



2021 SENATE BILL 25

January 28, 2021 - Introduced by Senators TESTIN, RINGHAND, COWLES, BALLWEG, BERNIER, BEWLEY, ERPENBACH, FELZKOWSKI, JACQUE, MARKLEIN, NASS, PETROWSKI, PFAFF, ROYS, SMITH and L. TAYLOR, cosponsored by Representatives SUMMERFIELD, OLDENBURG, ARMSTRONG, BILLINGS, DOYLE, EDMING, GUNDRUM, JAMES, KITCHENS, KRUG, KUGLITSCH, KURTZ, LOUDENBECK, B. MEYERS, MILROY, MOSES, MURSAU, NOVAK, PETRYK, PLUMER, ROZAR, SKOWRONSKI, SNYDER, SPREITZER, TAUCHEN, THIESFELDT, TRANEL, VANDERMEER and VRUWINK. Referred to Committee on Sporting Heritage, Small Business and Rural Issues.

AUTHORS SUBJECT TO CHANGE

- 1 **AN ACT to amend** 185.07 (1), 185.13 (1) and 185.13 (4); and **to create** 185.03 (13),
2 185.07 (4) and 185.13 (7) of the statutes; **relating to:** member meetings,
3 bylaws, and emergency powers of a cooperative.

Analysis by the Legislative Reference Bureau

This bill allows a cooperative to hold member meetings remotely, allows a cooperative to adopt emergency bylaws, and grants a cooperative certain emergency powers.

Under current law, a cooperative may be formed by filing articles of incorporation with the Department of Financial Institutions. A cooperative is organized and owned by its members and managed by a board of directors. Generally the members may adopt, amend, and repeal bylaws that govern the operations of the cooperative. Unless the bylaws provide otherwise, member meetings must be held at the cooperative's principal office or another place chosen by the board of directors. An annual member meeting must be held at the time established by the bylaws or, in the absence of a bylaw provision, within six months after the close of the cooperative's fiscal year. Special member meetings may also be called. Under certain circumstances, a member who is absent from a member meeting may vote on a meeting motion or the election or removal of directors, including voting by electronic means if certain requirements are met.

This bill allows a cooperative to hold an annual member meeting or special member meeting by means of remote participation. If certain conditions are satisfied, members participating in a member meeting by means of remote

SENATE BILL 25

communication are considered to be present in person, and their votes cast by electronic means are considered as votes at the member meeting.

The bill also allows, unless the articles of incorporation provide otherwise, a cooperative's board of directors to adopt bylaws that are effective only in an emergency. An emergency is defined as a catastrophic event that prevents a quorum of a cooperative's directors or members from being readily assembled. Emergency bylaws may provide special provisions or modify provisions as necessary for managing the cooperative during the emergency and are not effective after the emergency ends. The bill further provides emergency powers to a cooperative allowing its board of directors or members, in anticipation of or during an emergency, to 1) relocate its principal office or designate alternative principal offices; and 2) unless its emergency bylaws provide otherwise, give notice of a board meeting only to those directors whom it is practicable to reach and give this notice in any practicable manner. Action taken by the cooperative in good faith in accordance with the emergency bylaws or under its emergency powers binds the cooperative and may not be used to impose liability on a director, officer, member, employee, or agent of the cooperative.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 185.03 (13) of the statutes is created to read:

2 185.03 (13) In anticipation of or during an emergency, as defined in s. 185.07
3 (4) (a), through its board or members, do any of the following:

4 (a) Relocate the principal office, designate alternative principal offices or
5 regional offices, or authorize the officers to do so.

6 (b) Unless emergency bylaws adopted under s. 185.07 (4) provide otherwise,
7 give notice of a meeting of the board only to those directors whom it is practicable to
8 reach, and give notice to them in any practicable manner.

9 **SECTION 2.** 185.07 (1) of the statutes is amended to read:

10 185.07 (1) The initial bylaws may be adopted by the temporary board.
11 Thereafter, except as provided in sub. (4), bylaws may be adopted and amended only
12 by the members unless the members adopt a bylaw which permits the board to make
13 and amend specified bylaws.

SENATE BILL 25

1 **SECTION 3.** 185.07 (4) of the statutes is created to read:

2 185.07 (4) (a) In this subsection, “emergency” means a catastrophic event that
3 prevents a quorum of a cooperative’s directors or members from being readily
4 assembled.

5 (b) Unless the articles provide otherwise, the board may adopt bylaws that are
6 effective only in an emergency. Emergency bylaws are subject to amendment or
7 repeal by the board or by the members. Emergency bylaws may provide special
8 provisions or modify provisions as necessary for managing the cooperative during
9 the emergency including any of the following:

- 10 1. Procedures for calling a meeting of the board or the members.
- 11 2. Procedures for the conduct of a meeting of the board or the members.
- 12 3. Quorum requirements for a meeting of the board.
- 13 4. Deadlines for any action required to be taken by the cooperative, the board,
14 or the members.
- 15 5. Designation of additional or substitute directors.

16 (c) Provisions of the regular bylaws that are consistent with the emergency
17 bylaws remain effective during the emergency. The emergency bylaws are not
18 effective after the emergency ends.

19 (d) Action taken in good faith in accordance with the emergency bylaws, and
20 action taken in good faith under s. 185.03 (13) for the benefit of the cooperative, binds
21 the cooperative and may not be used to impose liability on a director, officer, member,
22 employee, or agent. Action taken in good faith in anticipation of or during an
23 emergency to delay or reschedule any action required to be taken by the cooperative,
24 the board, or the members under par. (b) 4. shall not constitute a violation of the

SENATE BILL 25**SECTION 3**

1 bylaws in the event the delayed or rescheduled action occurs after the emergency
2 ends.

3 **SECTION 4.** 185.13 (1) of the statutes is amended to read:

4 185.13 (1) Unless the bylaws provide otherwise, and except for meetings held
5 by means of remote participation under sub. (7), member meetings shall be held at
6 the principal office or such other place as the board may determine.

7 **SECTION 5.** 185.13 (4) of the statutes is amended to read:

8 185.13 (4) Written notice, stating the place, if any, and the day and hour, and
9 in case of a special member meeting the purposes for which the meeting is called,
10 shall be given not less than 7 nor more than 30 days before the meeting at the
11 direction of the person calling the meeting. Notice need be given only to members
12 entitled to vote. Notice shall be given to members having limited voting rights if they
13 have or may have the right to vote at the meeting.

14 **SECTION 6.** 185.13 (7) of the statutes is created to read:

15 185.13 (7) (a) A cooperative may hold a member meeting under sub. (2) or (3)
16 by means of remote participation as provided in pars. (b) and (c).

17 (b) If members participate in a member meeting by means of remote
18 communication, the participating members are deemed to be present in person and
19 to vote at the member meeting held by means of remote communication if all of the
20 following apply:

21 1. The cooperative implements reasonable measures to verify that each person
22 deemed present and permitted to vote at the member meeting by means of remote
23 communication is a member.

24 2. The cooperative implements reasonable measures to provide members a
25 reasonable opportunity to participate in the meeting and to vote on matters

SENATE BILL 25

1 submitted to the members, including an opportunity to read or hear the proceedings
2 of the meeting concurrently with the proceedings.

3 (c) Members may cast votes by electronic means at a member meeting held by
4 means of remote communication if all of the following apply:

- 5 1. The bylaws provide for electronic voting.
- 6 2. The cooperative is able to authenticate that it is a member who is casting a
7 vote.

8 (END)