

SB2301



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

SB2301

Introduced 1/10/2018, by Sen. Antonio Muñoz

SYNOPSIS AS INTRODUCED:

805 ILCS 105/103.05

from Ch. 32, par. 103.05

805 ILCS 105/108.70

from Ch. 32, par. 108.70

Amends the General Not For Profit Corporation Act of 1986. Includes the purpose of ownership and operation of a public wastewater service or system on a mutual or cooperative basis to the list of purposes for which a not-for-profit corporation may be organized under the Act. Exempts any director of a corporation that is organized for the purpose of (i) operating water supply facilities for drinking and general domestic use on a mutual or cooperative basis or (ii) ownership and operation of a public wastewater service or system on a mutual or cooperative basis from liability for damages resulting from the exercise of judgment or discretion in connection with his or her duties or responsibilities, with certain exceptions.

LRB100 16491 KTG 31713 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning business.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The General Not For Profit Corporation Act of
5 1986 is amended by changing Sections 103.05 and 108.70 as
6 follows:

7 (805 ILCS 105/103.05) (from Ch. 32, par. 103.05)

8 Sec. 103.05. Purposes and authority of corporations;
9 particular purposes; exemptions.

10 (a) Not-for-profit corporations may be organized under
11 this Act for any one or more of the following or similar
12 purposes:

- 13 (1) Charitable.
- 14 (2) Benevolent.
- 15 (3) Eleemosynary.
- 16 (4) Educational.
- 17 (5) Civic.
- 18 (6) Patriotic.
- 19 (7) Political.
- 20 (8) Religious.
- 21 (9) Social.
- 22 (10) Literary.
- 23 (11) Athletic.

- 1 (12) Scientific.
- 2 (13) Research.
- 3 (14) Agricultural.
- 4 (15) Horticultural.
- 5 (16) Soil improvement.
- 6 (17) Crop improvement.
- 7 (18) Livestock or poultry improvement.
- 8 (19) Professional, commercial, industrial, or trade
9 association.
- 10 (20) Promoting the development, establishment, or
11 expansion of industries.
- 12 (21) Electrification on a cooperative basis.
- 13 (22) Telephone service on a mutual or cooperative
14 basis.
- 15 (23) Ownership and operation of water supply
16 facilities for drinking and general domestic use on a
17 mutual or cooperative basis.
- 18 (24) Ownership or administration of residential
19 property on a cooperative basis.
- 20 (25) Administration and operation of property owned on
21 a condominium basis or by a homeowner association.
- 22 (26) Administration and operation of an organization
23 on a cooperative basis producing or furnishing goods,
24 services, or facilities primarily for the benefit of its
25 members who are consumers of those goods, services, or
26 facilities.

1 (27) Operation of a community mental health board or
2 center organized pursuant to the Community Mental Health
3 Act for the purpose of providing direct patient services.

4 (28) Provision of debt management services as
5 authorized by the Debt Management Service Act.

6 (29) Promotion, operation, and administration of a
7 ridesharing arrangement as defined in Section 1-176.1 of
8 the Illinois Vehicle Code.

9 (30) The administration and operation of an
10 organization for the purpose of assisting low-income
11 consumers in the acquisition of utility and telephone
12 services.

13 (31) Any purpose permitted to be exempt from taxation
14 under Sections 501(c) or 501(d) of the United States
15 Internal Revenue Code, as now in or hereafter amended.

16 (32) Any purpose that would qualify for tax-deductible
17 gifts under the Section 170(c) of the United States
18 Internal Revenue Code, as now or hereafter amended. Any
19 such purpose is deemed to be charitable under subsection
20 (a)(1) of this Section.

21 (33) Furnishing of natural gas on a cooperative basis.

22 (34) Ownership and operation of agriculture-based
23 biogas (anaerobic digester) systems on a cooperative basis
24 including the marketing and sale of products produced from
25 these, including but not limited to methane gas,
26 electricity, and compost.

1 (35) Ownership and operation of a public wastewater
2 service or system on a mutual or cooperative basis.

