

application to be placed on the ballot for such office, or any five voters of the district may file such written application for or on behalf of any qualified voter in the district that they desire shall be such candidate. The application shall be filed not more than ~~30~~ 45 nor less than ~~12~~ 21 days before the election.

Sec. 2. *The effective date of this act shall be January 1, 1966.*

Approved May 20, 1965.

CHAPTER 504—H. F. No. 762

[Coded in Part]

An act relating to business corporations; amending Minnesota Statutes 1961, Sections 301.03; 301.04; 301.12; 301.26, Subdivisions 2 and 11; 301.28, Subdivisions 1 and 4; 301.37, Subdivision 3; 301.40; 301.42, Subdivisions 1 and 5; 301.60, Subdivision 9; and Chapter 301, by adding a section.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. Minnesota Statutes 1961, Section 301.03, is amended to read:

301.03 Business corporations; revision; purpose of incorporation and qualification of incorporators. ~~Three~~ *One* or more natural persons of full age may form a corporation under sections 301.01 to 301.61 for any lawful business purposes; provided that banks, savings banks, trust companies, building, loan, and savings associations, and insurance companies shall not be formed under the provisions of these sections; and, provided that where other statutes prescribe a special procedure for the incorporation of designated classes of corporations, such corporations shall be formed under such statutes and not under these sections.

The articles of incorporation of a corporation formed under sections 301.01 to 301.61 may state that the corporation has general business purposes; and corporations with purposes so designated shall have unlimited power to engage in, and to do any lawful act concerning, any and all lawful businesses for which corporations may be organized under these sections.

Sec. 2. Minnesota Statutes 1961, Section 301.04, is amended to read:

Changes or additions indicated by italics, deletions by ~~strikeout~~.

301.04 Articles of incorporation. ~~Articles of and incorporation shall be signed by each of the incorporators and acknowledged by at least three of them~~ *Articles of incorporation shall be signed and acknowledged by one or more of the incorporators;* and, in addition to stating the name of the corporation, shall state in the English language:

(1) *Its purpose or purposes, or a statement that it has general business purposes;*

(2) *Its duration, which may be limited or perpetual;*

(3) *The location and post-office address of its registered office in this state;*

(4) *The total authorized number of par value shares and the par value of each share; and, if any of its shares are without par value, the authorized number of such shares;*

(5) *A description of the classes of shares, if the shares are to be classified, and a statement of the number of shares in each class, and the relative rights, voting power, preferences, and restrictions granted to or imposed upon the shares of each class; but the articles of incorporation may authorize the board of directors, within the limitations and restrictions stated therein, if any, to fix or alter, from time to time, in respect of shares then unallotted, any or all of the following: the dividend rate, the redemption price, the liquidation price, the conversion rights and the sinking or purchase fund rights of shares of any class, or of any series of any class, or the number of shares constituting any series of any class.*

(6) *The amount of stated capital with which the corporation will begin business, which shall be not less than \$1,000;*

(7) *The names, post-office addresses, and terms of office of the first directors;*

(8) *The name and post-office address of each of the incorporators;*

(9) *Such provisions as may be desired, if any, limiting or denying to the shareholders, or to any class or classes thereof, the preemptive right to subscribe for any or all shares of any or all classes or series, or denying the right of cumulative voting.*

Articles of incorporation may contain any other provisions, consistent with the laws of this state, for regulating the corporation's business or the conduct of its affairs.

Sec. 3. Minnesota Statutes 1961, Section 301.12, is amended to read:

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301.12 **Ultra vires acts.** Every corporation shall confine its acts to those authorized by the statement of purposes in the articles of incorporation and within the limitations and restrictions, *if any*, contained therein, but shall have the capacity possessed by natural persons to perform all acts within or without this state.

No claim of lack of authority based on the articles shall be asserted or be of effect except by or on behalf of the corporation (a) against a person having actual knowledge of such lack of authority, or (b) against a director or officer.

The provisions of this section shall not affect;

(1) the right of shareholders or the state to enjoin the doing or continuing of unauthorized acts by the corporation; but in such case the court shall protect or make compensation for rights which may have been acquired by third parties by reason of the doing of any unauthorized act by the corporation; or

(2) the right of a corporation to recover against its directors or officers for violation of their authority.

