

Structure enables corporations with a conscience

Gov. Chris Gregoire made history when she created Washington's first alternative for-profit corporate structure, the social purpose corporation, or SPC, this year. The new structure allows for-profit entities to strive toward creation of social and environmental good as their top corporate priority.

This significantly contrasts with the expectation that traditional companies must put creation of shareholder value first. It signals that Washington believes corporate leadership should have the flexibility and legal backing to make decisions based on the company's impact on all of its stakeholders rather than on maximizing profits.

And speaking of flexibility, the SPC structure itself appears open for a little interpretation. For instance, SPCs are required to create general social benefit, but without specific guidelines as to what that benefit must be or how it must be achieved. They also have the

flexibility to select a second, specific benefit if they so choose.



Ali Madison

Economic
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In a recent article on the topic, Brian Howe, founder of Vox Legal in Seattle, gives an example of the social purpose at work. "Founders of a local restaurant could conceivably structure as a social purpose corporation by naming the general purpose of promoting the long-term welfare of their employees and the specific purpose of employing homeless and disadvantaged persons."

Another aspect of the SPC is that once officially established, the company's social purpose may only be changed or eliminated by a two-thirds shareholder majority. This is intended to protect the social purpose(s) through major changes in the organization including sale, merger or incorporation, making it more difficult for investors to stray from the founding intent of the SPC.

You may be wondering at this point

what the catch is. Although I haven't sifted through the legislation line by line, it appears on the surface that "flexible" is the word of the day. For instance, SPCs are required to publish a report on their efforts to promote their social or environmental purpose or purposes, but directors are ultimately not liable for any "action taken as a director, or any failure to take any action" to successfully achieve them.

For the devil's advocate, this may bring to mind the old saying that "the road to hell is paved with good intentions," implying that intentions are meaningless without actions to back them up. Although I generally agree that one should put their money where their mouth is, literally or figuratively (or both!), I also believe that having good intentions at heart will naturally put one on a more promising path to success than would the alternative.

It seems the creation of the SPC structure for businesses incorporated in Washington does a couple of things to support this notion.

It encourages companies with stated

social or environmental intentions to officially make those intentions operational priorities, and to consider those priorities when making organizational decisions. It also provides a flexible framework for making decisions that are supportive of those priorities without fear of penalties such as lawsuits brought by shareholders for not achieving specific financial, social, or environmental impact targets. Recall that SPCs must report social or environmental progress annually.

However this new business structure shakes out as more companies get on board, I think it's an important step toward formally recognizing that there are other noble reasons to exist as a corporate entity outside of making the most money possible.

Could it give you the freedom you need to start or re-organize your business with social or environmental intentions in mind?

▶ *Ali Madison is with Pacific Northwest National Laboratory's Economic Development Office. She can be reached at ali.madison@pnl.gov.*