the Revised Code. ~~Such That~~ copy shall be recorded in
the records of deeds.

Sec. 1702.39. (A)(1) Unless the articles or the regulations,
or the terms of any trust on which the corporation holds any
particular property, otherwise provide, a lease, sale, exchange,
transfer, or other disposition of any assets of a mutual benefit
corporation may be made without the necessity of procuring
authorization from the court under section 1715.39 of the Revised
Code, upon ~~such the~~ terms and for ~~such the~~ consideration, which
may consist, in whole or in part, of money or other property,
including shares or other securities or promissory obligations of
any business corporation, domestic or foreign, ~~as that~~ may be
authorized by the directors, except that a lease, sale, exchange,
transfer, or other disposition of all, or substantially all, the
assets may be made only when ~~such that~~ transaction is also
authorized (either before or after authorization by the directors)
by the voting members present in person or, if permitted, by mail,

by proxy, or by the use of authorized communications equipment, at 591
a meeting held for ~~such~~ that purpose, by the affirmative vote of a 592
majority of the voting members present as described in this 593
division, if a quorum is present, or, if the articles or the 594
regulations provide or permit, by the affirmative vote of a 595
greater or lesser proportion or number of the voting members, and 596
by ~~such~~ the affirmative vote of the voting members of any 597
particular class ~~as~~ that is required by the articles or the 598
regulations. Notice of the meeting of the members shall be given 599
to all members entitled to vote ~~thereat~~ at the meeting. Such 600
notice shall be accompanied by a copy or summary of the terms of 601
~~such~~ that transaction. 602

(2) For purposes of division (A)(1) of this section, 603
participation by a voting member at a meeting through the use of 604
any of the means of communication described in that division 605
constitutes presence in person of that voting member at the 606
meeting for purposes of determining a quorum. 607

(B)(1) A public benefit corporation may not dispose of its 608
assets with value equal to more than fifty per cent of the fair 609
market value of the net tangible and intangible assets, including 610
goodwill, of the corporation over a period of thirty-six 611
consecutive months in a transaction or series of transactions, 612
including the lease, sale, exchange, transfer, or other 613
disposition of those assets, that are outside the ordinary course 614
of its business or that are not in accordance with the purpose or 615
purposes for which the corporation was organized, as set forth in 616
its articles or the terms of any trust on which the corporation 617
holds such assets, unless one or more of the following apply: 618

(a) The transaction has received the prior approval of the 619
court of common pleas of the county in this state in which the 620
principal office of the corporation is located, in a proceeding of 621

which the attorney general's charitable law section has been given
written notice by certified mail within three days of the
initiation of the proceeding, and in which proceeding the attorney
general may intervene as of right.

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(b)(i) The corporation has provided written notice of the
proposed transaction, including a copy or summary of the terms of
such transaction, at least twenty days before consummation of the
lease, sale, exchange, transfer, or other disposition of the
assets, to the attorney general's charitable law section and to
the members of the corporation, and the proposed transaction has
been approved by the voting members present in person or, if
permitted, by mail, by proxy, or by the use of authorized
communications equipment, at a meeting held for ~~such~~ that purpose,
by the affirmative vote of a majority of the voting members
present as described in this division, if a quorum is present, or,
if the articles or regulations provide or permit, by the
affirmative vote of a greater or lesser proportion or number of
the voting members, and if the articles or regulations require, by
the affirmative vote of the voting members of any particular
class.

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(ii) For purposes of division (B)(1)(b)(i) of this section,
participation by a voting member at a meeting through the use of
any of the means of communication described in that division
constitutes presence in person of that voting member at the
meeting for purposes of determining a quorum.

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(c) The transaction is in accordance with the purpose or
purposes for which the corporation was organized, as set forth in
its articles or the terms of any trust on which the corporation
holds the assets, and the lessee, purchaser, or transferee of the
assets is also a public benefit corporation or a foreign
corporation that would qualify under the Revised Code as a public
benefit corporation.