Sec. 4. Minnesota Statutes 1961, Section 301.26, Subdivision 2, is amended to read:

Subd. 2. **Record date for determination.** Subject to any provisions of the articles or bylaws, the board of directors may fix a time, not exceeding ~~40~~ 60 days preceding the date of any meeting of shareholders, as a record date for the determination of the shareholders entitled to notice of and to vote at such meeting, and in such case only shareholders of record on the date so fixed, or their legal representatives, shall be entitled to notice of and to vote at such meeting, notwithstanding any transfer of any shares on the books of the corporation after any record date so fixed. The board of directors may close the books of the corporation against transfers of shares during the whole or any part of such period.

Sec. 5. Minnesota Statutes 1961, Section 301.26, Subdivision 11, is amended to read:

Subd. 11. **Authorization without meeting.** Any action which, under any provisions of sections 301.01 to 301.61 or the articles of incorporation, may be taken at a meeting of the shareholders, may be taken without a meeting if authorized by a writing *or writings* signed by all of the holders of shares who would be entitled to a notice of a meeting for such purpose. *Such action shall be effective on the date on which the last signature is placed on such writing or writings, or such earlier effective date as is set forth therein.* Whenever a certificate in respect of any such action is required

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by sections 301.01 to 301.61 to be filed in the office of the secretary of state, the officers signing the same shall state therein that the action was effected in the manner aforesaid.

Sec. 6. Minnesota Statutes 1961, Section 301.28, Subdivision 1, is amended to read:

301.28 Directors. Subdivision 1. **Board of directors.** The business of a corporation shall be managed by a board of at least three directors, who need not be shareholders unless the articles of incorporation or bylaws so require. *The number of directors which shall constitute the whole board shall be at least three, except that in cases where all of the shares of a corporation are owned beneficially and of record by either one or two shareholders, the number of directors may be less than three but not less than the number of shareholders.* A director shall hold office for the term for which he was named or elected and until his successor is elected and has qualified, unless removed as provided in section 301.29.

Sec. 7. Minnesota Statutes 1961, Section 301.28, Subdivision 4, is amended to read:

Subd. 4. **General provisions.** Except as otherwise prescribed in the articles or bylaws:

- (1) A director shall be elected for a term of one year;
- (2) Vacancies in the board of directors shall be filled by the remaining members of the board, though less than a quorum, and each person so elected shall be a director until his successor is elected by the shareholders who may make such election at their next annual meeting or at any special meeting duly called for that purpose;
- (3) Meetings of the board of directors may be held at such place, whether in this state or elsewhere, as a majority of the members of the board may from time to time appoint;
- (4) Notice shall be given to each director of the time and place of each meeting of the board, but any director may, in writing, either before or after the meeting waive notice thereof; and, without notice, any director, by his attendance at and participation in the action taken at any meeting, shall be deemed to have waived notice;
- (5) Until provision has been made by bylaw for calling meetings of the board, meetings may be called by any member thereof by giving to each of the other members written notice of the time and place of meeting, mailed at least ten days before the time of meeting;

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(6) A majority of the board of directors shall be necessary to constitute a quorum for the transaction of business, unless the bylaws provide that a different number shall constitute a quorum, which in no case shall be less than one-third of the entire number of directors, nor less than two; *and , except that when a board of one director is authorized under the provisions of this section, then one director shall constitute a quorum.* The acts of a majority of the directors present at a meeting at which a quorum is present shall be the acts of the board of directors;

(7) Any action which might be taken at a meeting of the board of directors or of a lawfully constituted executive committee thereof may be taken without a meeting if ~~done in writing~~ *authorized by a writing or writings* signed by all of the directors or by all of the members of such committee, as the case may be; *and such action shall be effective on the date on which the last signature is placed on such writing or writings, or such earlier effective date as is set forth therein.*

(8) The board of directors may, by unanimous affirmative action of the entire board, designate two or more of their number to constitute an executive committee, which, to the extent determined by unanimous affirmative action of the entire board, shall have and exercise the authority of the board in the management of the business of the corporation. Any such executive committee shall act only in the interval between meetings of the board, and shall be subject at all times to the control and direction of the board.

