

BOOK OF REPORTS

Committee: Exigency Action (ad hoc)
Chairman: Cory Brockmann
Committee: Renee Ohler (Daniel Burk resigned)
Date: April 11, 2021 - Spring DEC

Summary: The charge of the committee evolved through the past several months to become only of addressing how best to conduct elections under exigency, as other committees were addressing budget and convention matters. With this report of recommended actions is a proposed resolution for amendment to the Department Constitution and Bylaws.

Report: Conversations with Department Commander Steve Adams resulted in a change to the original charge of the committee to only include addressing a means for conducting elections should convention not occur. The change was a result of additional discussions Commander Adams had with other committees and the impending actions those committees were taking on actions for budget and convention matters, separately. Additionally, the deliverable date for any recommendation, to include proposed resolution(s) changed from 1-May to the Spring DEC.

Key elements of review and consideration included Oregon Revised Statutes (ORS), Chapter 65 - Nonprofit Corporations (and more specifically ORS 65.205 - Participation in meeting by remote communication); Department of Oregon jurisdictional documents, principally, Department Constitution and Bylaws (C&B), Department of Oregon Policies (DOP) and commission and committee Codes of Procedures (COP); and, a good understanding of the difference between an exigency and an emergency and how that relates or drives potential changes to the Department's jurisdictional documents, if any.

ORS Chapter 65: An Oregon State Bar work group was assembled during the period 2014-2018 to review and recommend changes to ORS Chapter 65. The result of that effort resulted in Senate Bill 360, which was passed during the 2019 legislative session and signed into law with the changes going into effect January 1, 2020. Of importance is that ORS 65.205 was added to and made a part of ORS Chapter 65 by legislative action. ORS 65.205 addresses "members that are not physically present for a membership meeting may participate in, be deemed present in person at and vote at the membership meeting if the board of directors authorizes participation by remote communication. Participation by remote communication is subject to guidelines and procedures that the board adopts." There is much more to ORS Chapter 65.205 (and Chapter 65) related to giving notification, acknowledging the remote individual, and defining process, method, and/or platform to conduct and document meetings.

Department of Oregon: Accepting the overarching National C&B, the four key department documents which provide for the administration of business are the constitution, bylaws, policies and codes of procedures. The C&B outlays, describes the global parameters by which the Department administrates our organization and conducts its business; it is the jurisdictional authority and structure of administering the organization. The DOP, in a manner, extends the C&B by comprising the directives by which certain, specific activities are conducted. And, the framework of detail of commission/committee responsibilities is found within their COP, respectively.

Critical to the Committee charge is the authority by which these four documents may be amended as it relates to the charge of conducting elections. Amendment of the C&B may be accomplished at Department Convention by affirmative vote of two-thirds of the delegates present and voting; details are found within the C&B, respectively, under separate articles therein. The DOP and COP are reviewed/updated at the commission/committee-level, with approval granted by ratification of no less than the department executive committee (DEC).

Exigency/Emergency: A good understanding in the difference between an exigency and emergency is important in helping discern the need of action for changes to the C&B. The terms, in definition, have similarities to each other (and often times in perception). The importance of the terms, ultimately, led the committee to the action taken in making recommendation on how best to address an amendment to the constitution and bylaws. Quite simply, an *emergency*: is a sudden, urgent, usually unexpected occurrence or occasion requiring immediate action. While, *exigency*: the need, demand, or requirement intrinsic to a circumstance, condition, etc.

In addressing the Committee's charge of how to conduct elections in the event of a cancelled department convention, the elements of exigency, timeliness, and adherence to other pre-existing jurisdictions – C&B and statutory law - were critical factors. The Department C&B contains many comingled and overlapping elements comprising and leading to conducting a Department Convention, of which, election of officers is included. From the post election of delegates and alternates to Department Convention, to certifying the delegates and determining posts in good standing and determination of delegate strength, to establishing Convention Committees, to abiding by established convention rules within the C&B on communications, to name a few. And, what may seem like a minor change in one article/section of the C&B can have a significant ripple effect to several other articles/sections.

Clearly, there is no 'perfect solution' to the possible variabilities of an exigency's emergency, and at the occurrence – the actual time – it happens. Thus, the recommendations provided serve as a simplest means of conducting the Department Convention – *elections* – with as minimal disruption of process as possible.

Recommendations:

1. Amendment of the Department Constitution Article V Section 1. To add:
“...In the event of such exigency that the Department Convention cannot be conducted where, and as, scheduled, the Department Executive Committee shall fix, by vote, a decision to conduct a virtual Department Convention by audio-visual conference technology upon such dates commensurate with the exigency.”
Benefit: Allows for all existing timeframes and timelines to be adhered to consistently, and the routine business of Department Convention to be conducted as similarly as possible to an in-person convention.
Action: Resolution drafted.
2. That 'exigency' not be defined within the Department C&B amendments in any means such that it creates restrictions and/or prohibits the general membership from carrying out the mission, duties and business of Department of Oregon. Rather circumstances of a cause-and-effect event – the exigency – impacting Department Convention be addressed as provided in the amendment.
Benefit: An exigency can occur due to any number of events or reasons and, yet, not warrant a formal declaration of such by, for example, the president, governor, mayor, etc.
Action: Maintain the language as drafted regarding exigency.
3. Amendment of the Department By-laws Article V Section 1. To replace Committee with the word Commission: “...The registration fee for all authorized delegates, alternates and delegates-at-large, as it shall be determined by the Department Executive Committee, shall be sent in accordance with the Convention **Commission** Code of Procedure...”
Benefit: To clarify that it is the Convention Commission in context and that (it) has a Code of Procedure.
Action: Resolution drafted.
4. Establish within the Convention Commission Code of Procedures, upon further research and considerations, the means to conduct electronic voting, in accordance with statutory laws. A virtual department convention by virtual audio-visual conference technology is as simple as it gets; however, it may create difficulties among members with hearing conditions and create cause for an extended meeting. Current business technologies exist to conduct online, electronic voting, including credentialing verification for integrity, and documenting for record the outcomes of measures/elections voted on.
Benefit: Simplify and improve voting activities during virtual Department Convention.
Action: Establish an action item for the Convention Commission and, possibly, the Policy Committee. Resolution drafted.

5. Amendment of the Department By-laws Article VII to add “**Section 14. Upon incidence of exigency, within virtual Department Convention, all resolutions, memorials, and other written submissions will be transferred via electronic transmission to the appropriate committee. And, as deemed necessary, an electronic voting platform be utilized, in accordance with statutory law, to conduct, collect and document for record all voting measures that be conducted.**”

Benefit: Provides for the transfer and transmission of business documents via electronic means. Also, utilization of an electronic voting platform improves speed and accounting of all voting measure, as well as, improves the flow of business within virtual Department Convention.

Action: Resolution drafted.

Meetings: Committee business was conducted via face-to-face meeting, email, text messages and teleconferences during the period following the MW-DEC. No further meetings are anticipated.