



2

The Legislative Process

THE LEGISLATIVE PROCESS IN MADISON

Michael P. May, City Attorney

Updated April 11, 2011

1. Resolutions and Ordinances.

Resolutions generally deal with discrete individual matters (approval of contracts, setting internal city policy, etc.). Any staff member may draft them.

Ordinances generally deal with rules that will affect the general public. Only the City Attorney may draft them.

Any resolution or ordinance, with specific exceptions, must have a member of the Common Council as a sponsor. Any resolution or ordinance must be given a legislative file number which is to be used on all agenda.

2. Introduction.

Unless it suspends the rules, the Common Council will introduce a resolution or ordinance at a meeting and not consider it until a later meeting. For any matter to be introduced as part of the agenda and make it into Legistar, it must be to the Clerk's office by noon on Wednesday preceding the Council meeting. A resolution or ordinance may also be introduced and referred from the floor of the Council, and must be placed into the legislative process after the meeting.

3. Referral and Committee action.

Nearly all resolutions and ordinances are referred to one or more of the City's boards, committees and commissions (BCC). The first BCC listed is the lead referral. Other BCC (secondary referrals) are to review the matter before the lead referral and recommend action and any suggested changes to the lead referral. The lead referral reviews those suggestions and makes its own recommendation and any changes to the ordinance or resolution. The recommendation and changes (if any) of the lead referral is normally the action recommended to be taken by the Common Council.

If the lead referral changes the item so that the lead sponsor of the item no longer wishes to sponsor it, then something else may be moved from the floor of the Council.

The rules for operation of most BCC are set out in chapter 33 of the Madison General Ordinances, but some BCC have special rules by ordinance or statute. Also, BCC may establish their own rules that are not in conflict with the MGO.

In preparing agenda in Legistar, remember that all agenda must also be sent to the Clerk's office (CL Meetings) in order to be posted in compliance with the Open Meetings Law. Failure to do this may result in the cancellation of your meeting.

4. Substitutes and Alternates and Amendments.

A Substitute is created for any change in the proposed ordinance or resolution that is both supported by the original lead sponsor and occurs at or before the time the lead referral takes final action on the ordinance or resolution. Multiple substitutes indicate that multiple changes have been made.

An Alternate is a change either (a) created by the lead sponsor after the lead referral has acted but before the item reaches the Council, or (b) created by the lead referral when its changes are not acceptable to the lead sponsor.

An Amendment is any change made on the Council floor.

As a result, you may have the Council approve an item that is an Ordinance, an Amended Ordinance, a Substitute Ordinance, an Amended Substitute Ordinance, an Alternate Ordinance, or an Amended Alternate Ordinance. The same titles may be given to Resolutions, and if there is more than one substitute or alternate created, they will be given numbers.

All official versions of an item are to remain in Legistar as attachments, regardless of which version is recommended to the Council. Documents related to the proposal also must be included as attachments.

5. Fiscal Notes.

All ordinances and resolutions must have a fiscal note from the Comptroller's office. The fiscal note identifies the likely fiscal impact of the item, such as increased revenues, increased costs, deduction from the contingent reserve fund, etc. When substitutes or alternates are created, they also need a fiscal note.

6. Public Hearings.

Some items are required by law to be preceded by a "public hearing" before they may be adopted. Most of these items are Plan Commission rezonings, ALRC licenses, and Public Works assessments. The public hearing portion of the Council meeting is a separate agenda item.

7. Super Majority Votes.

In order for any item to pass the Common Council, it must get at least 11 votes. This is regardless of how many members are present. Any time the Council makes an "appropriation" that was not included in the annual budget, it requires a $\frac{3}{4}$ majority or 15 votes. An "appropriation" takes money from one place or agency and gives to another, with the exception of expenditure of grant funds that have no contribution from the City. Some other items require a $\frac{2}{3}$ majority vote, or 14 votes, to pass (usually land use matters, charter ordinances, or procedural matters governed by Robert's Rules). The City Attorney and the Comptroller currently are reviewing our practice as to what constitutes an "appropriation" and may be issuing revised guidelines.

M. P. May
City Attorney