Sec. 8. Minnesota Statutes 1961, Section 301.37, Subdivision 3, is amended to read:

Subd. 3. **When and how made after allotment of shares.**
After allotment of any shares:

(1) Amendment of the articles may be made at any meeting of the shareholders, provided notice of proposal to amend, stating the nature of such proposal, shall have been mailed to each shareholder entitled to vote thereon, *and in the case of an amendment which would extend the duration for a further definite time or perpetually to each shareholder whether or not entitled to vote thereon,* at least ten days prior to such meeting, or by written consent of such shareholders given as provided by section 301.26, subdivision 11;

(2) Except as hereinafter in this section provided, an amendment may be adopted only if it receives either:

(a) The affirmative vote of the holders of two-thirds of the voting power of all shareholders entitled under the articles to vote,

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or such larger or smaller vote, not less than a majority, as the articles may require; or

(b) If not otherwise provided by the articles, the affirmative vote of the holders of a majority of the voting power of all shareholders entitled under the articles to vote and does not receive the negative vote of the holders of more than one-fourth of the voting power of all shareholders entitled to vote;

(3) If an amendment would adversely affect the rights of the holders of shares of any class, then, in addition to the vote required by subdivision 3, clause (2), of this section, the holders of each class of shares so affected by the amendment shall be entitled to vote as a class upon such amendment, whether or not by the terms of the articles such class is entitled to vote; and such amendment shall be adopted only if it receives, as to each class so affected by the amendment, either:

(a) The affirmative vote of the holders of two-thirds of the shares of such class, or such larger or smaller vote thereof, not less than a majority, as the articles may require; or

(b) If not otherwise provided by the articles, the affirmative vote of the holders of a majority of the shares of such class and does not receive the negative vote of the holders of more than one-fourth of the shares of such class;

(4) If an amendment would make any substantial change in the purpose or purposes for which the corporation was organized, then the holders of each class of the shares shall be entitled to vote as a class upon such amendment, whether by the terms of the articles such class is entitled to vote or not; and such amendment shall be adopted only if it receives as to each class either:

(a) The affirmative vote of the holders of two-thirds of the shares of such class, or such larger vote as the articles may require; or

(b) If not otherwise provided by the articles, the affirmative vote of the holders of a majority of the shares of such class and does not receive the negative vote of the holders of more than one-fourth of the shares of such class.

(5) A corporation may by action taken in the same manner as required for amendment of articles of incorporation adopt restated articles of incorporation consisting of the articles of incorporation as amended to date. Restated articles of incorporation may, but need not be, adopted in connection with an amendment to the articles of incorporation. Restated articles of incorporation shall con-

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tain all the statements required by this chapter to be included in original articles of incorporation except that: in lieu of setting forth the names and addresses of the first board of directors and the amount of stated capital with which the corporation may begin business, the restated articles shall set forth the names and addresses of the directors and the amount of stated capital at the time of the adoption of the restated articles; and no statement need be made with respect to the names and addresses of the incorporators. The certificate to be filed to accomplish any such restated articles shall be entitled "Certificate of Restated Articles of Incorporation of

(name of corporation)" and shall contain a statement that such articles supersede and take the place of existing articles of incorporation and all amendments thereto. Restated articles of incorporation when executed, filed and recorded in the manner prescribed in this section for articles of amendment shall supersede and take the place of theretofore existing articles of incorporation and amendments thereto. The secretary of state upon request shall certify such articles as restated articles of incorporation.

(6) After June 30, 1965, if any proposed amendment would alter the vote required to authorize a particular type of corporate action under applicable provisions of law or under its existing articles, such amendment in order to be adopted must receive the vote which was required to authorize such particular type of corporate action prior to such amendment.

Sec. 9. Minnesota Statutes 1961, Section 301.40, is amended to read:

301.40 Rights of shareholders not assenting to certain corporate action. Subdivision 1. **Objection to proposed amendment of articles.** If a corporation has given notice to shareholders of a proposal to amend the articles of incorporation, which proposed amendment would substantially change the corporate purposes or would extend the duration of the corporation, a shareholder may, at any time prior to the date of the meeting at which such proposed amendment is to be voted upon, file a written objection to such amendment in the office of the secretary or president of the corporation and demand payment for ~~his shares~~ *all shares owned by such shareholder*; provided, that such demand shall be of no force and effect if such shareholder votes in favor of the amendment, or at any time consents thereto in writing, or if the proposed amendment be not in fact effected.