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(2) The attorney general may require, pursuant to section 654
109.24 of the Revised Code, the production of the documents 655
necessary for review of a proposed transaction under division 656
(B)(1) of this section. The attorney general may retain, at the 657
expense of the public benefit corporation, one or more experts, 658
including an investment banker, actuary, appraiser, certified 659
public accountant, or other expert, that the attorney general 660
considers reasonably necessary to provide assistance in reviewing 661
a proposed transaction under division (B)(1) of this section. 662

(C) The attorney general may institute a civil action to 663
enforce the requirements of division (B)(1) of this section in the 664
court of common pleas of the county in this state in which the 665
principal office of the corporation is located or in the Franklin 666
county court of common pleas. In addition to any civil remedies 667
that may exist under common law or the Revised Code, a court may 668
rescind the transaction or grant injunctive relief or impose any 669
combination of these remedies. 670

(D) The corporation by its directors may abandon the proposed 671
lease, sale, exchange, transfer, or other disposition of the 672
assets of the corporation pursuant to division (A) or (B) of this 673
section, subject to the contract rights of other persons, if ~~such~~ 674
that power of abandonment is conferred upon the directors either 675
by the terms of the transaction or by the same vote of voting 676
members and at the same meeting of members as that referred to in 677
division (A) or (B) of this section, as applicable, or at any 678
subsequent meeting. 679

(E) An action to set aside a conveyance by a corporation, on 680
the ground that any section of the Revised Code applicable to the 681
lease, sale, exchange, transfer, or other disposition of the 682
assets of such corporation has not been complied with, shall be 683
brought within one year after ~~such~~ that transaction, or the action 684
shall be forever barred. 685

Sec. 1702.42. (A) The directors of each constituent 686
corporation, upon approving an agreement of merger or 687
consolidation, shall direct that the agreement be submitted to the 688
voting members entitled to vote on it at a meeting of voting 689
members of such corporation held for that purpose, and notice of 690
~~such the~~ meeting shall be given to all members of ~~such the~~ 691
constituent corporation entitled to vote ~~thereat at the meeting.~~ 692
The notice shall be accompanied by a copy or summary of the 693
agreement. 694

(B)(1) At each ~~such~~ meeting described in division (A) of this 695
section, a vote of the members shall be taken on the proposed 696
agreement. In order to be adopted, the agreement (including any 697
amendments or additions ~~thereto~~ to the agreement proposed at each 698
such meeting) must receive the affirmative vote of a majority of 699
the voting members of each constituent corporation present at that 700
meeting in person or, if permitted, by mail ~~or~~, by proxy, ~~at each~~ 701
~~such meeting~~ or by the use of authorized communications equipment, 702
if a quorum is present, or, if the articles or the regulations of 703
~~such that~~ corporation provide or permit, the affirmative vote of a 704
greater or lesser proportion or number of the voting members, and 705
~~such the~~ affirmative vote of the voting members of any particular 706
class ~~as that~~ is required by the articles or the regulations of 707
such corporation. If the agreement would authorize any particular 708
corporate action that, under any applicable provision of law or 709
under the existing articles of one or more of the constituent 710
corporations, could be authorized only by or pursuant to a 711
specified vote of voting members, ~~such the~~ agreement (including 712
any amendments or additions ~~thereto~~ to the agreement proposed at 713
each such meeting) in order to be adopted must receive the 714
affirmative vote so specified. 715

(2) For purposes of division (B)(1) of this section, 716

participation by a voting member at a meeting through the use of 717
any of the means of communication described in that division 718
constitutes presence in person of that voting member at the 719
meeting for purposes of determining a quorum. 720

(C) At any time prior to the filing of the agreement, the 721
merger or consolidation may be abandoned by the directors of one 722
or more of the constituent corporations, if the power of 723
abandonment is conferred upon ~~such~~ those directors either by the 724
agreement or by the same vote of voting members of each of the 725
constituent corporations and at the same meetings as those 726
referred to in division (B) of this section or at subsequent 727
meetings. 728

Sec. 1702.47. (A) A corporation may be dissolved voluntarily 729
in the manner provided in this section. 730

(B) A resolution of dissolution for a corporation shall set 731
forth: 732

(1) That the corporation elects to be dissolved; 733

(2) Any additional provision deemed necessary with respect to 734
the proposed dissolution and winding up. 735

(C) The directors may adopt a resolution of dissolution in 736
the following cases: 737

(1) When the corporation has been adjudged bankrupt or has 738
made a general assignment for the benefit of creditors; 739

(2) By leave of the court, when a receiver has been appointed 740
in a general creditors' suit or in any suit in which the affairs 741
of the corporation are to be wound up; 742

(3) When substantially all of the assets have been sold at 743
judicial sale or otherwise; 744

(4) When the period of existence of the corporation specified 745

in its articles has expired.

