

As filed with the Securities and Exchange Commission on May 17, 2001.

Registration File No. 333-_____

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

FORM S-8
REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933

DELTA APPAREL, INC.

(Exact name of registrant as specified in its charter)

Georgia

58-2508794

(State or other jurisdiction
of incorporation or organization)

(I.R.S. Employer
Identification No.)

2750 Premiere Parkway, Suite 100
Duluth, Georgia 30097
(678) 775-6900 (telephone) (678) 775-6999

(facsimile) (Address, including Zip code, and telephone number, including
area code, of registrant's principal executive offices)

Delta Apparel, Inc. 2000 Stock Option Plan

Delta Apparel, Inc. Incentive Stock Award Plan

(Full title of plans)

Herbert M. Mueller, Chief Financial Officer
Delta Apparel, Inc.
2750 Premiere Parkway, Suite 100
Duluth, Georgia 30097
(678) 775-6900

(Name, address, and telephone number, including area code, of agent
for service)

Copies to:
Eric B. Amstutz, Esq.
Wyche, Burgess, Freeman & Parham, P.A.
Post Office Box 728
Greenville, South Carolina 29602-0728
(864) 242-8200 (telephone) (864) 235-8900 (facsimile)

<TABLE>
<CAPTION>

CALCULATION OF REGISTRATION FEE

Title of Each Class Amount of of Securities to be Registered Registration Fee	Proposed Maximum Amount to be Registered	Proposed Maximum Offering Price Per Security	Aggregate Offering Price (1)
<S> <C> Common Stock..... \$1,722.41	500,000 shares	\$15.69(1)	\$6,889,626.50
Common Stock..... \$0.50	200,000 shares	\$0.01	\$2,000.00

</TABLE>

(1) Pursuant to Rule 457(h), the exercise price of \$9.313 is used for the purpose of calculating the registration fee as to 145,500 issued shares and the exercise price of \$12.25 is used for the purpose of calculating the registration fee as to 8,000 issued shares and the average of the high and

low prices as reported by the American Stock Exchange of \$15.69 on May 14, 2001 is used for purposes of calculating the registration fee as to 346,500 unissued shares.

The Exhibit Index appears on Page 7 hereof.

PART I: INFORMATION REQUIRED IN THE SECTION 10(A) PROSPECTUS

ITEM 1. PLAN INFORMATION.

Not included in this Registration Statement but provided or to be provided to the participants in the following plans (the "Plans") of Delta Apparel, Inc. (the "Company") pursuant to Rule 428(b) of the Securities Act of 1933, as amended (the "Securities Act").

- o Delta Apparel, Inc. 2000 Stock Option Plan; and
- o Delta Apparel, Inc. Incentive Stock Award Plan.

ITEM 2. REGISTRANT INFORMATION AND EMPLOYEE PLAN ANNUAL INFORMATION.

Not included in this Registration Statement but provided or to be provided to the Plans' participants pursuant to Rule 428(b) of the Securities Act.

PART II: INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

ITEM 3. INCORPORATION OF DOCUMENTS BY REFERENCE.

The following documents or portions thereof are hereby incorporated by reference:

The Company's Annual Report on Form 10-K for the fiscal year ended July 1, 2000, Commission File No. 001-15583.

The Company's Quarterly Report on Form 10-Q for the fiscal quarter ended September 30, 2000.

The Company's Quarterly Report on Form 10-Q for the fiscal quarter ended December 30, 2000.

The Company's Quarterly Report on Form 10-Q for the fiscal quarter ended March 31, 2001.

All other reports filed by the Company pursuant to Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended, since the end of the Company's 2000 fiscal year.

The description of the Company's common stock contained in the Company's Form 10/A filed with the Securities and Exchange Commission on June 8, 2000, Commission File No. 001-15583.

All documents subsequently filed by the Company pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Securities Exchange Act of 1934, as amended, prior to the filing of a post-effective amendment which indicates that all securities offered have been sold or which deregisters all securities then remaining unsold, shall be deemed to be incorporated by reference in this Registration Statement and to be part thereof, from the date of filing of such documents.

ITEM 4. DESCRIPTION OF SECURITIES.

Not applicable.

ITEM 5. INTERESTS OF NAMED EXPERTS AND COUNSEL.

Not applicable.

