

**SENATE, No. 2260**

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**STATE OF NEW JERSEY**  
**218th LEGISLATURE**

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INTRODUCED MARCH 8, 2018

**Sponsored by:**  
Senator TROY SINGLETON  
District 7 (Burlington)

**SYNOPSIS**

Clarifies purpose of benefit corporations and standard of duty of board of directors.

**CURRENT VERSION OF TEXT**

As introduced.



1   **AN ACT** clarifying the purpose of benefit corporations and  
2   amending P.L.2011, c.30.

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4   **BE IT ENACTED** by the *Senate and General Assembly of the State*  
5   *of New Jersey*:

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7       1. Section 5 of P.L.2011, c.30 (C.14A:18-5) is amended to read  
8   as follows:

9           5. a. Every benefit corporation shall have the purpose of  
10   creating a general public benefit. This purpose is in addition to, and  
11   may be a limitation on, its purpose under its certificate of  
12   incorporation and any specific purpose set forth in its certificate of  
13   incorporation. Every benefit corporation shall be managed in a  
14   manner that balances the shareholders' pecuniary interests, the best  
15   interests of those materially affected by the benefit corporation's  
16   conduct, and the general and specific public benefits created by the  
17   benefit corporation.

18           b. The certificate of incorporation of a benefit corporation may  
19   identify one or more specific public benefits that is the purpose of  
20   the benefit corporation to create in addition to its purposes under its  
21   certificate of incorporation and subsection a. of this section. The  
22   identification of a specific public benefit under this subsection does  
23   not limit the obligation of a benefit corporation to create general  
24   public benefit.

25           c. The creation of general and specific public benefits, as  
26   provided in subsections a. and b. of this section, shall be in the best  
27   interests of the benefit corporation.

28           d. A benefit corporation may amend its certificate of  
29   incorporation to add, amend or delete a specific public benefit that  
30   is the purpose of the benefit corporation to create. The amendment  
31   shall not be effective unless it is adopted by at least the minimum  
32   status vote.

33   (cf: P.L.2011, c.30, s.5)

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35       2. Section 6 of P.L.2011, c.30 (C.14A:18-6) is amended to read  
36   as follows:

37           6. a. The board of directors, committees of the board and  
38   individual directors of a benefit corporation, in considering the best  
39   interests of the benefit corporation shall consider and balance the  
40   effects of any action upon:

41              (1) the pecuniary interests of the shareholders of the benefit  
42   corporation;

43              (2) the employees and workforce of the benefit corporation and  
44   its subsidiaries and suppliers;

**EXPLANATION – Matter enclosed in bold-faced brackets **thus** in the above bill is  
not enacted and is intended to be omitted in the law.**

Matter underlined **thus** is new matter.

(3) the interests of customers as beneficiaries of the general or specific public benefit purposes of the benefit corporation;

(4) community and societal considerations, including those of any community in which offices or facilities of the benefit corporation or its subsidiaries or suppliers are located;

6 (5) the local and global environment; **【and】**

7       (6) the short-term and long-term interests of the benefit  
8 corporation, including benefits that may accrue to the benefit  
9 corporation from its long-term plans and the possibility that these  
10 interests may be best served by the continued independence of the  
11 benefit corporation; and

12        (7) the best interests of those materially affected by the benefit  
13        corporation's conduct.

14        b. The board of directors, committees of the board and  
15 individual directors of a benefit corporation, in considering the best  
16 interests of the benefit corporation may consider:

(1) matters listed in subsection (2) of N.J.S.14A:6-1; and

18 (2) any other pertinent factors or the interests of any other group  
19 that they deem appropriate; and

20       c. The board of directors, committees of the board and  
21 individual directors of a benefit corporation shall not be required to  
22 give priority to the interests of any particular person or group  
23 referred to in subsection a. or subsection b. of this section over the  
24 interests of any other person or group unless the benefit corporation  
25 has stated its intention to give priority to interests related to a  
26 specific public benefit purpose identified in its certificate of  
27 incorporation. With respect to a decision implicating the balance  
requirement in subsection a. of this section, the decision shall  
satisfy a director's fiduciary duty to shareholders and the benefit  
corporation if the decision is both informed and disinterested and  
not such that no person of ordinary, sound judgment would approve.

32       d. A director is not personally liable for monetary damages for  
33 failure of the benefit corporation to create general or specific public  
34 benefits.

35 (cf: P.L.2011, c.30, s.6)

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37       3. This act shall take effect immediately.

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## STATEMENT

42 This bill clarifies the purpose of benefit corporations, pursuant to  
43 P.L.2011, c.30 (C.14A:18-1 et seq.) and as organized and  
44 incorporated under the provisions of the “New Jersey Business  
45 Corporation Act,” N.J.S.14A:1-1 et seq. P.L.2011, c.30 provides  
46 for the creation of benefit corporations with the purpose of  
47 generating a general public benefit, defined as a material positive  
48 impact on society and the environment, through activities that

1 promote some combination of specific public benefits. This allows  
2 benefit corporations, at the direction of shareholders, to pursue a  
3 mission that goes beyond making profit for owners and investors.

4       This bill amends P.L.2011, c.30 to clarify that every benefit  
5 corporation must be managed by the board of directors, committees  
6 of the board, and individual directors in a manner that balances the  
7 shareholders' pecuniary interests, the best interests of those  
8 materially affected by the benefit corporation's conduct, and the  
9 general and specific public benefits created by the benefit  
10 corporation, among other certain factors. The bill provides that,  
11 with respect to a decision implicating this balancing requirement,  
12 the decision will satisfy a director's fiduciary duties to shareholders  
13 and the benefit corporation if the decision is both informed and  
14 disinterested and not such that no person of ordinary, sound  
15 judgment would approve.