

490.806A Public corporations — staggered terms.

1. Except as provided in [subsection 2](#), and notwithstanding anything to the contrary in the articles of incorporation or bylaws of a public corporation, the terms of directors of a public corporation shall be staggered by dividing the number of directors into three groups, as nearly equal in number as possible. The first group shall be referred to as “class I directors”, the second group shall be referred to as “class II directors”, and the third group shall be referred to as “class III directors”.

a. On or before the date on which a public corporation first convenes an annual shareholders’ meeting following the time the public corporation becomes subject to this subsection, the board of directors of the public corporation shall by majority vote designate from among its members directors to serve as class I directors, class II directors, and class III directors.

b. The terms of directors serving in office on the date that the public corporation becomes subject to [this subsection](#) shall be as follows:

(1) Class I directors shall continue in office until the first annual shareholders’ meeting following the date that the public corporation becomes subject to [this subsection](#), and until their successors are elected. The shareholders’ meeting shall be conducted not less than eleven months following the last annual shareholders’ meeting conducted before the public corporation became subject to [this subsection](#).

(2) Class II directors shall continue in office until one year following the first annual shareholders’ meeting described in subparagraph (1), and until their successors are elected.

(3) Class III directors shall continue in office until two years following the first annual shareholders’ meeting described in subparagraph (1), and until their successors are elected.

c. At each annual shareholders’ meeting of a public corporation subject to [this subsection](#), the successors to the class of directors whose term expires at that meeting shall be elected to hold office for a term of three years following such meeting and until their successors are elected.

d. The board of directors of a public corporation subject to [this subsection](#) shall adopt an amendment to its articles of incorporation as provided in [section 490.1005A](#).

e. Notwithstanding [this subsection](#), the articles of incorporation of a public corporation may confer upon the holders of preferred shares the right to elect one or more directors pursuant to [section 490.804](#), who shall serve for such term, and have such voting powers, as shall be stated in the articles of incorporation.

2. Every public corporation shall be subject to [subsection 1](#), unless it is exempt pursuant to [this subsection](#).

a. (1) In order for a public corporation in existence on March 23, 2011, to be exempt from [subsection 1](#), its board of directors must adopt a resolution or take action under [section 490.821](#) expressly making an election to be exempt from the provisions of [subsection 1](#). Such resolution or action must be adopted or taken within forty days after March 23, 2011.

(2) Upon adopting the resolution or taking board action under [section 490.821](#), the public corporation is no longer subject to [subsection 1](#), effective immediately unless otherwise provided for in the resolution or by the board action.

b. If on March 23, 2011, the articles of incorporation of the public corporation already provide for staggering the terms of its directors under [section 490.806](#), the public corporation shall be exempt from the provisions of [subsection 1](#). In such event, no further corporate action is required, and the public corporation is not required to amend or modify any provision of its articles of incorporation or bylaws in order to be exempt from [subsection 1](#).

c. A corporation that becomes a public corporation on or after March 23, 2011, is exempt from the provisions of [subsection 1](#).

2011 Acts, ch 2, §6, 10

Referred to in [§490.803](#), [§490.805](#), [§490.1005A](#)