

Rockridge Practical Observations

They like their tea sweet in SC. The South Carolina Benefit Corporations Act is now ten years old. Since the statute was enacted in 2012, there have been no amendments made to its original language. South Carolina was one of the first states in the southeast to pass benefit corporation legislation, which may explain why this statute resembles the [B Lab's Model Benefit Corporation Legislation](#) (MBCL) more than some of the watered-down Social Purpose models found in other southern states (such as [Georgia's](#) and [Tennessee's](#) Benefit Corporation Statutes).

For example, like the MBCL, South Carolina defines general public benefit as “a positive impact on society and the environment taken as a whole, as assessed against a third-party standard, from the business and operations of a benefit corporation.” Like the MBCL, there is also an optional specific public benefit purpose. However, South Carolina’s Benefit Corporation Act is one of very few that have departed from the Model Act’s definition to explicitly include “religious” purposes in its specific public benefit purpose definition. Yet, the pursuit of a specific public benefit cannot absolve a benefit corporation from the commitment to produce a general public benefit.

Moreover, comparable to the MBCL, Directors of South Carolina benefit corporations are obligated to weigh the impact of their actions or inactions upon all specifically named stakeholders. In South Carolina, some of the stakeholders include employees, shareholders, customers, suppliers, community, environment, and long-term corporate interests. Also, like the MBCL, the corporation must receive a 2/3 vote from shareholders to become a benefit corporation or to terminate its benefit corporation status. Interestingly, South Carolina’s Act is slightly stronger than the MBCL regarding enforcement. In South Carolina, benefit enforcement proceedings may be brought about from any shareholder of the corporation, not just shareholders who own two or more percent of the corporation (as in the MBCL).

A little more sugar, please. Overall, we are satisfied with South Carolina’s Benefit Corporation Legislation. We would prefer a statutory requirement for third-party audits, instead of an ambiguous statutory instruction to evaluate the company’s performance against a qualified third-party standard. Nonetheless, a South Carolina Benefit Corporation may still employ a third-party auditor. In these instances, we recommend considering B Corp Certification. To apply for B Corp certification, your company will be audited by [the nonprofit B Lab](#) and validated to be good corporate citizens with [triple bottom line](#) business models.

Find out more about certified B Corps [here](#).