ITEM 6. INDEMNIFICATION OF DIRECTORS AND OFFICERS.

Sections 14-2-850 through -856 of the Official Code of Georgia, as amended, (the "Code") relating to permissible, mandatory and court-ordered indemnification of directors of Georgia corporations in certain instances, are set forth in Exhibit 99.3 of this Registration Statement and are incorporated herein by reference.

The Company's Bylaws provide (i) that the Company shall indemnify its directors and officers (and each person who at its request served as an officer or director of any other entity) to the fullest extent permitted by the Code (or any successor provision) and (ii) that the Company shall pay for or reimburse the reasonable expenses incurred by a director or officer who is a party to a proceeding because he or she is director or officer of the Company in advance of a final disposition of the proceeding if the director or officer submits to the Secretary of the Company a written request that complies with the requirements of Section 14-2-853 of the Code (or any successor provision).

The Company's Articles of Incorporation filed with the Georgia Secretary of State on December 10, 1999 provide that, to the fullest extent permitted by the Code, no director of the Company shall be personally liable to the Company or its shareholders for monetary damages for any action or omission. Under Section 14-2-202 of the Code, a Georgia corporation's articles of incorporation may limit a director's liability to the company or its shareholders for monetary damages, except liability: (a) for any appropriation, in violation of the director's duties, of a corporate business opportunity; (b) for acts or omissions involving intentional misconduct or knowing violation of the law; (c) for the types of liability set forth in Code Section 14-2-832 (regarding liability for unlawful corporate distributions); and (d) for any transaction from which the director received an improper personal benefit.

Section 14-2-858 of the Code permits a corporation to purchase and maintain insurance on behalf of a person who is or was an officer or director. The Company does not maintain directors' and officers' liability insurance at this time.

The Delta Apparel, Inc. 2000 Stock Option Plan (the "Stock Option Plan") provides for indemnification of members of the Board (or committee administering the Stock Option Plan) as follows:

"In addition to such other rights of indemnification as they may have as members of the Board, the members of the Board (and the Committee, as applicable) shall, to the fullest extent permitted by law, be indemnified by the Company against the reasonable expenses, including attorneys' fees and legal costs, actually and necessarily incurred in connection with the defense of any action, suit or proceeding, or in connection with any appeal therein, to which they or any of them may be a party by reason of any action or omission in connection with the Plan or any Option, and against all amounts paid by them in settlement thereof (provided such settlement is approved by independent legal counsel selected by the Company) or paid by them in satisfaction of a judgment in any such action, suit or proceeding, except in relation to matters as to which it has been adjudged in such action, suit or proceeding that such Board or Committee member is liable for gross negligence or misconduct in the performance of such member's duties; provided that within 60 days after institution of any such action, suit or proceeding the Board or Committee member shall in writing offer the Company the opportunity, at the Company's own expense, to handle and defend the same."

ITEM 7. EXEMPTION FROM REGISTRATION CLAIMED.

Not applicable.

Item 8. Exhibits.

4.1 Articles of Incorporation of the Company: Incorporated by reference to Exhibit 3.1 of the Company's Form 10, Commission File No. 001-15583.

4.2 Bylaws of the Company: Incorporated by reference to Exhibit 3.2.1 of the Company's Form 10, Commission File No. 001-15583.

4.3 Amendment to Bylaws of the Company adopted February 20, 2000: Incorporated by reference to Exhibit 3.2.2 to the Company's Form 10, Commission File No.

001-15583.

- 4.4 Amendment to Bylaws of the Company adopted February 17, 2000: Incorporated by reference to Exhibit 3.2.3 to the Company's Form 10, Commission File No. 001-15583.
- 4.5 Amendment to Bylaws of the Company adopted June 6, 2000: Incorporated by reference to Exhibit 3.2.4 to the Company's Form 10, Commission File No. 001-15583.
- 4.6 Specimen certificate for common stock, par value \$0.01 per share, of the Company: Incorporated by reference to Exhibit 4.2 of the Company's Form 10, Commission File No. 001-15583.
- 5.1 Opinion of Wyche, Burgess, Freeman & Parham, P.A. regarding legality of shares of Delta Apparel, Inc.
- 23.1 Consent of KPMG LLP.
- 23.2 Consent of Wyche, Burgess, Freeman & Parham, P.A.: contained in Exhibit 5.1.
- 24.1 Power of Attorney: Contained on the signature page of this Registration Statement.
- 99.1 Delta Apparel, Inc. 2000 Stock Option Plan, effective as of February 15, 2000, Amended and Restated March 15, 2000: Incorporated by reference to Exhibit 10.4 to the Company's Form 10, Commission File No. 001-15583.
- 99.2 Delta Apparel, Inc. Incentive Stock Award Plan, effective February 15, 2000, Amended and Restated March 15, 2000: Incorporated by reference to Exhibit 10.5 to the Company's Form 10, Commission File No. 001-15583.
- 99.3 Sections 14-2-850 through -856 of the Official Code of Georgia, as amended.

