

The growing social movement supporting benefit corporations and Certified B corps is here to stay



Amy Wojnarwsky | Monday, October 26, 2020

The COVID-19 pandemic has brought the concept of the common good and safety of the community to the forefront of business discussions. These themes are accelerating more discussion in business circles in Ohio and throughout the nation regarding the benefit corporation movement. This movement appears to be here to stay.

The benefit corporation movement traces its roots to the 1970s with the Body Shop and the Triple Bottom Line becoming the first companies to commit to making a profit, while benefiting people and the planet. Thirty-seven states have passed legislation to allow benefit corporations, and on Sept. 24, 2020, the Ohio House of Representatives informally passed Sub. S.B.No. 21 to allow a corporation to become a benefit corporation in the State of Ohio.

Benefit corporations and Certified B Corporations are both for-profit companies that have a social purpose. The key distinction between the two is whether the entity is authorized at the state-level to operate as a benefit corporation and is therefore authorized by specific provisions in its organizational documents to pursue one or more beneficial purposes in addition to other legal purposes for which for-profit corporations may be formed. A Certified B Corp is an entity which received a certification from the B Lab, a nonprofit organization that determines whether a company is meeting certain performance standards with respect to its employees, customers, community, and environmental impact. Any

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corporation can seek to become a Certified B Corp if it meets the qualifications and requirements set by the B Lab, but only companies in states which have passed benefit corporation legislation can become state-level benefit corporations. In states which have passed legislation, companies can become state-level benefit corporations while also being Certified B Corps.

While typical for-profit companies are concerned solely with making money for their owners, a benefit corporation or Certified B Corp shifts its focus to pursuing profits with a purpose. Benefit corporations have the flexibility of prioritizing a benefit to the community, the environment, or other social causes. For some business owners, having a social purpose is the “right thing to do,” whereas others see it as means of responding to the interests of their customer and employee base who want to support socially conscious businesses. Leaders of benefit corporations and Certified B Corps recognize that shifting their business to focus on the objectives of this movement allows their company to:

- Build stronger relationships with a community and business leaders who share their beliefs
- Attract talent to their workforce by engaging mission-aligned talent with their organizations
- Create positive social and environmental impact
- Brand their company based on their purpose

Many benefit corporations are smaller businesses or startup companies, but several “household names” have also embraced this movement. Some notable corporations that are Certified B Corps include Etsy, King Arthur Flour, and Patagonia. Additionally, publicly-traded companies can become Certified B Corps, like Natura, and many other Certified B Corps are subsidiaries of publicly-traded companies, such as Ben & Jerry’s and Sundial Brands (owned by Unilever) and New Chapter (owned by Proctor & Gamble).

It is anticipated that the passing of this legislation will encourage companies to file as Ohio companies (rather than seeking to incorporate in other states which permit benefit corporations), in addition to attracting investment in current Ohio companies. During his Sponsor Testimony to the House Civil Justice Committee regarding SB21, State Senator Matt Dolan noted that “The type of investor and type of investment is changing. The new generation of investment wants to provide capital for corporations that combine a for-profit mentality while promoting a civic responsibility to the community. The successful passage of this legislation will open Ohio Corporations to potentially millions of dollars of outside investment.”

In states that permit benefit corporations, new entities can form as benefit corporations and existing companies are able to alter their structure to become benefit corporations. For existing companies, this would require amending their articles of incorporation with the state and their governing documents such as their code of regulations.

McDonald Hopkins LLC can assist you with preparing for and setting up a Certified B Corp or a state-level benefit corporation once authorized by the State of Ohio. If you have any questions regarding the contents of this post, please feel free to reach out to Amy Wojnarwsky whose contact information is listed below.



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