

ASSEMBLY, No. 2971

STATE OF NEW JERSEY 217th LEGISLATURE

INTRODUCED FEBRUARY 16, 2016

Sponsored by:

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District 18 (Middlesex)

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District 26 (Essex, Morris and Passaic)

Assemblywoman NANCY J. PINKIN

District 18 (Middlesex)

Assemblyman RAJ MUKHERJI

District 33 (Hudson)

SYNOPSIS

Clarifies that corporate directors may approve actions without meeting by electronic transmission.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 1/6/2018)

1 AN ACT concerning actions of corporate directors and amending
2 N.J.S.14A:6-7.1.

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4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

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7 1. N.J.S.14A:6-7.1 is amended to read as follows:

8 14A:6-7.1. Directors' voting; quorum of board of directors and
9 committees; action of board and committees; action of directors
10 without a meeting.

11 (1) Each director shall have one vote at meetings of the board or
12 at meetings of board committees unless the certificate of
13 incorporation provides the director is entitled to more than one vote
14 pursuant to a provision in the certificate of incorporation consistent
15 with subsection 14A:6-7.1(2).

16 (2) The certificate of incorporation may provide either that one
17 or more directors elected by the holders of shares of a class or series
18 shall have more than one vote or that the shareholders at an annual
19 or special meeting shall have the right to designate one or more
20 directors who shall have more than one vote. The certificate of
21 incorporation shall also specify either the number of votes which
22 those directors shall have or that the shareholders electing those
23 directors shall have the right to specify the number of votes which
24 the directors shall have. Any person appointed by the board to fill a
25 vacancy of a directorship with more than one vote shall have only
26 one vote unless otherwise provided by the certificate of
27 incorporation. If a director has more than one vote as provided in
28 this subsection, any reference in this act to the vote or act of a
29 majority of the board, of the directors, or of the entire board, or
30 similar language, means the vote or act of directors who are entitled
31 to cast a majority of the votes.

32 (3) The participation of directors with a majority of the votes of
33 the entire board, or of any committee thereof, shall constitute a
34 quorum for the transaction of business, unless the certificate of
35 incorporation or the by-laws provide that a greater or lesser
36 proportion shall constitute a quorum, which in no case shall be less
37 than one-third of the votes of the entire board or committee.

38 (4) Any action approved by a majority of the votes of directors
39 present at a meeting at which a quorum is present shall be the act of
40 the board or of the committee, unless this act, or the certificate of
41 incorporation, or the by-laws require a greater proportion, including
42 a unanimous vote.

43 (5) Unless otherwise provided by the certificate of incorporation
44 or by-laws, any action required or permitted to be taken pursuant to
45 authorization voted at a meeting of the board or any committee

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 thereof, may be taken without a meeting if, prior or subsequent to
2 the action, all members of the board or of such committee, as the
3 case may be, consent thereto in writing or by electronic
4 transmission and the written consents or electronic transmissions
5 are filed with the minutes of the proceedings of the board or
6 committee. Such consent or electronic transmission shall have the
7 same effect as a unanimous vote of the board or committee for all
8 purposes, and may be stated as a unanimous vote in any certificate
9 or other document filed with the Secretary of State. The filing of
10 written consents or electronic transmissions shall be in paper form
11 if the minutes are maintained in paper form and shall be in
12 electronic form if the minutes are maintained in electronic form.
13 "Electronic transmission" shall have the meaning contained in
14 section 14A:1-8.1.

15 (cf: P.L.1988, c.94, s.29)

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17 2. This act shall take effect immediately.

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STATEMENT

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22 This bill clarifies that corporate directors may approve actions
23 without a meeting by electronic transmission. Under current law,
24 any action required or permitted to be taken pursuant to
25 authorization voted at a meeting of the board, or a committee
26 thereof, may be taken without a meeting if, prior to the action, all
27 members of the board or committee consent to the action in writing.
28 The bill clarifies that this consent may also be by electronic
29 transmission.

30 This bill is recommended by The New Jersey Corporate and
31 Business Law Study Commission (the "Commission"). The
32 Commission believes that, in addition to the historic practice of
33 approving action by written consent, directors already approve
34 action by electronic transmission. In light of changes in
35 technology, the Commission believes that it is appropriate to clarify
36 that directors may use electronic transmissions to approve corporate
37 actions.