

# HOUSE BILL REPORT

## HB 2320

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**As Reported By House Committee On:**  
Judiciary

**Title:** An act relating to the authorization and application of electronic notice and electronic proxies to the nonprofit miscellaneous and mutual corporations act.

**Brief Description:** Authorizing and applying electronic notice and proxies.

**Sponsors:** Representatives Lantz, Esser and Constantine.

**Brief History:**

**Committee Activity:**

Judiciary: 1/11/00, 2/3/00 [DPS].

**Brief Summary of Substitute Bill**

· Amends the Nonprofit Mutual and Miscellaneous Corporations Act to authorize notices, voting, and proxy appointments by electronic transmission.

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### HOUSE COMMITTEE ON JUDICIARY

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 12 members: Representatives Carrell, Republican Co-Chair; Constantine, Democratic Co-Chair; Hurst, Democratic Vice Chair; Lambert, Republican Vice Chair; Cox; Dickerson; Esser; Kastama; Lantz; Lovick; McDonald and Schindler.

**Staff:** Edie Adams (786-7180).

**Background:**

A business that is operated for a nonprofit purpose may organize under the Nonprofit Miscellaneous and Mutual Corporations Act. This act sets forth the powers, duties, rights, and obligations of both the corporation and members or shareholders of the corporation.

The corporation is required to notify members of annual and special meetings and matters that the members or shareholders will be voting on, such as amendments to the articles of incorporation, merger plans, sale of corporation property, or dissolution of the corporation. Any notice sent by the corporation must be in writing.

Members and shareholders are generally entitled to vote on corporation matters at annual and special meetings. A person may vote in person, by mail, or by proxy. Proxy is the practice of appointing another person to vote or otherwise act for a shareholder or a member at a meeting. A proxy appointment must be in writing and executed by the shareholder or member, or his or her attorney.

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**Summary of Substitute Bill:**

The Nonprofit Miscellaneous and Mutual Corporations Act is amended to authorize notice and proxy appointments by electronic transmission and to authorize shareholders or members to vote by electronic transmission.

Notices that the corporation must send to shareholders and members may be given by electronic transmission if the corporation's bylaws or articles of incorporation permit notice by electronic transmission.

A shareholder or member may vote on a corporate matter by electronic transmission. Persons voting by electronic transmission are deemed present for purposes of quorum.

A written proxy appointment may be made by a member or shareholder, or his or her agent, by affixing his or her signature to the appointment by any reasonable means, including facsimile signature.

A shareholder or member may make a proxy appointment by transmitting or authorizing the transmission of an electronic transmission to the person who will hold the proxy. A corporation that determines that an electronic proxy appointment is valid must state the information used to make that determination. A corporation must require a person who holds a proxy received by electronic transmission to provide a copy of the transmission to the corporation. The corporation must retain the copy for a reasonable period of time after the election.

"Electronic transmission" is defined to include any form of electronic communication that does not directly involve the transfer of paper and that is able to be retained, retrieved, and reproduced by the recipient, as long as the transmission includes information, including any security or validation controls used, that shows that the transmission was authorized by the shareholder, corporation, or member.

**Substitute Bill Compared to Original Bill:** The original bill did not specifically require that an electronic transmission include or be submitted with any security or validation controls that were used and from which the corporation can reasonably determine that the electronic transmission was authorized by the shareholder.

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**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date of Substitute Bill:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** This bill takes nonprofit corporations into the 21st century. The issue addressed in this bill was brought forward by REI, which has almost 2 million members to communicate with, and the ability to communicate electronically will save lots of expenses going to paper and postage. Electronic communications may only be used if the corporation specifically authorizes it in the articles of incorporation. Verification of the communication is required.

**Testimony Against:** None.

**Testified:** Representative Lantz, prime sponsor; Dan Hungate, Washington State Bar Association; and Kathleen Beamer and Michael Collins, Recreational Equipment.