

March 30, 2020

To Interested Parties
From Patrick McCormack
Subject House Hearings Under Rule 10.01

House Rule 10.01 is a newly adopted House Rule designed to allow remote voting in House hearings, and create flexibility in how those hearings are conducted. The Rule also applies to House floor sessions, but this aspect is not covered in this memo.

Prior to Rule 10.01, House hearing procedures were detailed in the legislative open meeting law, Minnesota Statutes, section 3.055, and in House Rule 6.21, adopted pursuant to that law.

As stated in Minnesota Statutes, section 3.055: “For purposes of this section, a meeting occurs when a quorum is present and action is taken regarding a matter within the jurisdiction of the body. Each house shall provide by rule for posting notices of meetings, recording proceedings, and making the recordings and votes available to the public.”

House Rules were written to implement the requirements of open meetings. House Rule 6.21 is that rule. But House Rule 6.21 is no longer solely operative for remote meetings, and should not be exclusively followed.

A new House Rule was adopted last week, on March 26th. House Rule 10.01. This rule is operative during the COVID-19 outbreak. The operative phrase: “The Minnesota House of Representatives may allow floor and committee procedures related to member debate and voting to occur by means of distance voting, remote electronic voting, or voting by other means designed to allow legislative operations while preserving the safety of the public, staff, and members.” The rule goes on to require public testimony.

This new rule allows leadership to design a committee process via remote methods. It is deliberately non-specific to allow IT staff to experiment with different ways, some of which require different kinds of meetings, voting, and participation. Rule 10.01 fulfills the requirements of Minnesota Statutes, section 3.055.

It is not that we can ignore Rule 6.21. It is that, we are empowered to use different methods to fulfill that Rule, and may waive other House customs and usage to allow for committee hearings during this crisis.

Think of it like this. These are not remote meetings. They are regular meetings, which allow remote participation. Our usual notices should apply. Different methods of ensuring public access, testimony, and mark-up will need to be developed. Specific methods used in a given on-line hearing may be refined, shifted, and updated to work better.

In order to facilitate public and member involvement, documents should be posted as early as is possible. Amendment deadlines should allow member input, but in a timely manner before the hearing. Roll-call votes may be required, which take time. Even informational meetings may require time to gather witnesses via the appropriate technology.

There may be a clear technological problem with too many Chairs trying to have too many hearings. Technology may limit the capacity of the House. Chairs and CAs should seek leadership approval for a hearing, in order to avoid overload. However, there are constraints:

- If a committee hearing is approved, it can be on any bill within the jurisdiction of the committee. It can be on any topic within the jurisdiction of the committee.
- A committee can still pass bills (and amend them). However, committee reports cannot be adopted by the House until the House is next able to convene.
- Until determined otherwise, bills still need to follow the concurrent resolution on deadlines, and therefore second deadline has already happened. At the writing of this memo, third deadline is upon us. All late bills will go to Rules. I want to emphasize this point. Deadlines are still in force until waived by both bodies.

Finally, if a bill is the subject of an agreement, it can be heard, and sent to the floor, and the committee report adopted. Or a committee bill under Rule 1.13 may be created. Then an urgency can be declared under the Constitution and the bill passed with 90 votes.

PM/rk