

Senate File 442 - Introduced

SENATE FILE 442
BY COMMITTEE ON AGRICULTURE

(SUCCESSOR TO SF 257)

(COMPANION TO HF 348 BY DRAKE)

A BILL FOR

1 An Act providing for voting methods which may be utilized by
2 members of cooperative associations.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 499.2, Code 2011, is amended by adding
2 the following new unnumbered paragraph:

3 NEW UNNUMBERED PARAGRAPH. "*Alternative voting method*" means
4 a method of voting other than a written ballot, including
5 voting by electronic, telephonic, internet, or other means that
6 reasonably allows members the opportunity to vote.

7 Sec. 2. Section 499.29, Code 2011, is amended to read as
8 follows:

9 **499.29 Manner of voting.**

10 ~~Votes~~ A vote shall not be cast ~~in person, and not~~ by proxy.
11 The vote of a member-association shall be cast only by its
12 representative duly authorized in writing. ~~If the articles~~
13 ~~or bylaws permit, a~~ A member may cast that member's vote, in
14 advance of the meeting, by mail ballot or, if the association's
15 articles or bylaws permit, by an alternative voting method
16 upon any proposition of which the member has been previously
17 notified in writing.

18 Sec. 3. Section 499.41, unnumbered paragraph 1, Code 2011,
19 is amended to read as follows:

20 Notwithstanding the provisions of the articles of
21 incorporation of any association pertaining to amendment
22 thereto now in effect, any association may amend its articles
23 of incorporation by a vote of sixty-six and two-thirds percent
24 of the members present, or ~~represented~~ voting by mailed
25 ~~ballots~~ ballot or alternative voting method, and having voting
26 privileges, at any annual meeting or any special meeting called
27 for that purpose, provided that at least ten days before said
28 annual meeting or special meeting a copy of the proposed
29 amendment or summary thereof be sent to all members having
30 voting rights; or said articles of incorporation may be amended
31 in accordance with the amendment requirements contained in
32 the articles or bylaws of said association that are adopted
33 subsequent to July 4, 1963, or are in effect on or after July 4,
34 1964, provided said amendment requirements in the articles or
35 bylaws are not less than established in this section.

1 Sec. 4. Section 499.47B, subsection 3, paragraph a, Code
2 2011, is amended to read as follows:

3 a. Except as provided in paragraph "b", the sale, lease,
4 exchange, or other disposition must be approved by a two-thirds
5 vote of the members ~~on a ballot~~ in which a majority of all
6 voting members participate.

7 Sec. 5. Section 499.47B, subsection 3, paragraph b,
8 subparagraph (1), Code 2011, is amended to read as follows:

9 (1) If the cooperative association's articles of
10 incorporation require approval by more than two-thirds of its
11 members ~~on a ballot~~ in which a majority of all voting members
12 participate, the sale, lease, exchange, or other disposition
13 must be approved by the greater number as provided in the
14 articles of incorporation.

15 Sec. 6. Section 499.64, subsections 2 and 3, Code 2011, are
16 amended to read as follows:

17 2. At the meeting, a ~~ballot~~ vote of the members who are
18 entitled to vote in the affairs of the association shall be
19 taken on the proposed plan of merger or consolidation. The
20 plan of merger or consolidation shall be approved as follows:

21 a. Except as provided in paragraph "b", the proposed plan of
22 merger or consolidation must be approved by a two-thirds vote
23 of the members ~~on a ballot~~ in which a majority of all voting
24 members participate.

25 b. (1) If the cooperative association's articles of
26 incorporation require approval by more than two-thirds of its
27 members ~~on a ballot~~ in which a majority of all voting members
28 participate, the proposed plan of merger or consolidation must
29 be approved by the greater number as provided in the articles
30 of incorporation.

31 (2) If the board of directors adopts additional conditions
32 for the approval of the plan of merger or consolidation as
33 provided in subsection 1, the additional conditions must be
34 satisfied in order for the plan of merger or consolidation to
35 be approved.

