

By: Oliveira

H.B. No. 1928

A BILL TO BE ENTITLED

AN ACT

1
2 relating to social purposes of a for-profit corporation and the
3 consideration of social purposes and other interests by officers
4 and directors of a for-profit corporation.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section 1.002, Business Organizations Code, is
7 amended by adding Subdivision (82-a) to read as follows:

8 (82-a) "Social purposes" means one or more purposes of
9 a for-profit corporation, other than the creation of pecuniary
10 benefits for the corporation's shareholders, that are specified in
11 the corporation's certificate of formation and consist of promoting
12 one or more material positive impacts on society or the environment
13 or of minimizing adverse impacts of the corporation's activities on
14 society or the environment, including:

15 (A) providing low-income or underserved
16 individuals or communities with beneficial products or services;

17 (B) promoting economic opportunity for
18 individuals or communities beyond the creation of jobs in the
19 normal course of business;

20 (C) preserving the environment;

21 (D) improving human health;

22 (E) promoting the arts, sciences, or advancement
23 of knowledge;

24 (F) increasing the flow of capital to entities

1 with a social purpose; and

2 (G) conferring any particular benefit on society
3 or the environment.

4 SECTION 2. Section 3.007, Business Organizations Code, is
5 amended by adding Subsection (d) to read as follows:

6 (d) Notwithstanding Section 2.008, a for-profit corporation
7 may include one or more social purposes in the corporation's
8 certificate of formation. The corporation may also include in the
9 certificate of formation a provision that the board of directors
10 and officers of the corporation shall consider any social purpose
11 specified in the certificate of formation in discharging the duties
12 of directors or officers under this code or otherwise.

13 SECTION 3. Section 21.101(a), Business Organizations Code,
14 is amended to read as follows:

15 (a) The shareholders of a corporation may enter into an
16 agreement that:

17 (1) restricts the discretion or powers of the board of
18 directors;

19 (2) eliminates the board of directors and authorizes
20 the business and affairs of the corporation to be managed, wholly or
21 partly, by one or more of its shareholders or other persons;

22 (3) establishes the individuals who shall serve as
23 directors or officers of the corporation;

24 (4) determines the term of office, manner of selection
25 or removal, or terms or conditions of employment of a director,
26 officer, or other employee of the corporation, regardless of the
27 length of employment;

1 (5) governs the authorization or making of
2 distributions whether in proportion to ownership of shares, subject
3 to Section 21.303;

4 (6) determines the manner in which profits and losses
5 will be apportioned;

6 (7) governs, in general or with regard to specific
7 matters, the exercise or division of voting power by and between the
8 shareholders, directors, or other persons, including use of
9 disproportionate voting rights or director proxies;

10 (8) establishes the terms of an agreement for the
11 transfer or use of property or for the provision of services between
12 the corporation and another person, including a shareholder,
13 director, officer, or employee of the corporation;

14 (9) authorizes arbitration or grants authority to a
15 shareholder or other person to resolve any issue about which there
16 is a deadlock among the directors, shareholders, or other persons
17 authorized to manage the corporation;

18 (10) requires winding up and termination of the
19 corporation at the request of one or more shareholders or on the
20 occurrence of a specified event or contingency, in which case the
21 winding up and termination of the corporation will proceed as if all
22 of the shareholders had consented in writing to the winding up and
23 termination as provided by Subchapter K; [~~or~~]

24 (11) with regard to one or more social purposes
25 specified in the corporation's certificate of formation, governs
26 the exercise of corporate powers, the management of the operations
27 and affairs of the corporation, the approval by shareholders or

1 other persons of corporate actions, or the relationship among the
2 shareholders, the directors, and the corporation; or

3 (12) otherwise governs the exercise of corporate
4 powers, the management of the business and affairs of the
5 corporation, or the relationship among the shareholders, the
6 directors, and the corporation as if the corporation were a
7 partnership or in a manner that would otherwise be appropriate only
8 among partners and not contrary to public policy.

9 SECTION 4. Section 21.401, Business Organizations Code, is
10 amended by amending Subsection (b) and adding Subsections (c), (d),
11 and (e) to read as follows:

12 (b) In discharging the duties of director under this code or
13 otherwise and in considering the best interests of the corporation,
14 a director is entitled to ~~may~~ consider the long-term and
15 short-term interests of the corporation and the shareholders of the
16 corporation, including the possibility that those interests may be
17 best served by the continued independence of the corporation.

18 (c) In discharging the duties of a director under this code
19 or otherwise, a director is entitled to consider any social
20 purposes specified in the corporation's certificate of formation.

21 (d) Subject to direction by the board of directors of the
22 corporation, in discharging the duties of an officer under this
23 code or otherwise, an officer is entitled to consider:

24 (1) the long-term and short-term interests of the
25 corporation and of the corporation's shareholders, including the
26 possibility that those interests may be best served by the
27 continued independence of the corporation; and

1 (2) any social purposes specified in the corporation's
2 certificate of formation.

3 (e) Nothing in this section prohibits or limits a director
4 or officer of a corporation that does not have a social purpose
5 specified as a purpose in the corporation's certificate of
6 formation from considering, approving, or taking an action that
7 promotes or has the effect of promoting a social, charitable, or
8 environmental purpose.

9 SECTION 5. This Act takes effect September 1, 2013.