



Evangelical Lutheran Church in America

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MEMORANDUM

To: Church Council and Conference of Bishops

From: Wm Chris Boerger

Date: September 1, 2015

Subject: Proposed Amendments to the *Constitutions, Bylaws, and Continuing Resolutions of the Evangelical Lutheran Church in America*

INTRODUCTION

One of the responsibilities of the Churchwide Assembly is to adopt amendments to the *Constitutions, Bylaws, and Continuing Resolutions of the Evangelical Lutheran Church in America*. The process for amending the governing documents is specified in Chapter 22 of the ELCA Constitution. The principal way that constitution amendments are adopted is in accordance with provision **22.11.a.** which states: "The Church Council may propose an amendment with an official notice to be sent to the synods at least six months prior to the next regular meeting of the Churchwide Assembly." This is the only provision that authorizes adopting of constitutional amendments at a single meeting of the Churchwide Assembly. It means that proposed constitutional amendments for consideration at the Churchwide Assembly in 2016 must be considered and recommended by the Church Council meeting in November 2015.

Although the processes for adopting bylaw amendments and continuing resolutions at a Churchwide Assembly do not require similar notice, the historic practice of the Office of the Secretary has been to seek to provide a complete set of proposed governing document amendments at the fall Church Council meeting in the year before the Churchwide Assembly. Because many proposed constitutional amendments are accompanied by related bylaw and continuing resolution amendments, it is desirable to consider them at the same time.

With the proposed combining of what we currently call lay rosters into a single roster, the Office of the Secretary has been working on possible governing document amendments for over a year. Initial proposals for amendments to Chapter 7 of the ELCA Constitution were distributed to the Synod Bishops, Synod Vice Presidents and the Church Council in the fall of 2014. All of the amendments will be reviewed by the Conference of Bishops at its October 2015 meeting. The Legal and Constitutional Review Committee will recommend the final form of the amendments to the November 2015 Church Council meeting for action.

The plan is that the amendments to the governing documents will be considered in three actions. The first is to address Continuing Resolution **19.01.A15**, dealing with the election of the Vice President. If this process is to be used at the 2016 Churchwide Assembly the addition of the continuing resolution needs to be adopted at the November Church Council meeting. We also will be considering **16.1.C15**. This continuing resolution describes the responsibilities of the Mission Advancement Unit.

The second action would consider en bloc the amendments related to the unification of the Word and Service roster. This action would be the largest since it amends all three constitutions in numerous sections. The third action would be to consider en bloc the proposed amendments that are not related to the roster unification.

This summary is provided to facilitate and focus your review and analysis and is not intended to substitute for a thoughtful consideration of all of the proposed amendments.

CONTINUING RESOLUTIONS

19.01.A15. This continuing resolution will allow for pre-identification of potential nominees for Vice President. It comes as a result of discussions that began at the 2013 Churchwide Assembly and reflects the surveys of the Church Council and the Conference of Bishops. Voting members of the 2016 Churchwide Assembly will be contacted by the Office of the Secretary in January to identify up to 3 persons who might be considered for the office of Vice President. Those identified will be contacted by the Office of the Secretary and asked to complete a biographical information form. Those forms received by May 1, 2016 will be distributed to the voting members 60 days before the assembly meets. Completing the form does not prohibit an individual from withdrawing after the first ballot. Other persons may be identified on the first ballot. These persons will be asked to fill out the same biographical form prior to the third ballot.

This continuing resolution will be acted on at the November 2015 Church Council meeting. It will require a 2/3 vote to be adopted.

16.12.C15. This continuing resolution recognizes the changes that have been implemented in the Mission Advancement unit. It gives the unit flexibility to develop strategies and resources to accomplish its mission. **16.22.D11** will be removed. The editor of the church publication is no longer elected by the Church Council but becomes part of the regular employment process of the churchwide organization. It also recognizes that all of the other advisory committees or program committees were removed from the churchwide structure at the 2011 Churchwide Assembly. This action would also remove **14.32.B13**.

This continuing resolution will be acted on at the November 2015 Church Council meeting. It will require a 2/3 vote to be adopted.

