

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

750H0537

HOUSE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **HB 1216** - 02/05/2002

Introduced by: Representatives Duniphan, Abdallah, Burg, Derby, Klaudt, Madsen, McCoy, Pederson (Gordon), Pitts, Van Gerpen, and Wick and Senators Vitter, Brown (Arnold), Daugaard, Madden, Munson, and Whiting

1 FOR AN ACT ENTITLED, An Act to authorize shareholders to vote and to make certain other
2 communications by electronic means.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That subdivisions (33) and (34) of § 47-2-1 be amended to read as follows:

5 (33) "Vote" includes authorization by written or electronic document signed and
6 transmitted by all of the persons, shareholders or directors, required to take the action
7 described. The term also means the counterparts of a written or electronic document
8 signed and transmitted by any of the persons taking the action described. Each
9 counterpart constitutes the action of the persons signing and transmitting it, and all
10 the counterparts, taken together, constitute one written action by all of the persons
11 signing them;

12 (34) "Written action" means a written or electronic document signed and transmitted by
13 all of the persons, shareholders or directors, required to take the action described. The
14 term also means the counterparts of a written or electronic document signed and



1 transmitted by any of the persons taking the action described. Each counterpart
2 constitutes the action of the persons signing ~~or~~ and transmitting it, and all the
3 counterparts, taken together, constitute one written action by all of the persons
4 signing them.

5 Section 2. That § 47-4-16 be amended to read as follows:

6 47-4-16. A shareholder may vote either in person or by proxy executed in writing or by
7 electronic transmission by the shareholder or by ~~his~~ the shareholder's duly authorized attorney
8 in fact. No proxy ~~shall be~~ is valid after eleven months from the date of its execution, unless
9 otherwise provided in the proxy. A solicitation for proxies ~~must~~ shall specifically state the
10 matters for which proxies are sought, and a no proxy ~~cannot~~ may be voted on any matter not
11 specified in the solicitation. If the vote is made by electronic transmission, the transmission shall
12 either set forth or be submitted with information from which it can be determined that the
13 transmission was authorized by the shareholder or proxy holder.

14 Section 3. That § 47-5-10 be amended to read as follows:

15 47-5-10. ~~Whenever~~ If any notice is required to be given to any director of a corporation
16 under the provisions of chapters 47-2 to 47-9, inclusive, or under the provisions of the articles
17 of incorporation or bylaws of the corporation, a waiver thereof in writing or by electronic
18 transmission signed and transmitted by the person or persons entitled to such notice, whether
19 before or after the time stated therein, ~~shall be~~ is equivalent to the giving of such notice.

20 Section 4. That § 47-5-11 be amended to read as follows:

21 47-5-11. Unless otherwise provided by the articles of incorporation or bylaws, any action
22 required by chapters 47-2 to 47-9, inclusive, to be taken at a meeting of the directors of a
23 corporation, or any action which may be taken at a meeting of the directors or of a committee,
24 may be taken without a meeting if a consent in writing or by electronic transmission, setting forth

1 the action so to be taken, shall be signed and transmitted before such action by all of the
2 directors, or all of the members of the committee, as the case may be. Such consent ~~shall have~~
3 has the same effect as a unanimous vote.

4 Section 5. For the purposes of this Act, if an electronic signature is required or the term,
5 signed, is used in connection with an electronic transmission, the term means an electronic sound,
6 symbol, or process attached to or logically associated with a record and executed or adopted by
7 a person with the intent to sign the record.