ITEM 9. UNDERTAKINGS.

(a) The undersigned registrant hereby undertakes:

(1) To file, during any period in which offers or sales are being made, a post-effective amendment to this registration statement;

(i) To include any prospectus required by Section 10(a)(3) of the Securities Act of 1933;

4

(ii) To reflect in the prospectus any facts or events arising after the effective date of the registration statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the registration statement. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the Commission pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than a 20 percent change in the maximum aggregate offering price set forth in the "Calculation of Registration Fee" table in the effective registration statement; and

(iii) To include any material information with respect to the plan of distribution not previously disclosed in the registration statement or any material change to such information in the registration statement;

provided, however, that paragraphs (a)(1)(i) and (a)(1)(ii) do not apply if the registration statement is on Form S-3, Form S-8 or Form F-3, and the information required to be included in a post-effective amendment by those paragraphs is contained in periodic reports filed with or furnished to the Commission by the registrant pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 that are

incorporated by reference in the registration statement.

(2) That, for the purpose of determining any liability under the Securities Act of 1933, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

(b) The undersigned registrant hereby undertakes that, for purposes of determining any liability under the Securities Act of 1933, each filing of the registrant's annual report pursuant to Section 13(a) or 15(d) of the Securities Exchange Act of 1934 (and, where applicable, each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the Securities Exchange Act of 1934) that is incorporated by reference in the registration statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(h) Insofar as indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors, officers and controlling persons of the registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer or controlling person of the registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Act and will be governed by the final adjudication of such issue.

SIGNATURES

Pursuant to the requirements of the Securities Act, Delta Apparel, Inc. certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-8 and has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Duluth, State of Georgia, on _____, 2001.

DELTA APPAREL, INC.

By: /s/ Herbert M. Mueller

Herbert M. Mueller, Sr. Vice President and
Chief Financial Officer

POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints Robert W. Humphreys and Herbert M. Mueller, and each of them, as true and lawful attorneys-in-fact and agents, with full power of substitution and resubstitution for him or her and in his or her name, place and stead, in any and all capacities, to sign any and all amendments (including post-effective amendments) to this registration statement, and to file the same, with all annexes thereto, and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents, and each of them, full power and authority to do and perform each and every act and thing requisite and necessary to be done in and about the premises, as fully to all intents and purposes as he or she might or could do in person, hereby ratifying and confirming all which said attorneys-in-fact and agents or any of them, or their or his or her substitute or substitutes, may lawfully do, or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, this

registration statement has been signed by the following persons in the capacities and as of the dates indicated:

<TABLE>
<CAPTION>

Signature <S>	Title <C>	Date <C>
<u>E. Erwin Maddrey II</u>	Chairman of the Board	_____, 2001
<u>Robert W. Humphreys</u>	President, Chief Executive Officer and Director (Principal Executive Officer)	_____, 2001
<u>Herbert M. Mueller</u>	Sr. Vice President & Chief Financial Officer (Principal Accounting and Financial Officer)	_____, 2001
<u>C.C. Guy</u>	Director	_____, 2001
<u>William F. Garrett</u>	Director	_____, 2001
<u>James F. Kane</u>	Director	_____, 2001

6

Signature	Title	Date
<u>A. Max Lennon</u>	Director	_____, 2001
<u>Buck A. Mickel</u>	Director	_____, 2001

</TABLE>

INDEX TO EXHIBITS CONTAINED HEREIN

Exhibit

- 5.1 Opinion of Wyche, Burgess, Freeman & Parham, P.A. regarding legality of shares of Delta Apparel, Inc.
- 23.1 Consent of KPMG LLP.
- 23.2 Consent of Wyche, Burgess, Freeman & Parham, P.A.: Contained in Exhibit 5.1.
- 24.1 Power of Attorney: Contained on the signature page of this Registration Statement.
- 99.3 Sections 14-2-850 through -856 of the Official Code of Georgia, as amended.

