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INSIGHT

The Prior Practice of Proxy Voting in House Committee

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In order to increase physical distancing in response to the COVID-19 pandemic, the House scheduled consideration of a resolution during the week of April 20, 2020, that would have temporarily authorized the use of "proxy" voting on the chamber floor. Speaker Nancy Pelosi subsequently indicated that consideration of the resolution was postponed pending an examination by a bipartisan task force of options to facilitate remote participation by Representatives in committee and floor business.

The recent focus on proxy voting has led to interest in the history of the practice in the House. This Insight describes how proxy voting in House committee previously functioned, summarizes arguments made in support of and opposition to the practice, and traces the evolution of chamber rules related to proxy voting in committee.

Proxy Voting in House Committee

Prior to the 104th Congress (1995-1996), Representatives were permitted, under certain limits, to cast votes by proxy in committee. To vote by proxy, an absent Member authorized a second, present Member (usually the chair or ranking minority member) to cast the absent Member's vote during a committee markup. Under this practice, committee leaders would sometimes cast multiple votes in addition to their own. Clause 2(f) of House Rule XI currently prohibits any Member of a committee or subcommittee from casting a vote on a measure or matter by proxy. Representatives still, however, sometimes vote by proxy in conference committee. There is no ban on proxy voting in Senate rules, and all Senate standing committees permit the practice.

House rules have never authorized proxy voting on the floor, although they have permitted a different, now disused, practice called "pairing," by which absent Members can publicly indicate how they would have voted if present.

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Previous Proxy Voting Procedures

In the 103rd Congress (1993-1994), the last Congress in which proxy voting was permitted, 18 of the House's 22 standing committees authorized proxy voting in their rules. If a committee permitted proxy voting, House rules required that a Member's proxy authorization:

- be in writing,
- assert that the Member was absent on official business or was otherwise unable to be present at the committee meeting,
- designate the person who was to execute the proxy,
- be limited to a specific measure or matter and any amendments or motions pertaining thereto, and
- be signed by the Member assigning his or her vote and contain the date and time of day it was signed.

Members generally indicated in their proxy authorization how they wished to vote on a specific question. Blanket (or "general") proxies were permitted only for procedural motions such as motions to recess or adjourn. Several committees' rules dictated the wording of a proxy authorization or provided a boilerplate form for the purpose.

Views of the Practice of Proxy Voting Differed

The ban on proxy voting was adopted in 1995 in response to long-standing concerns about the practice among some Representatives, especially minority party Members.

Opponents of proxy voting argued that it contributed to poor committee attendance and undermined in-person deliberation and collaboration. Some contended that proxy voting gave an unfair advantage to the majority party, including committee chairs, allowing them to win every vote, even when more minority Members attended the markup. Opponents also felt that the practice could create an incorrect impression that Representatives were not actively participating in the legislative process.

Supporters of proxy voting defended it as a long-standing administrative accommodation that helped Members meet the demands of serving on multiple committees and subcommittees. Proxy voting, they argued, was a benign form of "multitasking" that allowed Members to vote on policy questions even while elsewhere on official business. It was not always possible to know when votes on procedural motions might occur, supporters argued, and proxies allowed the majority party to prevail on purely procedural questions.

House rules were amended in 2003 to permit committee chairs to postpone recorded votes but only on amendments and on final approval.

History of Proxy Voting in House Committee

The first House rule explicitly discussing proxy voting was enacted in the 1970 Legislative Reorganization Act (LRA, P.L. 91-510, 84 Stat. 1146-1147). Previously, proxy voting was largely regulated at the individual committee level. As enacted, Section 106(b) of the LRA stated: "No vote by any member of any committee with respect to any measure or matter may be cast by proxy unless such committee, by written rule adopted by the committee, permits voting by proxy and requires that the proxy authorization shall be in writing, shall designate the person who is to execute the proxy authorization, and shall be limited to a specific measure or matter and any amendments or motions pertaining thereto." The statutory provisions of the LRA were codified in House Rule XI on January 22, 1971, by the adoption of the opening-day rules package for the 92nd Congress (1971-1972).

Proxy voting was the subject of further discussion in the mid-1970s when the House debated legislation proposing various committee procedural changes. The House Select Committee on Committees (often called the "Bolling Committee," after its chair) reported H.Res. 988, the Committee Reform Amendments of 1974, which would have prohibited proxy voting. A substitute amendment proposed by Representative Julia Butler Hansen during floor consideration of H.Res. 988 recommended instead that the existing proxy voting provisions of the 1970 LRA, with minor additional restrictions, be maintained. The House ultimately rejected the Hansen approach to proxies, agreeing by a vote of 196-166 on October 8, 1974, to an amendment by Representative Delbert L. Latta that banned proxy voting entirely. The Latta language, which was to become effective at the start of the next Congress, amended House Rule XI to read, "No vote by any Member of any Committee or subcommittee with respect to any measure or matter may be cast by proxy."

At the beginning of the 94th Congress (1975-1976), the Democratic Caucus, by voice vote, chose to overturn the proxy voting ban established by the Latta amendment and support the casting of proxies in committee under certain limits. Accordingly, H.Res. 5, agreed to on January 14, 1975, added qualifying language to the existing Latta amendment text so as to make Rule XI read that no vote by any Member of any committee or subcommittee with respect to any measure or matter may be cast by proxy "unless such committee, by written rule adopted by the committee, permits voting by proxy and requires that the proxy authorization shall be in writing, shall assert that the Member is absent on official business or is otherwise unable to be present at the meeting of the committee, shall designate the person who is to execute the proxy authorization, and shall be limited to a specific measure or matter and any amendments or motions pertaining thereto; except that a member may authorize a general proxy only for motions to recess, adjourn or other procedural matters. Each proxy to be effective shall be signed by the member assigning his or her vote and shall contain the date and time of day that the proxy is signed. Proxies may not be counted for a quorum."

In the 104th Congress (1995-1996), House Rule XI was, once again, amended to prohibit proxy voting. As adopted on January 4, 1995, by a vote of 418-13, Section 104 of H.Res. 6 revised clause 2(f) of Rule XI to read, "No vote by any member of any committee or subcommittee with respect to any measure or matter may be cast by proxy."

Stylistics changes were adopted in the 106th Congress (1999-2000) that revised clause 2(f) of Rule XI to its current form: "A vote by a member of a committee or subcommittee with respect to any measure or matter may not be cast by proxy."

Committee Quorums Are a Related Issue

Clause 2 of House Rule XI establishes quorums (the minimum number of Members that must be physically present) for various actions to be taken in committee, including to receive testimony, immunize a witness, make executive session material public, close a meeting or hearing, report contempt, authorize and issue a subpoena, and report a measure to the House. Proxy votes could not be used to form a quorum in committee. Accordingly, while proxy voting permitted Members to have their votes cast in their absence, House rules still required some Members to be physically present at committee meetings to take specific actions.

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