3 (b) A corporation may be organized hereunder to serve in an
4 area that adjoins or borders (except for any intervening
5 natural watercourse) an area located in an adjoining state
6 intended to be similarly served, and the corporation may join
7 any corporation created by the adjoining state having an
8 identical purpose and organized as a not-for-profit
9 corporation. Whenever any corporation organized under this Act
10 so joins with a foreign corporation having an identical
11 purpose, the corporation shall be permitted to do business in
12 Illinois as one corporation; provided (1) that the name, bylaw
13 provisions, officers, and directors of each corporation are
14 identical, (2) that the foreign corporation complies with the
15 provisions of this Act relating to the admission of foreign
16 corporation, and (3) that the Illinois corporation files a
17 statement with the Secretary of State indicating that it has
18 joined with a foreign corporation setting forth the name
19 thereof and the state of its incorporation.

20 (Source: P.A. 98-317, eff. 8-12-13.)

21 (805 ILCS 105/108.70) (from Ch. 32, par. 108.70)

22 Sec. 108.70. Limited Liability of directors, officers,
23 board members, and persons who serve without compensation.

24 (a) No director or officer serving without compensation,
25 other than reimbursement for actual expenses, of a corporation

1 organized under this Act or any predecessor Act and exempt, or
2 qualified for exemption, from taxation pursuant to Section
3 501(c) of the Internal Revenue Code of 1986, as amended, shall
4 be liable, and no cause of action may be brought, for damages
5 resulting from the exercise of judgment or discretion in
6 connection with the duties or responsibilities of such director
7 or officer unless the act or omission involved willful or
8 wanton conduct.

9 (b) No director of a corporation organized under this Act
10 or any predecessor Act for the purposes identified in items
11 (14), (19), (21), ~~and~~ (22), 23, and 35 of subsection (a) of
12 Section 103.05 of this Act, and exempt or qualified for
13 exemption from taxation pursuant to Section 501(c) of the
14 Internal Revenue Code of 1986, as amended, shall be liable, and
15 no cause of action may be brought for damages resulting from
16 the exercise of judgment or discretion in connection with the
17 duties or responsibilities of such director, unless: (1) such
18 director earns in excess of \$25,000 per year from his duties as
19 director, other than reimbursement for actual expenses; or (2)
20 the act or omission involved willful or wanton conduct.

21 (b-5) Except for willful and wanton conduct, no volunteer
22 board member serving without compensation, other than
23 reimbursement for actual expenses, of a corporation organized
24 under this Act or any predecessor Act and exempt, or qualified
25 for exemption, from taxation pursuant to Section 501(c)(3) of
26 the Internal Revenue Code of 1986, as amended, shall be liable,

1 and no action may be brought, for damages resulting from any
2 action of the executive director concerning the false reporting
3 of or intentional tampering with financial records of the
4 organization, where the actions of the executive director
5 result in legal action.

6 This subsection (b-5) shall not apply to any action taken
7 by the Attorney General (i) in the exercise of his or her
8 common law or statutory power and duty to protect charitable
9 assets or (ii) in the exercise of his or her authority to
10 enforce the laws of this State that apply to trustees of a
11 charity, as that term is defined in the Charitable Trust Act
12 and the Solicitation for Charity Act.

13 (c) No person who, without compensation other than
14 reimbursement for actual expenses, renders service to or for a
15 corporation organized under this Act or any predecessor Act and
16 exempt or qualified for exemption from taxation pursuant to
17 Section 501(c)(3) of the Internal Revenue Code of 1986, as
18 amended, shall be liable, and no cause of action may be
19 brought, for damages resulting from an act or omission in
20 rendering such services, unless the act or omission involved
21 willful or wanton conduct.

22 (d) (Blank).

23 (e) Nothing in this Section is intended to bar any cause of
24 action against the corporation or change the liability of the
25 corporation arising out of an act or omission of any director,
26 officer or person exempt from liability for negligence under

1 this Section.

2 (Source: P.A. 95-342, eff. 1-1-08; 96-649, eff. 1-1-10.)