WORD AND SERVICE ROSTER

The primary changes to the governing documents are in Chapter 7 of the Constitution, Bylaws, and Continuing Resolutions of the Evangelical Lutheran Church in America, in Chapter S14 of the Constitution for Synods and Chapter C9 of the Model Constitution for Congregations. The effects of these changes are reflected throughout all three constitutions. Given the significant number of these changes, I have not listed all of them. I encourage your detailed review of these chapters as they contain the basis for the changes related to the proposal to unify the current three “official rosters of laypersons.”

We have chosen to use the language of ministers of Word and Sacrament for those who are currently named in the constitution as ordained ministers and ministers of Word and Service for those who will be on the unified roster of what the current constitution speaks of as “official rosters of laypersons.” Given the ongoing questions related to the entrance rite for the new roster, it seemed best to not refer to one roster by its entrance rite. The current constitution uses the term “pastor” primarily in relationship to those ministers of Word and Sacrament who serve in congregational settings. We have attempted to maintain that distinction for the sake of constitutional clarity. However, this is not an attempt to limit the use of the term “pastor” in other contexts. We have attempted to make the language related to the two rosters parallel; the

structure of each section is similar to the other including processes for calling, termination of call, discipline and other matters.

While the new roster will be titled ministers of Word and Service, the title does not imply that ministers of Word and Sacrament are not engaged in service. It instead lifts up the diaconal nature of this roster's ministry. There is one bylaw that identifies those on this new roster as deacons. That term has not been used throughout the constitutional documents; we have opted instead for the more general term "ministers of Word and Service."

Should the Church Council choose to recommend to the Churchwide Assembly a resolution that would unify the three official rosters of laypersons, that action will be placed before the assembly for action. If it is approved, then these constitutional amendments would be placed before the assembly for action. If the action to unify the rosters is not approved, these amendments would not go before the assembly.

OTHER AMENDMENTS

Please note that there has been an editorial change to Chapter 1. Part of the review this year noted that we had bylaws that were not directly connected to a constitutional provision. We remedied this in Chapter 1 by renumbering **1.21.01.**, **1.31.01.** and **1.31.0.2** and attaching them to provision **1.11**. This is an editorial change and will not be voted upon. The issue of having unattached bylaws will be seen in other chapters and will require adoption by the assembly.

3.02. The addition of this provision comes from the report of the Ecclesiology of the Global Church Task. It reaffirms this church's resolve to serve the unity of Christ's Church.

3.04. This new section affirms that our participation in the Lutheran World Federation is one way that this church lives out its commitment to be part of the whole Church.

5.01.A16. The previous language of the continuing resolution established a goal of inclusivity that this church did not achieve. The new continuing resolution changes a goal to a commitment by describing the ongoing work required to achieve it. The proposal also replaces an arbitrary percentage (10%) with an ongoing commitment to reflect the real diversity that exists in the places where this church is located.

This continuing resolution and the two that follow could be adopted by the Church Council by a two thirds vote. It is my belief that such a commitment as this should be acted upon by the Churchwide Assembly and would require a majority vote.

5.01.B16. This continuing resolution seeks to ensure accountability towards the commitment in each expression of this church.

5.01.D16. This continuing resolution would require accountability on the part of the churchwide organization and require reporting the vision of what this church is doing and the progress being made toward this commitment. This report would give opportunity to the Churchwide Assembly to respond and direct the work of the churchwide organization.

Chapter 7 As stated, there has been a significant rewriting of this chapter. Issues not addressed in this rewriting relate to the entrance rite for ministers of Word and Service. Since two of the current rosters uses the rite of consecration, that rite is retained for the new roster. The Church Council has deferred final decision about the entrance rite until 2019.

