

Senate File 2378 - Enrolled

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AN ACT

RELATING TO THE BOARDS OF DIRECTORS OF PUBLIC CORPORATIONS, AND
INCLUDING EFFECTIVE DATE PROVISIONS.

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

Section 1. Section 490.803, subsections 2 and 3, Code 2018, are amended to read as follows:

2. *a.* The number of directors may be increased or decreased from time to time by amendment to, or in the manner provided in, the articles of incorporation or the bylaws.

b. (1) Notwithstanding paragraph "a", the number of directors of a public corporation subject to section 490.806A, subsection 1, or section 490.806B, shall be increased or decreased only by the affirmative vote of a majority of its board of directors.

(2) This paragraph "b" is repealed on January 1, 2022.

3. *a.* Directors are elected at the first annual shareholders' meeting and at each annual meeting thereafter unless their terms are staggered under ~~section 490.806 or 490.806A~~.

b. (1) Notwithstanding paragraph "a", for a public corporation subject to section 490.806A, subsection 1, or section 490.806B, a director's term shall be staggered as provided in section 490.806A, subsection 1, or may be staggered as provided in section 490.806B.

(2) This subparagraph is repealed on January 1, 2022.

Sec. 2. Section 490.805, subsections 2 and 4, Code 2018, are amended to read as follows:

2. a. The terms of all other directors expire at the next annual shareholders' meeting following their election unless their terms are staggered under [section 490.806](#) ~~or 490.806A~~.

b. (1) Notwithstanding paragraph "a", for a public corporation subject to section 490.806A, subsection 1, or section 490.806B, the terms of directors shall be staggered as provided in section 490.806A, subsection 1, or may be staggered as provided in section 490.806B.

(2) This paragraph "b" is repealed on January 1, 2022.

4. a. The term of a director elected to fill a vacancy expires at the next shareholders' meeting at which directors are elected, ~~except as provided in [section 490.806A](#).~~

b. (1) Notwithstanding paragraph "a", for a public corporation subject to section 490.806A, subsection 1, or section 490.806B, the term of a director elected to fill a vacancy expires as provided in section 490.806A, subsection 1, or section 490.806B.

(2) This paragraph "b" is repealed on January 1, 2022.

Sec. 3. Section 490.806, Code 2018, is amended to read as follows:

490.806 Staggered terms for directors.

1. ~~Except as otherwise provided in [section 490.806A](#), a corporation's~~ The articles of incorporation may provide for staggering the terms of ~~its~~ directors by dividing the total number of directors into two or three groups, with each group containing one-half or one-third of the total, as near as may be. In that event, the terms of directors in the first group expire at the first annual shareholders' meeting after their election, the terms of the second group expire at the second annual shareholders' meeting after their election, and the terms of the third group, if any, expire at the third annual shareholders' meeting after their election. At each annual shareholders' meeting held thereafter, directors shall be chosen for a term of two years or three years, as the case may be, to succeed those whose terms expire.

2. a. Subsection 1 does not apply to a public corporation that is subject to section 490.806A, subsection 1, but may

apply to a public corporation that is subject to section 490.806B.

b. This subsection is repealed on January 1, 2022.

Sec. 4. Section 490.806A, Code 2018, is amended by adding the following new subsection:

NEW SUBSECTION. 3. This section is repealed on January 1, 2022.

Sec. 5. NEW SECTION. **490.806B Public corporations — nonstaggered terms.**

1. Notwithstanding section 490.806A, the board of directors of any public corporation which, as of January 1, 2019, is subject to section 490.806A, subsection 1, shall adopt an amendment to its articles of incorporation that includes all of the following:

a. The staggered terms of the class I directors, class II directors, and class III directors elected or appointed prior to January 1, 2019, shall cease at the expiration of their then current terms as provided in section 490.806A, subsection 1.

b. The terms of directors elected or appointed on or after January 1, 2019, shall expire at the next annual shareholders' meeting following their election or appointment.

c. Any other changes that the directors determine are necessary to implement the provisions of this subsection.

2. Any amendment to the articles of incorporation as provided in subsection 1 shall be made without shareholder approval.

3. Notwithstanding subsection 1, the public corporation's articles of incorporation may provide for staggering the terms of its directors as provided in section 490.806.

4. Section 490.803, subsection 2, paragraph "b", and section 490.810, subsection 1A, shall continue to apply to a public corporation subject to subsection 1 of this section.

5. This section is repealed on January 1, 2022.

Sec. 6. Section 490.810, subsection 1A, Code 2018, is amended to read as follows:

1A. a. For a public corporation subject to section 490.806A, subsection 1, or section 490.806B, a vacancy on the board of directors, including but not limited to a vacancy resulting from an increase in the number of directors, shall

be filled solely by the affirmative vote of a majority of the remaining directors, even though less than a quorum of the board.

b. This subsection is repealed on January 1, 2022.

Sec. 7. Section 490.1005A, Code 2018, is amended by adding the following new subsection:

NEW SUBSECTION. 3. This section is repealed on January 1, 2022.

Sec. 8. CONTINUATION OF THE ARTICLES OF INCORPORATION. Notwithstanding the repeals of section 490.806A, as amended by this Act and section 490.806B as enacted by this Act, any amendment to the articles of incorporation of a public corporation adopted in compliance with section 490.806A or section 490.806B as described in this section and in effect immediately prior to January 1, 2022, shall remain in effect until amended or repealed as provided in the relevant sections of chapter 490 as those sections exist on or after January 1, 2022.

Sec. 9. EFFECTIVE DATE. The following takes effect January 1, 2019:

The section of this Act enacting section 490.806B.

JACK WHITVER
President of the Senate

LINDA UPMEYER
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2378, Eighty-seventh General Assembly.

W. CHARLES SMITHSON
Secretary of the Senate

Approved _____, 2018

KIM REYNOLDS
Governor