

A-Engrossed
House Bill 4038

Ordered by the House February 4
Including House Amendments dated February 4

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Energy and Environment)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Permits shareholders in and members of cooperative corporations to vote by electronic means.
Defines "electronic means."
Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to voting methods for cooperative corporations; creating new provisions; amending ORS
3 62.195 and 62.265; and declaring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 62.195 is amended to read:

6 62.195. (1) A shareholder may vote *[either]* in person, **by electronic means** or by a proxy *[ex-*
7 *ecuted in writing by]* **that** the shareholder or *[by]* the duly authorized attorney-in-fact of the share-
8 holder **executes in writing**. *[No proxy shall be]* **A proxy is not** valid after 11 months from the date
9 of *[its]* execution unless otherwise provided in the proxy. The following provisions, relating to voting
10 of shares, apply to shareholders of cooperatives and shares of the capital stock of cooperatives other
11 than membership stock:

12 (a) Shares standing in the name of another domestic or foreign cooperative may be voted by
13 such officer, agent or proxy as the bylaws of the cooperative may prescribe, or, in the absence of
14 such provision, as the board of directors of the cooperative may determine.

15 (b) An administrator, executor, guardian or conservator holding shares may vote the shares,
16 *[either]* in person, **by electronic means** or by a proxy, without *[a transfer of such]* **transferring the**
17 shares into the name of the administrator, executor, guardian or conservator. Shares standing in the
18 name of a trustee may be voted by the trustee, *[either]* in person, **by electronic means** or by **a**
19 proxy, but *[no]* a trustee *[shall be entitled to]* **may not** vote shares held by the trustee without *[a*
20 *transfer of]* **transferring** the shares into the trustee's name.

21 (c) Shares standing in the name of a receiver may be voted by the receiver, and shares held by
22 or under control of a receiver may be voted by the receiver without *[the transfer thereof]* **trans-**
23 **ferring the shares** into the receiver's name if *[authority so to do is contained in]* an appropriate
24 order of the court by which the receiver was appointed **authorizes the receiver to vote the**
25 **shares**.

26 (d) A shareholder whose shares are pledged *[shall be entitled to]* **may** vote the shares until the
27 shares have been transferred into the name of the pledgee, and thereafter the pledgee *[shall be en-*

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted.
New sections are in **boldfaced** type.

1 *titled to*] **may** vote the shares so transferred.

2 (2) For the purpose of determining shareholders entitled to notice of or to vote at meetings, or
3 entitled to receive payment of any dividend, the bylaws may fix in advance a date as the record date
4 for any such determination of shareholders. [*Such date shall*] **The date must** be not more than 50
5 days and not less than 10 days prior to the date on which the particular action requiring such de-
6 termination of shareholders is to be taken. If [*no such*] a record date is **not** fixed by the bylaws, the
7 date on which notice of the meeting is mailed, or the date on which the resolution of the board of
8 directors declaring such dividend is adopted, [*as the case may be, shall be*] **is** the record date for such
9 determination of shareholders. [*When*] A determination of shareholders entitled to vote at any
10 meeting [*has been made as provided in this section, such determination shall apply*] **made under this**
11 **subsection applies** to any adjournment of that meeting.

12 (3) **As used in this section, “electronic means” means a method of voting that complies**
13 **with ORS 84.001 to 84.061.**

14 **SECTION 2.** ORS 62.265 is amended to read:

15 62.265. (1) Each member is entitled to one vote with respect to a matter that is subject to a vote
16 at any member meeting, except that bylaws may authorize voting according to actual, estimated or
17 potential patronage, or a combination of voting according to actual, estimated or potential
18 patronage. Shares of stock do not have voting power except in the specific instances authorized by
19 this chapter.

20 (2) Members may not vote by proxy, except that a member that is a corporation, association or
21 partnership may designate a representative to cast the member’s vote. In the absence of written
22 notice that a member has designated a person other than a natural person to represent the member,
23 the member’s principal officers may represent the member. If the bylaws of a cooperative provide
24 for forming districts and electing delegates at district meetings to represent the districts in member
25 meetings, such representation is not voting by proxy and the delegates shall cast the votes to which
26 the members that the delegates represent are entitled on matters that mail ballots submitted to all
27 members do not cover.

28 [*(3) If the bylaws so provide, the board may submit any question that is subject to a vote at a*
29 *member meeting by written ballot, including the election of directors. The ballot must be mailed or*
30 *communicated by electronic transmission to each member, along with the notice of the meeting. The*
31 *ballot may be cast if the member’s signature authenticates the ballot. A vote cast by this method must*
32 *be counted as if the member were present and voting in person.*]

33 (3)(a) **If the bylaws so provide and a member consents, the board may submit to the**
34 **member for a vote by written ballot or by electronic means any question, including the**
35 **election of directors, that is subject to a vote at a member meeting. The ballot must be**
36 **mailed or, if the member consents to receive a ballot by electronic means, communicated by**
37 **electronic transmission, along with the notice of the meeting. The ballot may be cast if the**
38 **member’s signature authenticates the ballot. A vote cast by this method must be counted**
39 **as if the member were present and voting in person.**

40 (b) **As used in this subsection, “electronic means” means a method of voting that com-**
41 **plies with ORS 84.001 to 84.061.**

42 (4) The bylaws may set forth provisions with respect to the methods and procedures for voting
43 that are consistent with this chapter.

44 **SECTION 3. The amendments to ORS 62.195 and 62.265 by sections 1 and 2 of this 2016**
45 **Act apply to shareholder voting and member voting that occurs on or after the effective date**

1 of this 2016 Act.

2 **SECTION 4. This 2016 Act being necessary for the immediate preservation of the public**
3 **peace, health and safety, an emergency is declared to exist, and this 2016 Act takes effect**
4 **on its passage.**

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