1 ~~3. Voting by members may be by mail ballot notwithstanding~~
2 ~~any contrary provision in the articles of incorporation or~~
3 ~~bylaws.~~

4 Sec. 7. Section 501.101, Code 2011, is amended by adding the
5 following new subsection:

6 NEW SUBSECTION. 01. *“Alternative voting method”* means
7 a method of voting other than a written ballot, including
8 voting by electronic, telephonic, internet, or other means that
9 reasonably allow members the opportunity to vote.

10 Sec. 8. Section 501.203, subsection 4, Code 2011, is amended
11 to read as follows:

12 4. If the board does not recommend the amendment or
13 restatement to the members, then the amendment or restatement
14 must be adopted by the members by a vote of two-thirds of the
15 votes cast ~~on a ballot~~ in which a majority of all votes are
16 cast.

17 Sec. 9. Section 501.204, Code 2011, is amended to read as
18 follows:

19 **501.204 Bylaws.**

20 The board may adopt or amend the cooperative’s bylaws by a
21 vote of three-fourths of the board. The members may adopt or
22 amend the cooperative’s bylaws by a vote of three-fourths of
23 the votes cast ~~on a ballot~~ in which a majority of all votes are
24 cast. A bylaw provision adopted by the members shall not be
25 amended or repealed by the directors.

26 Sec. 10. Section 501.303, subsection 2, Code 2011, is
27 amended to read as follows:

28 2. A member may vote at a member meeting in person or by
29 ~~signed absentee mail~~ ballot that specifies the issue and the
30 member’s vote on that issue. If the board makes available an
31 ~~absentee a~~ ballot form, then that form must be used to cast an
32 ~~absentee a mail~~ ballot on that issue. If the cooperative’s
33 articles or bylaws permit it, a member may cast a vote by
34 an alternative voting method. The cooperative shall take
35 reasonable measures to authenticate that a vote is cast by a

1 member eligible to cast that vote.

2 Sec. 11. Section 501.601, subsection 1, paragraph a, Code
3 2011, is amended to read as follows:

4 a. "*Dissenting member*" means a voting member who votes in
5 opposition to the plan of conversion and who makes a demand for
6 payment as provided in this section not later than the deadline
7 for members to ~~cast ballots on the~~ vote to approve the plan of
8 conversion.

9 Sec. 12. Section 501.601, subsection 2, paragraph b, Code
10 2011, is amended to read as follows:

11 b. The members must approve the plan of conversion by the
12 vote of two-thirds of the votes cast ~~on a ballot~~ in which a
13 majority of all votes are cast.

14 Sec. 13. Section 501.601, subsection 3, paragraph b, Code
15 2011, is amended to read as follows:

16 b. An equity holder who is not a voting member shall have
17 the same rights as a dissenting member if the equity holder
18 makes a demand for payment pursuant to paragraph "a" not later
19 than the deadline for members to ~~cast ballots on the~~ vote to
20 approve the plan of conversion.

21 Sec. 14. Section 501.603, subsection 2, Code 2011, is
22 amended to read as follows:

23 2. A cooperative may sell, lease, exchange, or otherwise
24 dispose of all, or substantially all, of its property, with
25 or without the goodwill, on the terms and conditions and for
26 the consideration determined by the board, which consideration
27 may include the interests of another cooperative, if the board
28 recommends the proposed transaction to the members, and the
29 members approve it by the vote of two-thirds of the votes cast
30 ~~on a ballot~~ in which a majority of all votes are cast. The
31 board may condition its submission of the proposed transaction
32 on any basis.

