STATE OF MINNESOTA
Executive Department

Governor Tim Walz

Emergency Executive Order 20-86

Allowing Cooperatives and Cooperative Associations Flexibility to Hold Remote Elections and Avoid Gatherings During the COVID-19 Peacetime Emergency

I, Tim Walz, Governor of the State of Minnesota, by the authority vested in me by the Constitution and applicable statutes, issue the following Executive Order:

The COVID-19 pandemic continues to present an unprecedented and rapidly evolving challenge to our State. Minnesota has taken extraordinary steps to prevent and respond to the pandemic. On March 13, 2020, I issued Executive Order 20-01 and declared a peacetime emergency because this pandemic, an act of nature, threatens the lives of Minnesotans, and local resources are inadequate to address the threat. On April 13, 2020, May 13, 2020, June 12, 2020, July 13, 2020, and August 12, 2020, I extended the peacetime emergency.

Minnesota Statutes 2019, sections 308A.611, subdivisions 1-2, and 308B.511, subdivisions 1-2, require cooperatives to hold annual regular members' meetings at the cooperative's principle place of business or at another conveniently located place as determined by the bylaws or the board. Minnesota Statutes 2019, sections 308A.611, subdivision 4, and 308B.511, subdivision 4 require that director elections occur at the cooperative's regular members' meeting. During the COVID-19 pandemic, in-person meetings conflict with established guidance from the Centers for Disease Control and Prevention and the Minnesota Department of Health. This public health guidance encourages everyone to avoid in-person gatherings when possible.

On April 24, 2020, I issued Executive Order 20-43, allowing corporate shareholders flexibility to hold remote meetings and avoid gatherings during the COVID-19 pandemic. This Executive Order extends similar relief to members of cooperatives and cooperative associations. Waiving physical meeting requirements will encourage cooperatives and cooperative associations to hold remote elections, ensuring adherence to public health best practices and maximizing members' participation in cooperative governance and decision-making during the pandemic.

In Minnesota Statutes 2019, section 12.02, the Minnesota Legislature recognized the "existing and increasing possibility of the occurrence of natural and other disasters of major size and destructiveness" and conferred upon the Governor emergency powers to "(1) ensure that

preparations of this state will be adequate to deal with disasters, (2) generally protect the public peace, health, and safety, and (3) preserve the lives and property of the people of the state." Pursuant to Minnesota Statutes 2019, section 12.21, subdivision 1, the Governor has general authority to control the state's emergency management as well as carry out the provisions of Minnesota's Emergency Management Act.

Minnesota Statutes 2019, section 12.21, subdivision 3(7), authorizes the Governor to cooperate with federal and state agencies in "matters pertaining to the emergency management of the state and nation." This includes "the direction or control of . . . the conduct of persons in the state, including entrance or exit from any stricken or threatened public place, occupancy of facilities, and . . . public meetings or gatherings." Pursuant to subdivision 3 of that same section, the Governor may "make, amend, and rescind the necessary orders and rules to carry out the provisions" of Minnesota Statutes 2019, Chapter 12. When approved by the Executive Council and filed in the Office of the Secretary of State, such orders and rules have the force and effect of law during the peacetime emergency. Any inconsistent rules or ordinances of any agency or political subdivision are suspended during the pendency of the emergency.

For these reasons, I order as follows:

1. During the peacetime emergency declared in Executive Order 20-01 (including any extensions to that peacetime emergency), to protect Minnesota cooperatives, cooperative associations, and their members, cooperatives and cooperative associations subject to Minnesota Statutes 2019, Chapters 308A and 308B, are authorized as follows:

    a. If, as a result of the public health threat caused by the COVID-19 pandemic, a cooperative or cooperative association wishes to avoid in-person gatherings, and a virtual meeting is not feasible, it may forego its annual regular members' meeting.

    b. During the COVID-19 pandemic, and even if not authorized by the relevant articles or bylaws, director elections may occur via mail as referenced in Minnesota Statutes 2019, sections 308A.311 and 308B.411.

        i. For any cooperative that chooses to hold director elections by mail, the requirements of Minnesota Statutes 2019, section 308A.311, subdivision 4(a)-(d) and subdivision 5 apply.

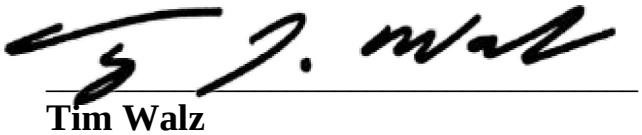
        ii. For any cooperative association that chooses to hold director elections by mail, the mail requirements of Minnesota Statutes 2019, section 308B.411, subdivision 5(1)-(3) apply.

    c. Excepting the above provisions, director elections for cooperatives and cooperative associations must otherwise comply with the requirements of Minnesota Statutes 2019, Chapters 308A and 308B, respectively.

Pursuant to Minnesota Statutes 2019, section 4.035, subdivision 2, and section 12.32, this Executive Order is effective immediately upon approval by the Executive Council. It remains in effect until the peacetime emergency declared in Executive Order 20-01 is terminated or until it is rescinded by proper authority.

A determination that any provision of this Executive Order is invalid will not affect the enforceability of any other provision of this Executive Order. Rather, the invalid provision will be modified to the extent necessary so that it is enforceable.

Signed on August 26, 2020.



Tim Walz
Governor

Filed According to Law:

Steve Simon
Secretary of State

Approved by the Executive Council on August 26, 2020:

Alice Roberts-Davis
Secretary, Executive Council

Filed on August 26, 2020
Office of the Minnesota
Secretary of State,
Steve Simon