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(D)(1) The voting members at a meeting held for ~~such that~~ purpose may adopt a resolution of dissolution by the affirmative vote of a majority of the voting members present in person or, if permitted, by mail ~~or~~, by proxy, or by the use of authorized communications equipment, if a quorum is present or, if the articles or the regulations provide or permit, by the affirmative vote of a greater or lesser proportion or number of the voting members, and by ~~such the~~ affirmative vote of the voting members or the affirmative vote of the voting members of any particular class ~~as that~~ is required by the articles or the regulations. Notice of the meeting of the members shall be ~~given~~ sent to all the members who would be entitled to vote thereat at the meeting by mail, overnight delivery service, or any authorized communications equipment.

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(2) For purposes of division (D)(1) of this section, participation by a voting member at a meeting through the use of any of the means of communication described in that division constitutes presence in person of that voting member at the meeting for purposes of determining a quorum.

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(E) Upon the adoption of a resolution of dissolution, a certificate shall be prepared, on a form prescribed by the secretary of state, setting forth the following:

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(1) The name of the corporation;

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(2) A statement that a resolution of dissolution has been adopted;

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(3) A statement of the manner of adoption of ~~such that~~ resolution, and, in the case of its adoption by the directors, a statement of the basis for ~~such the~~ adoption;

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(4) The place in this state where its principal office is or

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is to be located; 776

(5) The names and addresses of its directors and officers; 777

(6) The name and address of its statutory agent; 778

(7) The date of dissolution, if other than the filing date. 779

(F) ~~Such~~ The certificate described in division (E) of this 780
section shall be signed by any authorized officer, unless the 781
officer fails to execute and file ~~such~~ the certificate within 782
thirty days after the adoption of the resolution, or upon any date 783
specified in the resolution as the date upon which ~~such~~ the 784
certificate is to be filed, or upon the expiration of any period 785
specified in the resolution as the period within which ~~such~~ the 786
certificate is to be filed, whichever is latest, in which event 787
the certificate of dissolution may be signed by any three voting 788
members and shall set forth a statement that the persons signing 789
the certificate are voting members and are filing the certificate 790
because of the failure of the officers to do so. 791

(G) A certificate of dissolution, filed with the secretary of 792
state, shall be accompanied by: 793

(1) An affidavit of one or more of the persons executing the 794
certificate of dissolution or of an officer of the corporation 795
containing a statement of the counties, if any, in this state in 796
which the corporation has personal property subject to personal 797
property taxes or a statement that the corporation is of a type 798
required to pay personal property taxes to state authorities only; 799

(2) A receipt, certificate, or other evidence showing the 800
payment of all personal property taxes accruing up to the date of 801
such filing or, if applicable, to the later date specified in the 802
certificate of dissolution in accordance with division (E) of this 803
section, unless the affidavit provided for in division (G)(1) of 804
this section states that the corporation has in this state no 805

personal property subject to personal property taxes; 806

(3) A receipt, certificate, or other evidence from the 807
director of job and family services showing that all contributions 808
due from the corporation as an employer have been paid, ~~or~~ that 809
such payment has been adequately guaranteed, or that the 810
corporation is not subject to such contributions; 811

(4) A receipt, certificate, or other evidence showing the 812
payment of all sales, use, and highway use taxes accruing up to 813
the date of such filing or, if applicable, to the later date 814
specified in the certificate of dissolution in accordance with 815
division (E) of this section, or that such payment has been 816
adequately guaranteed; 817

(5) In lieu of the receipt, certificate, or other evidence 818
described in division (G)(2), (3), or (4) of this section, an 819
affidavit of one or more of the persons executing the certificate 820
of dissolution or of an officer of the corporation containing a 821
statement of the date upon which the particular department, 822
agency, or authority was advised in writing of the scheduled 823
effective date of the dissolution and was advised in writing of 824
the acknowledgement by the corporation of the applicability of 825
section 1702.55 of the Revised Code. 826

