



HOUSE BILL 320: Modernize Remote Business Access.

2021-2022 General Assembly

Committee:	House Rules, Calendar, and Operations of the House	Date:	March 24, 2021
Introduced by:	Reps. D. Hall, Bradford, Paré, Howard	Prepared by:	Tawanda F. Artis
Analysis of:	PCS to Second Edition H320-CSTU-3		Staff Attorney

OVERVIEW: *The PCS to House Bill 320 authorizes certain entities to conduct meetings by means of remote communication, authorizes nonprofit corporations to conduct all business electronically, unless prohibited in their articles of incorporation or bylaws, and to make technical changes.*

CURRENT LAW: [Session Law 2013-153](#) approved changes to the North Carolina Business Corporation Act to add G.S. 55-7-09 which established the ability of shareholders to attend shareholders' meetings by electronic means. To permit remote participation, current law requires among other things that the corporation take reasonable measures to provide each remote shareholder a reasonable opportunity to participate in the meeting and to vote on matters submitted for a shareholder vote, including an opportunity to communicate and read or hear the proceedings of the meeting, substantially concurrently with such proceedings. While the current law authorizes remote shareholder participation, the statutes providing for annual and special meetings of shareholders specify that the meeting be held "at a place," which may be viewed as requiring that meetings must have some physical location.

BILL ANALYSIS:

PART I. SHAREHOLDER MEETINGS

Sections 1(a) and 1(b) permits shareholders' meetings to be held solely by means of remote communication.

Section 1(c) provides the following:

- If a shareholders' meeting is adjourned to a different date or time and is to be continued solely by means of remote communication, a description of the means of remote communication must be announced at the meeting before its adjournment.
- After a public corporation has notified its shareholders of the date, time, and place of an annual or special shareholders' meeting, no further notice is if all the following apply:
 - A governmental order is in effect that restricts travel or group gatherings applicable to the place of the shareholders' meeting or public corporation, and the board of directors anticipates in good faith that the order will be in effect at the date and time of the noticed meeting.
 - The board of directors determines to hold the meeting solely by means of remote communication.
 - The public corporation:

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- Promptly issues a press release for national dissemination announcing the determination to hold the meeting solely by remote communication and stating the date and time of the meeting.
- Files the press release with the Securities and Exchange Commission as close in time as practicable to its release and approximately contemporaneously posts it on its corporate website.

Section 1(d) amends current law to provide unless the articles of incorporation or bylaws prohibit the holding of shareholders' meetings solely by means of remote communication, the corporation's board of directors has the sole discretion to decide that a shareholders' meeting shall be held solely by means of remote communication, but only if the corporation has implemented reasonable measures to verify each participant's shareholder status and to provide each shareholder with a reasonable opportunity to participate in and vote on matters submitted to shareholders at the meeting.

Section 1(e) amends current law to provide a list of all shareholders entitled to notice of the meeting must be made available for inspection by any shareholder at 1) the corporation's principal place of business or place designated in the notice in the city where the meeting will be held; or 2) on a reasonably accessible electronic network, provided that the meeting notice contains the information required to gain access to the list. If the shareholders' meeting is to be held solely by means of remote electronic communication, the corporation must make the list available for inspection during the meeting by posting it on a reasonably accessible electronic network and the meeting notice must include the information required to access the list.

Section 1(f) provides a bylaw prohibiting shareholders' meetings held solely by means of remote communication can be repealed only by the shareholders if it originally was adopted by the shareholders and that it can be repealed either by the shareholders or by the board of directors if it originally was adopted by the board of directors.

Section 1(g) allows the Revisor of Statutes to print as statutory annotations the relevant portions of the Official Comments to the Revised Model Business Corporation Act and all explanatory comments of the drafters as the Revisor deems appropriate.

PART II. NONPROFIT MEMBER MEETINGS

Sections 2(a)-2(o) authorizes nonprofit member meetings to be held by means of remote communication and authorizes nonprofits to conduct all business electronically unless prohibited by the non-profit articles of incorporation or bylaws or action of the board of directors.

The PCS amends provisions related to the following:

- Notice and waiver of notice.
- Agreement among members.
- Emergency by-laws.
- Annual, regular, special, and court-ordered meetings.
- Action by written consent or ballot.
- Proxies.
- Member list.

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If there are conflicts with Article 40 of Chapter 66 of the General Statutes, the provisions in Chapter 55A prevails.

PART III. INSURANCE POLICYHOLDER MEETINGS

Section 4 authorizes insurance policy holder meetings to be held remotely.

- Every person insured by a mutual insurance company is a member while that person's policy is in force, and is entitled to one vote for each policy that person holds, and must shall be notified of the (1 time and (2 place of or method of remote communication, or both, for holding the company's meetings by a written notice or by an imprint upon the back of each policy, receipt, or certificate of renewal with specific language

Section 5 provides a severability clause.

EFFECTIVE DATE: This act is effective when it becomes law and applies to meetings noticed on or after that date. Remote shareholder meetings noticed before the effective date of this act as a result of the State of Emergency declared by Executive Order 116 on March 10, 2020 and complying with any subsequent executive orders authorizing remote shareholder meetings issued by Governor Roy A. Cooper, shall be deemed in compliance with this Act.