33 Sec. 15. Section 501.614, subsection 2, Code 2011, is
34 amended to read as follows:

35 2. At the meeting, a ~~ballot~~ vote of the members who are

1 entitled to vote in the affairs of the association shall be
2 taken on the proposed plan of merger or consolidation. The
3 plan of merger or consolidation shall be approved if two-thirds
4 of the members vote affirmatively ~~on a ballot~~ in which a
5 majority of all voting members participate. ~~Voting may be~~
6 ~~by mail ballot notwithstanding any contrary provision in the~~
7 ~~articles of association or bylaws.~~

8 Sec. 16. Section 501A.102, subsection 2, Code 2011, is
9 amended to read as follows:

10 2. "Alternative ballot voting method" means a method of
11 ~~voting for a candidate or issue prescribed by the board in~~
12 ~~advance of the vote, and may include other than a written~~
13 ballot, including voting by electronic, telephonic, internet,
14 or other means that reasonably allow allows members the
15 opportunity to vote.

16 Sec. 17. Section 501A.504, subsection 1, paragraph a,
17 subparagraph (1), Code 2011, is amended to read as follows:

18 (1) The board, by majority vote, must pass a resolution
19 stating the text of the proposed amendment. The text of the
20 proposed amendment and an attached ~~mail or alternative~~ ballot,
21 if the board has provided for a mail ~~or alternative~~ ballot in
22 the resolution ~~or alternative method approved by the board~~
23 ~~and stated in the resolution,~~ shall be mailed or otherwise
24 distributed with a regular or special meeting notice to each
25 member. If the board authorizes an alternative voting method,
26 the text of the proposed amendment and explanation of how
27 to cast a vote using the alternative voting method shall be
28 distributed with the regular or special meeting notice to each
29 member. The notice shall designate the time and place of the
30 meeting for the proposed amendment to be considered and voted
31 on.

32 Sec. 18. Section 501A.504, subsection 1, paragraph a,
33 subparagraph (2), unnumbered paragraph 1, Code 2011, is amended
34 to read as follows:

35 If a quorum of the members is registered as being present or

1 represented ~~by alternative vote~~ at the meeting, the proposed
2 amendment is adopted if any of the following occurs:

3 Sec. 19. Section 501A.703, subsection 5, Code 2011, is
4 amended to read as follows:

5 5. *Vote by ~~mail ballot~~ or alternative ~~ballot~~ voting*
6 *method.* The following shall apply to voting by ~~mail ballot~~ or
7 alternative ~~ballot voting~~ voting method:

8 a. A member shall not vote for a director other than
9 by being present at a meeting, ~~or~~ by mail ballot, or by
10 alternative ~~ballot voting~~ method, as authorized by the board.

11 b. The ballot shall be in a form prescribed by the board.

12 c. The member shall mark the ballot for the candidate
13 chosen and mail the ballot to the cooperative in a sealed plain
14 envelope inside another envelope bearing the member's name, or
15 the member shall vote by designating the candidate chosen by
16 an alternative ~~ballot~~ voting method in the manner prescribed
17 by the board.

18 d. If the ballot of the member is received by the
19 cooperative on or before the date of the regular members'
20 meeting or as otherwise prescribed for an alternative ballots,
21 voting method, the ballot or alternative voting method shall be
22 accepted and counted as the vote of the absent member.

23 Sec. 20. Section 501A.804, subsection 2, Code 2011, is
24 amended to read as follows:

25 2. *Notice.* The cooperative shall give notice of a special
26 members' meeting by mailing the special members' meeting notice
27 to each member personally at the person's last known post
28 office address, or by another process determined by the board
29 if the member is to vote by an alternative voting method as
30 approved by the board and agreed to by the member individually
31 or the members generally. For a member that is an entity, the
32 notice mailed, or delivered by another process for vote by
33 an alternative voting method, shall be to an officer of the
34 entity. The special members' meeting notice shall state the
35 time, place, and purpose of the special members' meeting. The

1 special members' meeting notice shall be issued within ten
2 days from and after the date of the presentation of a members'
3 petition, and the special members' meeting shall be held within
4 thirty days after the date of the presentation of the members'
5 petition.