8.10. This title is amended to include the Lutheran World Federation.

- 8.13.** The language that was in **8.21.** is in place in this provision. The addition describes one of the ways in which synods can accomplish the work given to the synod. The previous placement in the ELCA Constitution seems out of place in a section describing relationships with the churchwide organization.
- 8.18** and **8.18.01** This provision and bylaw recognizes the relationship established in **3.04.** and establishes a process for the exchange of ministers of Word and Sacrament.
- 8.72.11.e.** This bylaw is removed at the request of the Conference of Bishops. It should be noted that the proposed change to **7.41.02.** recognizes service in a congregation of a church body with which a relationship exists with the synodical bishop's approval. Exceptions to serve in a non-congregation setting with a full communion partner would still require an exception being granted by the Conference of Bishops.
- 8.73.** This provision is removed based upon the inclusion of the Lutheran World Federation in **8.18.** and **8.18.01.**
- 9.80.** This is a title with no provisions or bylaws. Chapter 20 contains the necessary provisions.
- 10.01.01** This change reflects the pattern of removing titles that have no constitution provisions and makes the title part of the bylaw. The remainder of the changes incorporates congregations that are outside of the counties assigned to each synod and notes their inclusion in the synod. While used previously in the description of some synods, there was not a universal pattern. This attempts to remedy that omission.
- 10.31.02.** Currently this bylaw is **10.81.01.** and is a bylaw that is not attached to a constitutional provision other than the title. This appears to be the appropriate placement after the bylaw dealing with the election of a synodical bishop.
- 10.32.** This establishes a constitutional provision on which to attach the following bylaws rather than just a title.
- 10.32.01., 10.32.02.** and **10.32.03.** The subsections of the previous bylaw are stated as individual bylaws under the new constitutional provision **10.32.**
- 10.41.** This would allow synods to adopt a triennial synod assembly schedule. The change was requested by the Caribbean Synod.
- 10.71., 10.71.01.** and **10.71.02.** This constitutional provision and bylaws establish a new method of determining mission partnership support. The Office of the Secretary was instructed by the Church Council to develop language that removed the percent established by the Churchwide Assembly as the standard percentage for mission partnership support. The new method recognizes that additional funding streams might be used by synods. Individual amounts or percentages will be established by consultation between the churchwide organization and each individual synod. The bylaws recognize the role of the synod assembly and the Church Council in approving the consultation agreement. If either the assembly or the council does not approve the consultation agreement, a new consultation will take place. †**S15.11.** is also amended to enable this process.
- 10.81.A16.e.** This is redundant with **10.81.A16.c.**

12.31. We do not need the references to prior to 2013.

12.31.02. The addition of “on this church’s website acknowledges that the website and the church periodical have become primary means of communication.

12.41.11. The amendment incorporates bylaw 12.41.22 into this bylaw.

12.41.20., 12.41.30. and 12.41.40. Removing this bylaw continues the pattern of removing titles as separate bylaws and places it in **12.41.21., 12.41.31, and 12.41.41.**

12.51.10., 12.51.20., 12.51.30., Removing this bylaw continues the pattern of removing titles as separate bylaws and places it in **12.51.01, 12.51.02, 12.51.03.**

13.21.k. and 13.41.02.e. Legal counsel was moved into the Office of the Secretary early in this church’s life. This reflects current practice. **13.41.02.e.** is expanded to reflect this.

14.21.12 This amendment removes the confusion that might occur should a Presiding Bishop not retire at the end of their term.

14.31 The pairing of synods produces 32 positions to be elected following nomination by synods. This amendment recognizes that detail.

14.32.03. This would allow a member of the Church Council who had been appointed to fill an unexpired term of less than three years to be re-elected. This would only apply to those positions established by the Church Council in accordance with **19.02.**

14.32.B13. With the removal of the Advisory Committee for the Church Periodical, this continuing resolution is eliminated.

14.41.10. Removing this bylaw continues the pattern of removing titles as separate bylaws and places it in **14.41.01**

16.01.01. As the churchwide personnel policies have removed the distinction between executive staff and support staff, it seems appropriate to remove this terminology from the constitution.

18.01.01. – 18.01.04. The bylaws renumber and move what had been **18.11.11-18.11.14.** and place them under an appropriate constitutional provision.

Chapter 19 The bylaws of this chapter have been rearranged so that the practice of having bylaws attached to constitutional provisions also informed this rearrangement of bylaws and continuing resolutions. The various election processes are grouped accordingly.

