

EXPLANATION OF PROPOSED AMENDMENT TO ORS 65.067

Current Law: Under ORS Chapter 65, the Oregon Nonprofit Corporation Act (the “Act”), all Oregon nonprofit corporations with members are required to hold an annual membership meeting – even if the corporation has but a single member. ORS 65.201(a). The Act also recognizes a unique form of religious corporation known as a “corporation sole.” ORS 65.067. A corporation sole is a religious corporation formed by a single individual in accordance with both the Act and the “constitution, canons, rules, regulations and disciplines of any church or religious denomination.” ORS 65.067(1). A corporation sole is much like an Oregon nonprofit corporation without members, but differs from other such nonprofit corporations in that, instead of having a board of directors, it is managed by a single director who is the individual constituting the corporation sole, and it need not have officers.

Proposed Amendment: The proposed amendment would obviate the need for an annual membership meeting in those narrow situations where (a) a corporation sole or the individual who constitutes the corporation sole serves as the only member of an Oregon nonprofit membership corporation, and (b) that membership corporation is of the same church or religious denomination as the corporation sole.

Explanation: The proposed amendment to ORS 65.067 is merely a technical change with very limited application even to religious nonprofit corporations. Use of corporations sole is rather limited in Oregon. Where they do exist, they are often a part of a family of religious corporations affiliated through a common member who is a religious official of the church or religious denomination. A typical structure might involve the corporation sole or the individual constituting the corporation sole serving as the only member of a number of Oregon single-member religious nonprofit corporations, with each having discrete purposes and assets, but all dedicated to a common church or religious mission.

The general purpose of the amendment is to obviate the need for an annual membership meeting of the affiliated Oregon religious nonprofit corporation with a single member who is either the corporation sole or the individual who constitutes the corporation sole. To minimize any unanticipated consequences, the elimination of the annual meeting requirement – instead of applying to all single-member nonprofit corporations – would apply only to those which are religious corporations affiliated by common membership to or with a corporation sole.

In such situations, the necessity of an annual membership meeting is really an absurdity – the meeting would consist of an individual meeting alone. Further, there is no action that the members of a nonprofit corporation are legally obligated to take at the annual members' meeting. The statute requires only that there be a “report” on “the activities and the financial condition of the corporation.” ORS 65.201(4). As distinguished from an Oregon business corporation – even one with a single individual shareholder – where the annual meeting marks the expiration of the term of some or all of the then-incumbent directors, ORS 60.314 and 60.317, no formal action calling for a membership vote is required in the context of a nonprofit corporation. Therefore, when no action is legally required of the members, there is no compelling need for an annual membership meeting, particularly if it is the “meeting” of a single individual with him or herself to accept a report on the activities and financial condition of the entity.

The proposed amendment to ORS 65.067 would eliminate the absurdity of a single individual being statutorily required to meet with him or herself. It would also address concerns that the current statute seems to elevate form over substance in a way that serves no real public good.

There may well be policy justifications for extending the elimination of the annual meeting requirement beyond the corporation sole context, for example, to any nonprofit membership corporation with a single member who is an individual. Ultimately, that may well be something worth consideration by the legislature, but it goes beyond this proposed amendment.