Subd. 2. **Arbitrators.** If, after such a demand by a ~~shareholder~~ *one or more shareholders*, the corporation and ~~the shareholder~~ *one or more shareholders* cannot agree upon the fair cash

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value of the shares at the time such amendment was authorized, such value shall be determined *in a single proceeding* by three disinterested appraisers, one of whom shall be named by the ~~shareholder~~ *shareholders*, another by the corporation, and the third by the two thus chosen. *The appraiser named by such shareholders shall, in the event of disagreement among such shareholders, be selected by the holders of a majority of the shares with respect to which payment has been demanded.* The determination of a majority of the appraisers in good faith made shall be ~~final~~ *binding on all demanding shareholders and the corporation*, and if the amount so determined is not paid by the corporation within 30 days after it is made, such amount may be recovered in an action by ~~the any such~~ *demanding* shareholder against the corporation. The corporation shall not be required to make payment of such amount except upon transfer to it of the shares for which such payment was demanded and upon surrender of the certificate or certificates evidencing the same.

Subd. 3. Expenses. *The appraisers' expenses and fees, together with other expenses, not including counsel fees, incurred in the conduct of the arbitration shall be paid by the corporation except that all or any part of such costs and expenses may be apportioned and assessed against any or all of the demanding shareholders if a majority of the appraisers in good faith find that such demanding shareholders refused to accept an offer to purchase of the corporation and that such refusal was arbitrary or vexatious or otherwise not in good faith.*

Subd. 4. Withdrawal of demand. *Any shareholder making such demand may withdraw the demand at any time prior to the determination of the fair cash value of the shares by filing written notice of such withdrawal in the office of the secretary or president of the corporation.*

Subd. 5. Payment, when not made. A shareholder shall not be entitled to payment for his shares under the provisions of this section unless the value of the corporate assets which would remain after such payment would be at least equal to the aggregate amount of its debts and liabilities exclusive of stated capital.

Sec. 10 Minnesota Statutes 1961, Section 301.42, Subdivision 1, is amended to read:

301.42 Consolidation, merger; procedure. Subdivision 1. **Agreement, contents.** *The directors, or a majority of them, or if less than three are authorized, all of the directors, of each of the corporations to be consolidated or merged shall enter into an agreement signed by them, prescribing the terms and conditions of the*

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consolidation or merger, the mode of carrying the same into effect, and stating such other facts as are applicable among those required or permitted by section 301.04 to be stated in articles of incorporation, and the manner and basis of converting the shares of each of the constituent corporations into the shares of the consolidated or surviving corporation (whether into the same or a different number of shares of the consolidated or surviving corporation and whether with or without par value), with such other details and provisions as are deemed necessary or desirable. The agreement shall further state the amount of stated capital with which the consolidated or surviving corporation will begin business.

Sec. 11. Minnesota Statutes 1961, Section 301.42, Subdivision 5, is amended to read:

Subd. 5. **Fees.** Before the secretary of state shall record any agreement of consolidation or merger in cases where the consolidated or surviving corporation is a domestic corporation, there shall be paid to the state treasurer the same fees as are required *to be paid on incorporation by a domestic corporation having authorized shares of the same kind and amount as the consolidated or surviving corporation*, less the aggregate amount of fees theretofore paid to the state treasurer in respect of the authorized shares of ~~the each constituent corporations~~ *corporation which is a domestic corporation and less the aggregate amount of license fees theretofore paid to the state treasurer in respect of the issued shares of each constituent corporation which is a foreign corporation qualified to do business in this state.*

Sec. 12. Minnesota Statutes 1961, Section 301.60, Subdivision 9, is amended to read:

Subd. 9. **Duration.** The duration of the accepting corporation shall not be in any wise altered by its coming under sections 301.01 to 301.61. Any extension of its duration for a further definite time or perpetually shall be ~~by amendment of its articles of incorporation made at any meeting of the shareholders, provided notice of proposal to amend, stating the nature of such proposal, shall have been mailed to all shareholders, whether entitled to vote thereon or not, at least ten days prior to such meeting, if such proposal be adopted by the vote of the holders of two thirds of the voting power of all shareholders entitled under the articles to vote be effected in the same manner as provided in section 301.37 for a corporation formed under Minnesota Statutes, Chapter 301.~~ A shareholder who did not vote in favor of, or consent in writing to, such amendment, whether entitled to vote thereon or not, shall have the rights and remedies provided by section 301.40. The provisions of section

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301.37, subdivision 4, shall apply to amendments under this subdivision.