19.01.01. This bylaw was 13.31.01.d.

19.01.12. This bylaw was 13.31.01.a.

19.01.03. This bylaw was 13.31.01.b.

19.01.04. This bylaw was 13.31.01.c.

19.01.B09. This continuing resolution was **19.31.A09.**

19.01.C94. This continuing resolution was **19.61.A94.**

19.01.D07. This continuing resolution was **19.61.H07.**

19.02. This amendment recognizes that the chair of the Conference of Bishops and the treasurer are not elected by the Churchwide Assembly and are members of the Church Council. The number of council members nominated by synods is changed from 33 to 32 in order to reflect the pairing of synods in **19.02.C05.**

19.02.A13. This continuing resolution was **19.21.A13.**

19.02.B11. This continuing resolution was **19.21.B11.**

19.02.C05. This continuing resolution was **19.21.C05.**

19.03.01. This bylaw was **19.11.01.c.**

19.04.01. This bylaw was **19.41.01.**

19.04.A91. This continuing resolution was **19.41.A91.**

19.06. This is the constitutional provision on which the following bylaws and continuing resolutions are attached

19.06.01. This bylaw was **19.11.01.a.**

19.06.02. This bylaw was **19.11.01.b.**

19.06.03. This bylaw was **19.11.01.e.**

19.06.04. This bylaw was **19.61.01.**

19.06.05. This bylaw was **19.61.02.**

19.06.07. This bylaw was **19.61.03.**

19.06.A02. This continuing resolution was **19.61.G02.**

19.06.B98. This continuing resolution was **19.61.I98.**

19.06.C13. This continuing resolution was **19.61.J13.**

19.11. This provision is an expansion of the title which was **19.20.**

19.11.01. This bylaw was **19.21.01.**

19.11.02. was **19.21.02** with the addition of the first phrase which allows for the exception in the proposed **19.11.03.**

19.11.03. This bylaw was requested by the CEOs of Augsburg Fortress Publishers, Portico Benefits Services and the Mission Investment Fund. Finding members for their boards with the required expertise would be easier if they could only nominate one person for each position. Floor nominations would still be in order.

19.11.04. This bylaw was **19.21.03.**

19.11.05. This bylaw was **19.21.04.**

19.11.06. This bylaw was **19.21.05.**

19.11.A16. This continuing resolution was **19.61.B11.** with modifications anticipating the creation of a roster of ministers of Word and Service.

19.11.C05. This continuing resolution was **19.61.D05.**

19.11.D16. This continuing resolution was **19.61.E05.**

19.11.E98. This continuing resolution was **19.61.F98.**

20.20. This provision was **20.71.11.** The “above categories” are identified.

20.21 This is a constitutional provision on which the following bylaws are attached.

20.21.03.c. For constitutional purpose the word “parish” is only used to describe settings where multiple congregations have adopted a parish agreement.

20.22. This is a constitutional provision on which the following bylaws are attached.

20.23. This is a constitutional provision on which the following bylaws are attached.

20.23.01 The title is incorporated into the bylaw. The remainder of the changes anticipate the changes needed to move to two rosters of ministers.

20.31. This is a constitutional provision on which the following bylaws are attached.

20.41. This is a constitutional provision on which the following bylaws are attached.

20.51. This is a constitutional provision on which the following bylaws are attached. The bylaws that have been attached to this provision were constitutional provisions. The new bylaws establish a process for recalling or dismissing an officer of this church.

The continuing resolution (**20.52.A11**) addresses the recall or dismissal of a synod officer and properly belongs in the synod constitution.

20.62. This constitutional provision was **20.64.**

20.63. This constitutional provision was **20.65.**

20.64. This constitutional provision was **20.63.**

20.64.A13. This continuing resolution was **20.61.A13.**

20.64.B95. This continuing resolution was **20.61.B95.**

20.65. This constitutional provision was **20.62.**

20.65.01. This bylaw was **20.62.01.**

20.65.02. This bylaw was **20.62.02.**

20.70. The entire section “**ADJUDICATION**” is renumbered based on the relocation of the previous provision in **20.70.**

20.72. The Church Council is not a mediating body but a decision making body. Petitions to the Church Council request it to resolve an issue.

20.73. The language is being updated to reflect the current structure of the churchwide organization. We no longer have unit boards. The appeal to the presiding bishop and the Executive Committee of the Church Council is still appropriate in the case of significant disagreements in an office or unit.

CONSTITUTION FOR SYNODS

Chapter 5 has been amended to correspond with **Chapter 3** of the ELCA Constitution.

†**S6.04.02.** was a continuing resolution. We do not have required continuing resolutions so this has been changed into a bylaw.

S7.11.01. This bylaw is necessary for synods incorporated in states whose non-profit or religious corporation law require an annual meeting be held at the registered office unless there is a bylaw provision that allows for the time and place of the meeting to be established by the synod council. We know that Minnesota and Pennsylvania have this requirement.