May 9, 2001

Delta Apparel, Inc.
2750 Premiere Parkway
Suite 100
Duluth, Georgia 30097

RE: Registration Statement on Form S-8 of Common Stock Subject to Delta Apparel, Inc. 2000 Stock Option Plan and Delta Apparel, Inc. Incentive Stock Award Plan

Ladies and Gentlemen:

The opinion set forth below is rendered with respect to the 700,000 shares, par value \$0.01 per share, of common stock of Delta Apparel, Inc., a Georgia corporation (the "Company"), that will be registered with the Securities and Exchange Commission by the above-referenced Registration Statement on Form S-8 pursuant to the Securities Act of 1933, as amended, in connection with the Delta Apparel, Inc. 2000 Stock Option Plan and the Delta Apparel, Inc. Incentive Stock Award Plan (the "Plans"). We have examined the Company's Articles of Incorporation, and all amendments thereto, the Company's By-Laws, as amended, and reviewed the records of the Company's corporate proceedings. We have made such other investigation of law and fact as we have deemed necessary in order to enable us to render this opinion. With respect to matters of fact, we have relied upon information provided to us by the Company without further investigation. With respect to all examined documents, we have assumed the genuineness of all signatures, the authenticity of all documents submitted to us as originals, the conformity to authentic originals of all documents submitted to us as copies and the accuracy and completeness of the information contained therein.

Based on the foregoing and subject to the comments, limitations and qualifications set forth below, we are of the opinion that upon satisfaction of the vesting and other conditions set forth in the Plan and in the applicable stock option agreement or letter, shares of the Company's common stock covered by the above-referenced Registration Statement that are issued after the date hereof under and in compliance with the terms of the Plan will be legally issued, fully paid and non-assessable. This opinion is limited to matters governed by the laws of the State of Georgia in force on the date of this letter. We express no opinion with regard to any matter that may be (or which purports to be) governed by the laws of any other state or jurisdiction. In addition, we express no opinion with respect to any matter arising under or governed by the Georgia Securities Act of 1973.

This opinion is rendered as of the date of this letter and applies only to the matters specifically covered by this opinion, and we disclaim any continuing responsibility for matters occurring after the date of this letter.

This opinion is rendered solely for your benefit in connection with the Registration Statement on Form S-8 respecting shares of the Company's common stock to be issued under the Plans and may not be relied upon, quoted or used by any other person or entity or for any other purpose without our prior written consent.

We consent to the use of this opinion as an exhibit to the Registration Statement on Form S-8 respecting shares of the Company's common stock to be issued under the Plan.

Very Truly Yours,

WYCHE, BURGESS, FREEMAN & PARHAM, P.A.

By: /s/ James I. Warren, III

James I. Warren, III

CONSENT OF INDEPENDENT AUDITORS

The Board of Directors
Delta Apparel, Inc.

We consent to the use of our report incorporated herein by reference.

/s/ KPMG LLP
KPMG LLP

Atlanta, Georgia
May 5, 2001

OFFICIAL CODE OF GEORGIA

SECTION 14-2-850 . PART DEFINITIONS.

As used in this part, the term:

(1) "Corporation" includes any domestic or foreign predecessor entity of a corporation in a merger or other transaction in which the predecessor's existence ceased upon consummation of the transaction.

(2) "Director" or "officer" means an individual who is or was a director or officer, respectively, of a corporation or who, while a director or officer of the corporation, is or was serving at the corporation's request as a director, officer, partner, trustee, employee, or agent of another domestic or foreign corporation, partnership, joint venture, trust, employee benefit plan, or other entity. A director or officer is considered to be serving an employee benefit plan at the corporation's request if his or her duties to the corporation also impose duties on, or otherwise involve services by, the director or officer to the plan or to participants in or beneficiaries of the plan. Director or officer includes, unless the context otherwise requires, the estate or personal representative of a director or officer.