6 Sec. 21. Section 501A.806, subsection 2, Code 2011, is
7 amended to read as follows:

8 2. *Quorum for voting by mail.* In determining a quorum at
9 a meeting, on a question submitted to a vote by mail or by
10 an alternative voting method, members present in person or
11 represented by mail vote or the alternative voting method shall
12 be counted. The attendance of a sufficient number of members
13 to constitute a quorum shall be established by a registration
14 of the members of the cooperative present at the meeting.
15 The registration shall be verified by the chairperson or the
16 records officer of the cooperative and shall be reported in the
17 minutes of the meeting.

18 Sec. 22. Section 501A.810, subsection 3, Code 2011, is
19 amended to read as follows:

20 3. *Voting method.* A member's vote at a members' meeting
21 shall be cast in person, ~~or~~ by mail if a mail vote ballot is
22 authorized by the board, or by an alternative voting method if
23 that is authorized by the board and. A vote shall not be cast
24 by proxy, except as provided in subsection 4. The cooperative
25 shall take reasonable measures to authenticate that a vote is
26 cast by a member eligible to cast that vote.

27 Sec. 23. Section 501A.810, subsection 5, Code 2011, is
28 amended to read as follows:

29 5. *Absentee Mail ballots.*

30 ~~a.~~ The provisions of this subsection apply to absentee mail
31 ballots.

32 ~~b.~~ a. A member who is or will be absent from a members'
33 meeting may vote by mail ~~or by an approved alternative method~~
34 ~~on the ballot prescribed in this subsection~~ on any motion,
35 resolution, or amendment that the board submits for vote by

1 mail ~~or alternative method to the members.~~

2 ~~c.~~ b. The A ballot shall be in the form prescribed by the
3 board and ~~contain all of the following:~~

4 ~~(1) The exact text of the proposed motion, resolution, or~~
5 ~~amendment to be acted on at the meeting.~~

6 ~~(2) The~~ be accompanied by the text of the proposed motion,
7 resolution, or amendment for which the member may indicate an
8 affirmative or negative vote to be acted upon at the meeting.

9 ~~d.~~ c. The member shall express a choice by marking
10 an appropriate choice on the ballot and mail, deliver, or
11 otherwise submit the ballot to the cooperative in a plain,
12 sealed envelope inside another envelope bearing the member's
13 name or by an alternative method approved by the board.

14 ~~e.~~ d. A properly executed ballot shall be accepted by
15 the board and counted as the vote of the absent member at the
16 meeting.

17 Sec. 24. Section 501A.810, Code 2011, is amended by adding
18 the following new subsection:

19 NEW SUBSECTION. 6. *Alternative voting method.* The board
20 may also allow the members to vote by alternative voting
21 method, provided the members receive a copy of the proposed
22 motion, resolution, or amendment to be acted upon.

23 Sec. 25. Section 501A.1101, subsection 4, paragraph b,
24 subparagraph (1), Code 2011, is amended to read as follows:

25 (1) A quorum of the members eligible to vote is registered
26 as being present at the meeting or ~~represented~~ voting by mail
27 ~~vote~~ ballot or ~~alternative ballot at the meeting~~ voting method.

28 EXPLANATION

29 This bill amends provisions affecting entities known as
30 cooperative associations (sometimes referred to as simply
31 "associations" or "cooperatives") organized under Code chapter
32 499, 501, or 501A. In each case, the entity is comprised of
33 members who may vote upon certain issues affecting it, such
34 as a candidate running as a director on its board or another
35 question involving its management or continuation (e.g., a

1 merger proposal) as required by statute or in its articles of
2 incorporation or articles of organization. The bill provides
3 that members may vote by an "alternative voting method", which
4 provides that a member may vote by electronic, telephonic,
5 the internet, or other means that reasonably allows members
6 the opportunity to vote, as provided in the entity's articles
7 or by its board. The provisions allowing for voting by an
8 alternative voting method are based on the procedure referred
9 to as an "alternative voting ballot" currently provided in Code
10 chapter 501A. The bill changes its name but not its definition.
11 The bill also provides that a member of a cooperative
12 association may cast, in advance of a meeting, a vote by mail
13 ballot upon any proposition of which the member has been
14 previously notified in writing.