The Legalities of Electronic Voting Post-Radburn

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By now, most everyone has heard about the Radburn legislation, which was signed into law by Governor Christie on July 13, 2017. What you may not have known is that until the Radburn legislation became effective, there was no specific statutory authority in New Jersey regarding electronic voting for community associations.

The Radburn legislation authorized community associations to utilize electronic voting procedures: (1) when the board determines to allow voting by such means; and (2) when an association member consents to cast a vote electronically. Please note, however, that electronic voting *does not* mean that an association can just accept ballots by e-mail or other electronic means. Rather, ballots must be cast on-line or through another electronic means and be delivered directly to an association through a website or other secure service. In addition, authorizing electronic voting in an association will require implementing a specific electronic voting procedure, which may necessitate amending an association's by-laws and/or adopting a resolution to allow voting by electronic means.

You may have also heard that the Radburn regulations were issued by the Department of Community Affairs and made effective on May 18, 2020. These regulations now require that all voting in community association elections must be conducted anonymously. Since these regulations are now controlling, you may be asking how electronic voting is compatible with anonymous balloting. Well, the Radburn regulations specifically address this issue and authorize electronic voting so long as the election process is administered by a "neutral third party" to maintain anonymity.

Community associations that are interested in implementing electronic voting should consult with their association's counsel to discuss options for meeting these statutory and regulatory requirements. ∎
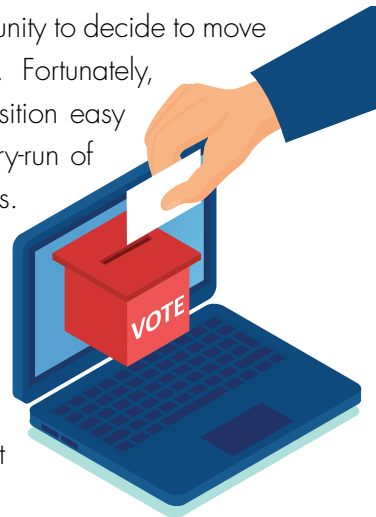
ONLINE VOTING...

contain a Direct Vote link with unique authentication credentials encrypted into it; thus all the voter has to do is click on the link and they will be automatically authenticated and eligible to vote in any ongoing elections.

It is a stressful experience for a community to decide to move away from time-tested paper ballots. Fortunately, there are platforms that make this transition easy by providing a complete end-to-end dry-run of the election for a limited number of users. This allows the property manager, board members, and other stakeholders to gain first-hand experience of the online election process and helps to identify any modifications that need to be made to the ballot before it is made public to the voters.

Internet Voting

Voters arrive at the association's branded voting website and are instantly authenticated. If the voter hasn't yet voted, a tamper-proof electronic ballot will appear. Once the ballot is completed, the voter may review their ballot prior to final submission. When the voter submits a ballot, the results are encrypted and kept anonymous. The voter is issued a receipt, which allows them to verify their vote was cast and they are now blocked from voting for this election again. As voting proceeds, the election manager can send out reminder emails to voters and provide property managers with reports on turnout in real-time.

Other Integrated Voting Methods

Communities that are not tech-savvy sometimes require a combination of voting methods for their elections. In such cases, some providers offer integrated services like mail-in ballots, telephone voting, or kiosks to make the process easier.

Certified Results

Real-time data is available as an election progresses and results are ready within minutes of the end of an election event. Depending on the election platform, results can be posted to the association's election website or emailed to the entire community. In addition, the election services provider can issue a Letter of Certification certifying the election results.