Sec. 13. Minnesota Statutes 1961, Chapter 301, is amended by adding a section to read:

[301.371] Corporate existence, renewal. *Subdivision 1. Authority to renew.* If the period of duration of any corporation organized under any law of this state has expired and such corporation has continued to transact its business, or its assets have not been liquidated and distributed, such corporation may, if it is a corporation organized for a purpose or purposes for which a corporation might then be formed under Minnesota Statutes, Chapter 301, renew its corporate existence from the date of its expiration for a further definite time or perpetually from and after the term of its expired period of duration with the same force and effect as if extended prior to the expiration of its term of existence.

Subd. 2. Manner of renewal. Such renewal shall be effective by taking the same proceedings and obtaining the same vote of shareholders as are required by section 301.37 for the extension of the period of duration of corporate existence prior to the expiration of such period, and any shareholder not assenting to such renewal shall be entitled to proceed to enforce, upon the demand and in the manner provided therein, his rights under section 301.40.

Subd. 3. Proceedings to relate back. Such proceedings shall relate back to the date of the expiration of such original corporate period, as fixed by its articles of incorporation or by statutory limitation, and when such period is extended as provided by this section, any and all corporate acts and contracts done and performed, made and entered into after the expiration of said original period, shall be and each is hereby declared to be legal and valid.

Subd. 4. Application. This section shall not apply to any corporation, the charter of which has been declared forfeited by the final judgment of any court of competent jurisdiction of this state or to any corporation as to which there is pending any action or proceeding in any of the courts of this state for the forfeiture of its charter, nor shall this section affect any action or proceedings now pending in any of the courts of this state in relation to any corporation described in subdivision 1.

Subd. 5. Election. Every corporation renewing its corporate existence pursuant to the provisions of this section which was not formed under Minnesota Statutes, Chapter 301 and which has not previously elected to come under such sections by such renewal shall be deemed conclusively to have elected to accept and be bound by the provisions of said sections.

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Subd. 6. Other amendments. Any corporation taking action to renew the period of duration of its corporate existence pursuant to the provisions of this section may make such other amendment or amendments to its articles of incorporation as might be permitted under section 301.37 to a corporation whose period of duration had not expired, and the articles of amendment setting forth the renewal of the period of duration may also set forth such other amendment or amendments.

Approved May 20, 1965.

CHAPTER 505—H. F. No. 787

An act relating to the powers of the commissioner of highways, authorizing agreements with counties for the relocation or re-establishment of section, quarter section and meander corner; amending Minnesota Statutes 1961, Section 161.20, Subdivision 2.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. Minnesota Statutes 1961, Section 161.20, Subdivision 2, is amended to read:

Subd. 2. Trunk highways; acquisition of property; buildings; relocation of corners; agreements with railroads; contracts. He is authorized to acquire by purchase, gift, or by eminent domain proceedings as provided by law, in fee or such lesser estate as he deems necessary, all lands and properties necessary in laying out, constructing, maintaining, and improving the trunk highway system; to locate, construct, reconstruct, improve, and maintain the trunk highway system; to purchase all road material, machinery, tools, and supplies necessary for the construction, maintenance, and improvement thereof; to construct necessary buildings, or rent or acquire by purchase, gift, or condemnation, grounds, and buildings necessary for the storing and housing of such material, machinery, tools, and supplies or necessary for office space for employees or for providing for driver license examinations; to maintain, repair, or remodel such buildings as may be necessary; *to make agreements with any county for the relocation or re-establishment, by the county, of section, quarter section, or meander corners originally established by the United States, when such relocation or re-establishment is necessary in order to write land acquisition descriptions or by reason of the construction, reconstruction, improvement, or maintenance of a trunk highway;* to contract on an equitable basis with railroad companies for the installation and reinstallation of safety devices at trunk high-

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