(3) "Disinterested director" means a director who at the time of a vote referred to in subsection (c) of Code Section 14-2-853 or a vote or selection referred to in subsection (b) or (c) of Code Section 14-2-855 or subsection (a) of Code Section 14-2-856 is not:

(A) A party to the proceeding; or

(B) An individual who is a party to a proceeding having a familial, financial, professional, or employment relationship with the director whose indemnification or advance for expenses is the subject of the decision being made with respect to the proceeding, which relationship would, in the circumstances, reasonably be expected to exert an influence on the director's judgment when voting on the decision being made.

(4) "Expenses" includes counsel fees.

(5) "Liability" means the obligation to pay a judgment, settlement, penalty, fine (including an excise tax assessed with respect to an employee benefit plan), or reasonable expenses incurred with respect to a proceeding.

(6) "Official capacity" means:

(A) When used with respect to a director, the office of director in a corporation; and

(B) When used with respect to an officer, as contemplated in Code Section 14-2-857, the office in a corporation held by the officer.

Official capacity does not include service for any other domestic or foreign corporation or any partnership, joint venture, trust, employee benefit plan, or other entity.

(7) "Party" means an individual who was, is, or is threatened to be made a named defendant or respondent in a proceeding.

(8) "Proceeding" means any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, arbitral, or investigative and whether formal or informal.

SECTION 14-2-851. AUTHORITY TO INDEMNIFY.

(a) Except as otherwise provided in this Code section, a corporation may indemnify an individual who is a party to a proceeding because he or she is or was a director against liability incurred in the proceeding if:

(1) Such individual conducted himself or herself in good faith;

and

(2) Such individual reasonably believed:

(A) In the case of conduct in his or her official capacity, that such conduct was in the best interests of the corporation;

(B) In all other cases, that such conduct was at least not opposed to the best interests of the corporation; and

(C) In the case of any criminal proceeding, that the individual had no reasonable cause to believe such conduct was unlawful.

(b) A director's conduct with respect to an employee benefit plan for a purpose he or she believed in good faith to be in the interests of the participants in and beneficiaries of the plan is conduct that satisfies the requirement of subparagraph (a)(2)(B) of this Code section.

(c) The termination of a proceeding by judgment, order, settlement, or conviction, or upon a plea of nolo contendere or its equivalent is not, of itself, determinative that the director did not meet the standard of conduct described in this Code section.

(d) A corporation may not indemnify a director under this Code section:

(1) In connection with a proceeding by or in the right of the corporation, except for reasonable expenses incurred in connection with the proceeding if it is determined that the director has met the relevant standard of conduct under this Code section; or

(2) In connection with any proceeding with respect to conduct for which he or she was adjudged liable on the basis that personal benefit was improperly received by him or her, whether or not involving action in his or her official capacity.

SECTION 14-2-852. MANDATORY INDEMNIFICATION.

A corporation shall indemnify a director who was wholly successful, on the merits or otherwise, in the defense of any proceeding to which he or she was a party because he or she was a director of the corporation against reasonable expenses incurred by the director in connection with the proceeding.

SECTION 14-2-853. ADVANCE FOR EXPENSES.

(a) A corporation may, before final disposition of a proceeding, advance funds to pay for or reimburse the reasonable expenses incurred by a director who is a party to a proceeding because he or she is a director if he or she delivers to the corporation:

(1) A written affirmation of his or her good faith belief that he or she has met the relevant standard of conduct described in Code Section 14-2-851 or that the proceeding involves conduct for which liability has been eliminated under a provision of the articles of incorporation as authorized by paragraph (4) of subsection (b) of Code Section 14-2-202; and

(2) His or her written undertaking to repay any funds advanced if it is ultimately determined that the director is not entitled to indemnification under this part.

(b) The undertaking required by paragraph (2) of subsection (a) of this Code section must be an unlimited general obligation of the director but need not be secured and may be accepted without reference to the financial ability of the director to make repayment.

(c) Authorizations under this Code section shall be made:

(1) By the board of directors:

(A) When there are two or more disinterested directors, by a majority vote of all the disinterested directors (a majority of whom shall for such purpose constitute a quorum) or by a majority of the members of a committee of two or more disinterested directors appointed by such a vote; or

(B) When there are fewer than two disinterested directors, by the vote necessary for action by the board in accordance with subsection (c) of Code Section 14-2-824, in which authorization directors who do not qualify as disinterested directors may participate; or

(2) By the shareholders, but shares owned or voted under the control of a director who at the time does not qualify as a disinterested director with respect to the proceeding may not be voted on the authorization.

