

490.1022 Bylaw provisions relating to the election of directors.

1. Unless the articles of incorporation specifically prohibit the adoption of a bylaw pursuant to [this section](#), alter the vote specified in [section 490.728, subsection 1](#), or provide for cumulative voting, a corporation may elect in its bylaws to be governed in the election of directors as follows:

a. Each vote entitled to be cast may be voted for or against up to that number of candidates that is equal to the number of directors to be elected, or a shareholder may indicate an abstention, but without cumulating the votes.

b. To be elected, a nominee shall have received a plurality of the votes cast by holders of shares entitled to vote in the election at a meeting at which a quorum is present, provided that a nominee who is elected but receives more votes against than for election shall serve as a director for a term that shall terminate on the date that is the earlier of the following:

(1) (a) Ninety days from the date on which the voting results are determined pursuant to [section 490.729, subsection 2](#), paragraph “e”.

(b) The date on which an individual is selected by the board of directors to fill the office held by such director, which selection shall be deemed to constitute the filling of a vacancy by the board to which [section 490.810](#) applies.

(2) Subject to paragraph “c” of [this subsection](#), a nominee who is elected but receives more votes against than for election shall not serve as a director beyond the ninety-day period provided in subparagraph (1), subparagraph division (a).

c. The board of directors may select any qualified individual to fill the office held by a director who received more votes against than for election.

2. a. [Subsection 1](#) does not apply to an election of directors by a voting group if any of the following applies:

(1) At the expiration of the time fixed under a provision requiring advance notification of director candidates.

(2) Absent such a provision, at a time fixed by the board of directors which is not more than fourteen days before notice is given of the meeting at which the election is to occur, there are more candidates for election by the voting group than the number of directors to be elected, one or more of whom are properly proposed by shareholders.

b. An individual shall not be considered a candidate for purposes of paragraph “a”, if the board of directors determines before the notice of meeting is given that such individual’s candidacy does not create a bona fide election contest.

3. A bylaw electing to be governed by [this section](#) may be repealed under any of the following circumstances:

a. If originally adopted by the shareholders, only by the shareholders, unless the bylaw otherwise provides.

b. If adopted by the board of directors, by the board of directors or the shareholders.

[2021 Acts, ch 165, §147, 230](#)

Referred to in [§490.805](#), [490.1020](#)