(H) Upon the filing of a certificate of dissolution and ~~such~~ 827
those accompanying documents or on a later date specified in the 828
certificate that is not more than ninety days after the filing, 829
the corporation shall be dissolved. 830

Sec. 1702.58. (A) Except as provided in sections 1702.01 to 831
1702.58 of the Revised Code, the provisions of those sections 832
shall apply only to domestic corporations, and except as otherwise 833
provided in this section, the provisions of those sections shall 834
apply to all domestic corporations, whether formed under those 835

sections or under previous laws of this state. 836

(B) Special provisions in the Revised Code for the 837
organization, conduct, or government of designated classes of 838
corporations shall govern to the exclusion of the provisions of 839
sections 1702.01 to 1702.58 of the Revised Code on the same 840
subject, except where it clearly appears that a special provision 841
is cumulative, in which case, that provision and the provisions of 842
those sections on the same subject shall apply. 843

(C) A corporation incorporated prior to June 9, 1927, with 844
authority to issue shares may continue to issue and reissue shares 845
in accordance with its articles, but shall be without authority to 846
amend its articles in order to increase the authorized number of 847
shares. 848

(D) A corporation created before September 1, 1851, that (1) 849
has expressly elected to be governed by the laws passed since that 850
date; (2) subsequent to that date has taken such action under 851
laws then in effect as to make it subject, as a matter of law, to 852
the Constitution of 1851 and laws passed ~~thereunder~~, under the 853
Constitution of 1851; or (3) subsequent to October 1, 1955, takes 854
any action under sections 1702.01 to 1702.58 of the Revised Code; 855
~~or any of them~~, that but for those sections it would not be 856
authorized to take, shall be deemed to be a corporation exercising 857
its corporate privileges under the Constitution of this state and 858
the laws passed in pursuance ~~thereof~~ of the Constitution of this 859
state, and not otherwise. 860

(E) (1) A corporation created before September 1, 1851, and 861
actually carrying on its activities in this state, and which prior 862
to October 11, 1955, has not taken action described in division 863
(D) of this section, may accept the provisions of sections 1702.01 864
to 1702.58 of the Revised Code at a meeting of voting members held 865
for ~~such~~ that purpose, by a resolution to that effect adopted by 866

the affirmative vote of a majority of the voting members present 867
in person or, if permitted, by mail ~~or~~, by proxy, or by the use of 868
authorized communications equipment, if a quorum is present, and 869
by filing in the office of the secretary of state a copy of the 870
resolution certified by any authorized officer of the corporation, 871
for which filing the secretary of state shall charge and collect a 872
fee of five dollars. Thereafter the corporation shall be deemed to 873
exercise its corporate privileges under the Constitution of this 874
state and the laws passed in pursuance ~~thereof~~ of the Constitution 875
of this state, and not otherwise. 876

(2) For purposes of division (E)(1) of this section, 877
participation by a voting member at a meeting through the use of 878
any of the means of communication described in that division 879
constitutes presence in person of that voting member at the 880
meeting for purposes of determining a quorum. 881

(F) Except as provided in divisions (D) and (E) of this 882
section, a corporation created before September 1, 1851, shall be 883
governed by the laws in force on that date as modified since that 884
date. 885

(G) A domestic business corporation, upon compliance with the 886
provision of the Revised Code ~~as~~ that is in effect from time to 887
time relating to ~~such~~ that business corporation's becoming a 888
nonprofit corporation upon amendment to its articles or upon 889
adoption of amended articles, as provided by law, shall, upon 890
filing the prescribed certificate in the office of the secretary 891
of state, become a corporation subject to the provisions of, and 892
entitled to all the rights, privileges, immunities, powers, 893
franchises, and authority granted by, this chapter. 894

Section 2. That existing sections 1702.01, 1702.02, 1702.08, 895
1702.11, 1702.17, 1702.18, 1702.19, 1702.20, 1702.22, 1702.25, 896
1702.27, 1702.31, 1702.33, 1702.38, 1702.39, 1702.42, 1702.47, and 897
1702.58 of the Revised Code are hereby repealed. 898