SECTION 14-2-854. COURT-ORDERED INDEMNIFICATION AND ADVANCES FOR EXPENSES.

(a) A director who is a party to a proceeding because he or she is a director may apply for indemnification or advance for expenses to the court conducting the proceeding or to another court of competent jurisdiction. After receipt of an application and after giving any notice it considers necessary, the court shall:

(1) Order indemnification or advance for expenses if it determines that the director is entitled to indemnification under this part; or

(2) Order indemnification or advance for expenses if it determines, in view of all the relevant circumstances, that it is fair and reasonable to indemnify the director or to advance expenses to the director, even if the director has not met the relevant standard of conduct set forth in subsections (a) and (b) of Code Section 14-2-851, failed to comply with Code Section 14-2-853, or was adjudged liable in a proceeding referred to in paragraph (1) or (2) of subsection (d) of Code Section 14-2-851, but if the director was adjudged so liable, the indemnification shall be limited to reasonable expenses incurred in connection with the proceeding.

(b) If the court determines that the director is entitled to indemnification or advance for expenses under this part, it may also order the corporation to pay the director's reasonable expenses to obtain court-ordered indemnification or advance for expenses.

SECTION 14-2-855. DETERMINATION AND AUTHORIZATION OF INDEMNIFICATION.

(a) A corporation may not indemnify a director under Code Section 14-2-851 unless authorized thereunder and a determination has been made for a specific proceeding that indemnification of the director is permissible in the circumstances because he or she has met the relevant standard of conduct set forth in Code Section 14-2-851.

(b) The determination shall be made:

(1) If there are two or more disinterested directors, by the board of directors by a majority vote of all the disinterested directors (a majority of whom shall for such purpose constitute a quorum) or by a majority of the members of a committee of two or more disinterested directors appointed by such a vote;

(2) By special legal counsel:

(A) Selected in the manner prescribed in paragraph (1) of this subsection; or

(B) If there are fewer than two disinterested directors, selected by the board of directors (in which selection directors who do not qualify as disinterested directors may participate); or

(3) By the shareholders, but shares owned by or voted under the control of a director who at the time does not qualify as a disinterested director may not be voted on the determination.

(c) Authorization of indemnification or an obligation to indemnify and evaluation as to reasonableness of expenses shall be made in the same manner as the determination that indemnification is permissible, except that if there are fewer than two disinterested directors or if the determination is made by special legal counsel, authorization of indemnification and evaluation as to reasonableness of expenses shall be made by those entitled under subparagraph (b)(2)(B) of this Code section to select special legal counsel.

SECTION 14-2-856. SHAREHOLDER APPROVED INDEMNIFICATION.

(a) If authorized by the articles of incorporation or a bylaw, contract, or resolution approved or ratified by the shareholders by a majority of the votes entitled to be cast, a corporation may indemnify or obligate itself to indemnify a director made a party to a proceeding including a proceeding brought by or in the right of the corporation, without regard to the limitations in other Code sections of this part, but shares owned or voted under the control of

a director who at the time does not qualify as a disinterested director with respect to any existing or threatened proceeding that would be covered by the authorization may not be voted on the authorization.

(b) The corporation shall not indemnify a director under this Code section for any liability incurred in a proceeding in which the director is adjudged liable to the corporation or is subjected to injunctive relief in favor of the corporation:

(1) For any appropriation, in violation of the director's duties, of any business opportunity of the corporation;

(2) For acts or omissions which involve intentional misconduct or a knowing violation of law;

(3) For the types of liability set forth in Code Section 14-2-832;
or

(4) For any transaction from which he or she received an improper personal benefit.

(c) Where approved or authorized in the manner described in subsection (a) of this Code section, a corporation may advance or reimburse expenses incurred in advance of final disposition of the proceeding only if:

(1) The director furnishes the corporation a written affirmation of his or her good faith belief that his or her conduct does not constitute behavior of the kind described in subsection (b) of this Code section; and

(2) The director furnishes the corporation a written undertaking, executed personally or on his or her behalf, to repay any advances if it is ultimately determined that the director is not entitled to indemnification under this Code section.