S8.55. If a synod chose the option of synod council appointment of the treasurer in **S8.51.c.** the term of office when there is a replacement for a treasurer needs to be stated. This treats the term of the appointed treasurer in the same way an elected treasurer’s term is treated.

†**S8.57.** This was a continuing resolution in the ELCA Constitution, **20.53.A11.,** relating to the recall or dismissal of a synod officer. It makes more sense to include the procedure in the synod constitution.

†**S9.01.** This provision establishes the authority of the synod assembly to elect members of the Churchwide Assembly. The ELCA Constitution gives this responsibility to the synod assembly.

†**S9.10.** This provision establishes the authority of the synod assembly to nominate two persons to the Churchwide Assembly for election to the Church Council consistent with **19.02.** and **19.02.C05.**

†**S11.03.c.** With the option of a triennial cycle for synod assembly meetings in †**7.11.,** the mechanics of this provision become problematic. The removal of this section allows synods to establish their own election cycle that fits their assembly schedule. Synods would still need a discipline committee of twelve persons.

†**S14.12.** This reflects the changes made in **7.61.02.**

†**S14.18.** This reflects the changes made in **7.46.**

†**S14.13.c.** This change recognizes that being placed on the roster of disabled ministers of Word and Sacrament is the responsibility of the synod council.

†**S14.22.b.** This church does not have “certificates of dismissal or transfer”. When a call is terminated for whatever reason the minister may request “on leave from call status,” “retired status” or “disability status.” These requests require synod council action. This would require the fulfillment of financial obligations to the former congregation before the council would grant the request.

†**S14.30.** This language parallels the provisions and bylaws related to ministers of Word and Service in chapter 7 of the ELCA constitution.

†**S15.11.** These changes describe the process to establish the mission support from the congregations of the synod to be passed on to the churchwide organization. The proposed process is one of consultation between the synod and the churchwide organization. It also recognizes that the authority to establish the budget is the responsibility of the synod assembly. If a synod assembly does not approve the agreement of the consultation then there would be a new round of consultations and the synod council would have authority to modify the synod budget in this area only. The Church Council would also need to approve and if there is not approval further consultation would be needed, **10.71.02.**

MODEL CONSTITUTION FOR CONGREGATIONS

Chapter 3 is modified to reflect the changes in the ELCA Constitution chapter 3.

***C5.03.c.** The authority to call a minister of Word and Service is added to the powers of the congregation. The existing provisions are re-lettered.

***C6.05.** The changes reflect that the congregation governed by these documents is seeking to terminate its relationship, not a generic congregation. Thus the change from “a” to “this”.

***C8.02.e.** At the request of the Grand Canyon Synod, we have drafted language that allows seasonal members to have some voting rights in the congregation. The responsibility and privilege of voting is granted to persons who are members of another ELCA congregation and is subject to specific limitations. It would require the authorization of the synod council for the congregation council to grant such a category of membership.

***C9.21.-*C9.31.** These provisions establish the procedures for calling and/or terminating a call to a minister of Word and Service. The procedures are parallel to the ones related to ministers of Word and Sacrament.

C10.04. The recommended establishment of the quorum for a congregational meeting is to be a percentage of the voting members. Experience has indicated that those congregations

that name a specific number run into trouble when congregational membership declines. While not a required provision, it is important that congregations have realistic quorum requirements.

Chapters 16 and 17 This is a reordering of the chapters dealing with amendments.

***C17.02.** Both the ELCA Constitution and the synod constitution establish a two thirds vote requirement to amend their bylaws. Congregations are establishing bylaws related to endowment funds in their constitutions. It seems wise to use the two thirds vote requirement to amend bylaws.

***C20.01. & *C20.02** This would require that the parish agreement establish which congregation/s would issue calls on behalf of the parish. ELCA polity allows only one call be accepted at a time, and only the Church Council, synod council or congregation may issue calls. The parish agreement could develop a process for rotating the calling congregation. Only one congregation issues the letter of call even though all of the congregations vote to call the rostered minister.

***C20.03. and *20.05.** The procedures used for ministers of Word and Sacrament are extended to ministers of Word and Service.

***C20.06.** This provision now applies to all ministers, not just ministers of Word and Sacrament. ample text here.