
Coates' Canons Blog: Proxy Voting

By David Lawrence

Article: <https://canons.sog.unc.edu/proxy-voting/>

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A recurrent question is whether one governing board member may give his or her proxy to another, when the first member cannot attend a meeting, allowing the proxy holder to vote on behalf of the proxy giver. (The proxy might give specific instructions or leave matters to the discretion of the proxy holder.) Our answer has always been no.

Anyone who owns shares in a corporation or a mutual fund has experienced proxy voting. Some weeks before the annual meeting of the corporation or fund, an envelope arrives from that entity, encouraging the recipient to fill out the enclosed proxy form and mail it back to the sender. Proxy voting is the norm in private corporations and investment companies. It might seem natural, then, for a governing board member to believe that proxy voting is permissible in local government as well as in the private sector.

The traditions of the public sector, however, are different. Congress does not allow proxy voting in floor votes. Both the Senate rules and the House rules require a member to be present to vote; indeed, the House rules permit arresting an absent member so he or she can be brought to the House in order to vote. Similarly, the North Carolina General Assembly does not permit proxy voting. Both the Senate and the House use electronic voting for most votes, and the rules of each house specify that no one but the member may push that member's electronic voting device. It would not be technologically possible to exercise a proxy. Furthermore, the Senate rules provide for the possibility of a "pair," to be used when a member is absent (and when, therefore, a proxy, if allowed, would be appropriate). With a pair, a member who is present announces that the absent member would vote one way, and he or she would vote the opposite; but the effect is that *neither* member's vote is counted. There is no provision for proxy votes in either set of rules.

Given that tradition, it is reasonable to expect that if proxy voting is to be permissible at the local government level, there would be some sort of specific statutory authorization. And there is not. There is not a word about proxy voting in any of the statutes involving local governing boards. This is in contrast to both the North Carolina **business corporation statute** and the North Carolina **nonprofit corporation statute**, each of which makes *explicit* provision for proxy voting by shareholders or members of the corporation.

David Lawrence is retired from the faculty of the School of Government. For questions about the subject of this blog post, please refer to our **list of faculty expertise** to identify the appropriate faculty member to contact.

Links

- www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter_55/GS_55-7-22.html
- www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter_55A/GS_55A-7-24.html
- www.sog.unc.edu/node/1553