

When Must A Proxy Include The "General Nature Of The Matter To Be Voted On"?

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The California Nonprofit Corporation Law defines a "proxy" as a "written authorization signed by a member or the member's attorney in fact giving another person or persons power to vote on behalf of such member". Cal. Corp. Code § 5069. The other person(s) referred to in the statute are denominated as a "proxyholder". Cal. Corp. Code § 5070.

The first thing to keep in mind regarding this definition is its use of several other statutorily defined terms - "member", "person", "written" and "vote" . Cal. Corp. Code §§ 5056, 5065, 5079, & 5077, respectively.

California Corporations Code sections 5613, 7613 and 9417 generally authorize the use of proxies in the case of public benefit, mutual benefit and religious corporations, respectively, except as that right may be limited or withdrawn by the articles of incorporation or bylaws. These statutes differ from the California General Corporation Law, however, in providing that any *revocable* proxy covering matters requiring vote of the members pursuant to specified statutes is not valid as to those matters unless the proxy sets forth the "general nature of the matter to be voted on". Cal. Corp. Code §§ 5613(f), 7613(g) and 9417(e). The specified statutes relate to the following actions:

1. Removal of directors
2. Filling board vacancies
3. Changes in proxy voting rights
4. Amendments to the articles of incorporation
5. Sale of all or substantially all of the assets
6. Merger
7. Amendment of a merger agreement
8. Dissolution
9. Contracts with interested directors (mutual benefit corporations)
10. Plan of distribution upon dissolution when there is more than one class of members (mutual benefit corporations).

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