

**322B.663 STANDARD OF CONDUCT.**

Subdivision 1. **Standard and liability.** A governor shall discharge the duties of the position of governor in good faith, in a manner the governor reasonably believes to be in the best interests of the limited liability company, and with the care an ordinarily prudent person in a like position would exercise under similar circumstances. A person who so performs those duties is not liable by reason of being or having been a governor of the limited liability company.

Subd. 2. **Reliance.** (a) A governor is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, in each case prepared or presented by:

(1) one or more managers or employees of the limited liability company whom the governor reasonably believes to be reliable and competent in the matters presented;

(2) counsel, public accountants, or other persons as to matters that the governor reasonably believes are within the person's professional or expert competence; or

(3) a committee of the board of governors upon which the governor does not serve, duly established in accordance with section 322B.66, as to matters within its designated authority, if the governor reasonably believes the committee to merit confidence.

(b) Paragraph (a) does not apply to a governor who has knowledge concerning the matter in question that makes the reliance otherwise permitted by paragraph (a) unwarranted.

Subd. 3. **Presumption of assent and dissent.** A governor who is present at a meeting of the board of governors when an action is approved by the affirmative vote of a majority of the governors present is presumed to have assented to the action approved, unless the governor:

(1) objects at the beginning of the meeting to the transaction of business because the meeting is not lawfully called or convened and does not participate in the meeting after the objection, in which case the governor is not considered to be present at the meeting for any purpose of this chapter;

(2) votes against the action at the meeting; or

(3) is prohibited by section 322B.666 from voting on the action.

Subd. 4. **Elimination or limitation of liability.** A governor's personal liability to the limited liability company or its members for monetary damages for breach of fiduciary duty as a governor may be eliminated or limited in the articles of organization or a member control agreement. Neither the articles nor a member control agreement may eliminate or limit the liability of a governor:

(1) for any breach of the governor's duty of loyalty to the limited liability company or its members;

(2) for acts or omissions not in good faith or that involve intentional misconduct or a knowing violation of law;

(3) under section 80A.76 or 322B.56;

(4) for any transaction from which the governor derived an improper personal benefit; or

(5) for any act or omission occurring before the date when the provision in the articles of organization or a member control agreement eliminating or limiting liability becomes effective.

Subd. 5. **Considerations.** In discharging the duties of the position of governor, a governor may, in considering the best interests of the limited liability company, consider the interests of the limited liability company's employees, customers, suppliers, and creditors, the economy of the state and nation, community and societal considerations, and the long-term as well as short-term interests of the limited liability company and its members including the possibility that these interests may be best served by the continued independence of the limited liability company.

**History:** 1992 c 517 art 2 s 82; 1999 c 85 art 2 s 76; 2006 c 196 art 1 s 52; art 2 s 11