



State of Washington

**DEPARTMENT OF FINANCIAL INSTITUTIONS
DIVISION OF CREDIT UNIONS**

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Division of Credit Unions Revised Interpretive Letter I-17-04

TO: All State Credit Unions

FROM: Linda Jekel, Director of Division of Credit Unions

RE: Virtual Membership Meetings

Questions

1. May a Washington state-chartered credit union conduct an annual membership meeting or a special membership meeting exclusively as a virtual meeting, without a simultaneous in-person meeting?

Short Answer: No

2. May a Washington state-chartered credit union conduct an annual membership meeting or a special membership meeting as a virtual meeting concurrent with a physical meeting (hybrid model)?

Short Answer: Yes

Background

For the purpose of this letter, the phrase “virtual meeting” refers to an event involving people who are interacting through the use of online technology without a corresponding in-person meeting. During research, we also found the terms “online” and “remote” used to describe a virtual meeting. Some articles also described a “hybrid” meeting as one held at a physical location and combining a “live” in-person event with a virtual online component.

Because we found few articles about credit unions holding virtual membership meetings, we researched virtual stockholder meetings. Due to advances in Internet communications, some

corporations in the United States are now conducting virtual and hybrid annual stockholder meetings. Corporations have listed the benefits of conducting a virtual meeting as follows:

1. Saving on costs;
2. Taking advantage of emerging or social technologies;
3. Avoiding traffic congestion and travel in inclement weather;
4. Experiencing less disruption to the organization's daily routine;
5. Reducing environmental impact; and
6. Expecting greater participation by members due to the convenience of virtual meetings.

Critics of virtual meetings have listed potential detrimental effects as follows:

1. The lack of face-to-face contact with management and board of directors leading to reduced effectiveness of member communications;
2. The process of filtering, rephrasing or ignoring questions which are submitted prior to the meeting resulting in hard questions being avoided at meetings; and
3. Members lacking access to a computer or smart phone being excluded from participation (unless a physical venue is also available at the same time as the virtual meeting).

Relevant Law and Analysis: Place for Annual or Special Membership Meeting

A credit union is a nonprofit corporation¹ and, as guided by the Division of Credit Unions, complies with the Washington Nonprofit Corporate Act² where the Washington Credit Union Act is silent.³ However, the Washington Credit Union Act is not silent.

Annual Meetings. Under the Washington Credit Union Act, a credit union's bylaws must address the *time and place* of annual membership meetings, and provide notice as stated in the bylaws.⁴

Special Meetings. Under the Washington Credit Union Act, the special membership meeting "must be held at a reasonable *location* within the county in which the principal place of business of the credit union is located, unless provided otherwise by the bylaws."⁵ (Emphasis

¹ RCW 31.12.015 provides:

"A credit union is a cooperative society organized under this chapter as a nonprofit corporation for the purposes of promoting thrift among its members and creating a source of credit for them at fair and reasonable rates of interest."

² Chapter 24.03 RCW.

³ RCW 24.03.075 states: "Except as otherwise restricted by the articles of incorporation or the bylaws, members and any committee of members of the corporation may participate in a meeting by conference telephone or similar communications equipment so that all persons participating in the meeting can hear each other at the same time."

⁴ RCW 31.12.185 provides:

"(1) A credit union's annual membership meeting shall be held at such time and *place* as the bylaws prescribe, and shall be conducted according to the rules of procedure approved by the board.

(2) Notice of the annual membership meetings of a credit union shall be given as provided in the bylaws of the credit union."

[Emphasis added.]

⁵ RCW 31.12.195 (3)(a).

added.) Special membership meetings must be conducted according to the rules of procedure approved by the board.⁶

Long-standing principles of corporation law have led to a universal agreement among corporate law practitioners that “*place*,” as used in a statute conferring the authority of a corporation, necessarily means a *physical* or *geographic* location.⁷ Similarly, the Washington Credit Union Act, which provides for the chartering and governance of nonprofit corporations known as credit unions, uses the word “*place*” or “*location*” in connection with a membership meeting.⁸

Therefore, the present language of the Washington Credit Union Act, read in the light of longstanding principles of corporation law, does ***not*** permit a credit union to conduct a virtual annual meeting or virtual special membership meeting, unless such meeting is held concurrently at a physical location (i.e., a *hybrid* virtual meeting.)

Conclusion

Credit unions may not hold virtual annual meetings or virtual special meetings without holding a simultaneous physical meeting. Credit unions may amend their bylaws to allow for *hybrid* virtual membership meetings, including annual and special meetings. Please see Bulletin B-17-17 for guidance on hybrid virtual membership meetings.

This Interpretive Letter is applicable to all Washington state-chartered credit unions. If you have any questions, please do not hesitate to contact Linda Jekel, Director of Credit Unions, at linda.jekel@dfi.wa.gov, or (360) 902-8778.

Disclaimer: The Division of Credit Unions does not provide legal advice. This interpretation is based on the facts as presented to Division of Credit Union, provided as general guidance only, and is not a substitute for legal advice to the credit union.

⁶ RCW 31.12.195(6).

⁷ For example, the Washington Business Corporation Act (“WBCA”), at RCW 23B.07.010 and 07.020, currently provides that shareholders meetings “may be held in or out of this state at the place stated in or fixed in accordance with the bylaws” (Emphasis added). It is generally understood among Washington corporate law practitioners that this statutory language requires a physical assembly of shareholders at a specific geographic location for an annual or special meeting of shareholders. If a corporation’s articles of incorporation or bylaws so provide, RCW 23B.07.080 allows shareholders to participate in any meeting of shareholders (annual or special) “by any means of communication by which all persons participating in the meeting can hear each other during the meeting.” A shareholder who participates remotely in this manner is deemed present in person at the meeting. Thus, the WBCA currently provides authority for a “hybrid” shareholders’ meeting – i.e., a meeting involving a physical assembly of shareholders at a specific geographic location where some shareholders participate by means of remote communication technologies such as telephone conferences or webcasts – on condition that shareholders participating remotely are able to hear each other during the meeting. However, practitioners generally believe that the ability to allow shareholders to participate by means of communications equipment (e.g., telephone conference, webcast) under RCW 23B.07.080 does not supplant the need to have a physical assembly of shareholders under Section 23B.07.010 and 07.020. In other words, the WBCA currently does not provide express authority for a so-called “virtual-only” meeting of shareholders, where shareholders participate only by means of remote communications technologies and there is no physical assembly of shareholders at all.

⁸ RCW 31.12.185 and RCW 31.12.195(3)(a). See again, *Footnote 3*.