

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 2034

SPONSOR: Commerce and Economic Opportunities Committee and Senator Latvala

SUBJECT: Rural Electric Cooperatives

DATE: April 6, 2001 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Joseph	Maclure	CM	Favorable/CS
2.	_____	_____	AG	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This committee substitute amends state guidelines to the bylaws that rural electric cooperatives can use in making their membership structure by creating a form of limited proxy voting that places limits on existing proxy voting. This committee substitute also prohibits voting by general proxy. Members voting by mail or limited proxy will not be counted on any matter raised at a meeting that was not specifically listed and identified on the mail ballot or limited proxy. A majority of a quorum is required to approve any motion or matter before a meeting of the members.

This committee substitute allows members of a rural electric cooperative to use electronic transmission to send their votes on a limited ballot to a proxy, a proxy solicitation firm, a proxy support service organization, a registrar, or the agent authorized by the person who will be designated as the proxy.

This committee substitute amends section 425.09, Florida Statutes.

II. Present Situation:

Rural Electric Cooperatives

Sections 425.01-425.29, F.S., create and provide for cooperative, nonprofit, membership corporations to be organized for the purpose of supplying electric energy and promoting and extending the use thereof in rural areas. The corporations are to be known as “cooperatives,” and the name of each cooperative must include the words “electric” and “cooperative” and the abbreviation “inc.” They are given the power to generate, manufacture, purchase, acquire, accumulate, and transmit electric energy, and to distribute, sell, supply, and dispose of electric

energy in rural areas. All meetings of any board of trustees of a cooperative, or the board of any affiliated company or subsidiary, at which official acts are to be taken are declared to be meetings open to the membership of such cooperative at all times, and no formal action shall be considered binding except as taken or made at an open meeting. Five or more natural persons or two or more cooperatives may organize a cooperative.

Section 425.09, F.S., provides for members and specifies the following:

- Members must use electrical energy furnished by the cooperative if it is available;
- Membership in the cooperative is not transferable, except as provided in the bylaws;
- An annual meeting must be held at a time provided in the bylaws;
- A special meeting of the members may be called by the board of trustees; by any three trustees; by not less than 10 percent of the members; or by the president;
- Meetings are to be held at the place provided in the bylaws or, if not provided for, held in the city or town in which the principal office of the cooperative is located;
- The notice of the meeting must state the time, and place of the meeting, and in the case of a special meeting the purpose for which the meeting is called;
- The notice shall be given to each member, not less than 10 days nor more than 45 days before the date of the meeting;
- One percent of all members, present in person, shall constitute a quorum for the transaction of business at all meetings of the members, unless the bylaws prescribe the presence of a greater percentage of the members for a quorum;
- The bylaws may permit voting by proxy or by mail in an election of trustees, and members so voting are to be counted as present in person for determination of a quorum;
- Each member is entitled to one vote on each matter submitted to a vote at a meeting;
- Voting must be in person, but, if provided for in the bylaws, a person may vote by proxy or by mail, or both;
- If the bylaws provide for voting by proxy or by mail, they shall also prescribe the conditions under which proxy or mail voting must be exercised; and
- No person shall vote as proxy for more than three members at any meeting of the members.

Corporations/Voting by Proxy

Section 607.0722, F.S., provides for proxy voting on behalf of a shareholder of a corporation and it provides for the manner of voting by proxy. Under this section, a shareholder may appoint a proxy to vote by signing an appointment form, either personally or by the shareholder's attorney in fact. An executed telegram or cablegram appearing to have been transmitted by such person, or a photographic, photostatic, or equivalent reproduction of an appointment form, is a sufficient appointment form. This section also provides for the effectiveness of the proxy and other provisions relating to authority, revocation, transfers, and limitations.

III. Effect of Proposed Changes:

This committee substitute amends state guidelines regarding bylaws that rural electric cooperatives can use in creating the structure of their own membership bylaws. The membership structure of each rural electric cooperative could be affected by this committee substitute's

creation of a form of limited proxy voting that places limits on existing proxy voting. For the purposes of s. 425.09, F.S., a limited proxy is defined as one on which a member has recorded a vote for or against an issue or issues specifically listed on the proxy. The limited proxy is valid for a period of 90 days after the date of the first meeting for which the proxy is given. The committee substitute provides that every proxy is revocable, at any time, at the pleasure of the member executing it. The committee substitute prohibits voting by general proxy. The committee substitute creates an exception to the limitation that no person shall vote as proxy for more than three members at any meeting, by permitting an exception in cooperative bylaws.

This committee substitute also provides that members voting by mail or limited proxy will not be counted on any matter raised at a meeting that was not specifically listed and identified on the mail ballot or limited proxy. This committee substitute requires a majority of a quorum to approve any motion or matter that is brought up during a meeting of members.

This committee substitute allows members of a rural electric cooperative to use electronic transmission to send their votes on a limited ballot to a proxy, a proxy solicitation firm, a proxy support service organization, a registrar, or the agent authorized by the person who will be designated as the proxy.

This committee substitute provides proxy-voting guidelines similar to provisions in subsection (2) of s. 607.0722, F.S., Section 607.0722, F.S., provides rules for proxy voting for corporations in the state of Florida. These provisions as amended into this committee substitute allow for a member to appoint a proxy to vote or otherwise act for the member by:

- Signing an appointment form, either personally or by the member's attorney. An executed telegram or cablegram appearing to have been transmitted by such person, or a photographic, photostatic, or equivalent reproduction of an appointment form is a sufficient appointment form;
- Signing an appointment form or having such form signed by the member's authorized officer, director, employee, or agent by any reasonable means, including, but not limited to, facsimile signature; or
- Transmitting or authorizing the transmission of a telegram, cablegram, or other means of electronic transmission to the person who will be the proxy or to a proxy solicitation firm, proxy support service organization, registrar, or agent authorized by the person who will be designated as the proxy to receive such transmission. However, any transmission must be submitted with information from which it can be determined that the transmission was authorized by the member and if valid those making the determination must specify the information upon which they relied.

This committee substitute shall take effect October 1, 2001.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
