## Legislation Text

**File #:** 76500, **Version:** 3

### Fiscal Note

The proposed ordinance amends various sections of the Madison General Ordinances as outlined in the Drafter's Analysis. Changes are related to the legislative process and do not have any direct fiscal impact. Any increases in staff time to comply with the changes are expected to be minor and absorbed within existing resources. No appropriation is required.

### Title

SECOND SUBSTITUTE: Amending Sections 2.055(5) and creating 3.70(8)(a) of the Madison General Ordinances to require previous versions of ordinances and resolutions and all accompanying documents be included in the legislative file, and amending Sections 2.055(5), repealing Section 2.055(3), and creating Subsection 2.08(4) of the Madison General Ordinances to modify the process of determining and making recommended motions related to Council agenda items.

### Body

DRAFTER'S ANALYSIS:   This ordinance clarifies several rules related to sponsorship of ordinances and resolutions, approval of the Common Council meeting agenda and consent agenda, the process of Sub-unit recommendations to the Council, and the making of motions on the Council floor. This ordinance clarifies that new versions of ordinances and resolutions must have a sponsor before being published in Legistar. This ordinance also clarifies that the Council President shall approve the consent agenda document. It also requires that ordinance amendments, including those made on the Council floor, be approved as to form by the City Attorney.

Currently any changes made to a proposal by the lead board, committee or commission will stand as the recommended substitute or alternate to be considered by the Council provided that the change is sponsored by a member of the Council. Under this ordinance, modifications to proposed ordinances and resolutions will no longer be described as a "substitute" or an "alternate." The recommendation of the lead referral will be listed as the recommended motion before the Council regardless of whether it is sponsored by a member of the Council, unless an agenda note approved by the Council President indicates a different recommended action.

Because the President approves the consent agenda, this ordinance removes the requirement that referrals made without the consent of the lead sponsor be excluded from the consent agenda. Additional referrals may continue to be made from the floor but must be excluded from the consent agenda.

Consistent with current practice this ordinance also clarifies that the Mayor or presiding officer shall recognize the Council President or another member of the Council (typically in the President's absence) to initiate motions for each item considered by the Council and permits the President or recognized alder to defer to other members of the Council to make such a motion. This ordinance clarifies that additional motions are in order after the initial motion has been made, prior to or during any staff presentations or questions of staff.

Finally, the ordinance requires that any change to a document accompanying an ordinance or resolution must be noted in the proposed ordinance or resolution. It also requires that all versions of ordinances and resolutions, as well as any document referred to in a proposed ordinance or resolution, be retained in Legistar or any subsequent legislative file so that alders and the public may have access to earlier versions considered

by the Council or City boards, commissions or committees. The ordinance requires that documents which are revised during the legislative process be labeled sequentially such as "Report 2," or Report 3," etc.

The Substitute moves the provision related to retention of legislative documents to a more appropriate section in Chapter 3.

The Second Substitute includes a change recommended by CCEC which modifies the proposed change to MGO 3.70(8) to clarify that draft versions of legislation must be retained in Legistar only if the legislation has been introduced at a Council meeting or has appeared on a published agenda for the public to view. The Second Substitute also includes changes recommended by the sponsors to clarify the role of the President in approving the agenda and the consent agenda. If the President wishes to include a recommended motion in an agenda note or on the consent agenda that is different than an action recommended by the lead referral and that has obtained a sponsor, the President shall obtain the consent of the lead sponsor. If the lead sponsor does not consent, the President may exclude the item from the consent agenda.

Consistent with current practice, the Second Substitute also clarifies that if an alder requests a referral or a different action than the recommended action on the Council agenda or the consent agenda document, the item shall be excluded from the consent agenda. The Second Substitute also repeals MGO 2.055(3) so that referrals may be included on the consent agenda regardless of whether they are made with the consent of the lead sponsor.

The Second Substitute also removes the proposed amendment to MGO 2.05(6) regarding the requirement of a sponsor for modifications to ordinances and resolutions, as it unnecessary given other changes made in the Second Substitute.

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The Common Council of the City of Madison do hereby ordain as follows:

     1.     Subsection (9) of Section 2.05 entitled "Introduction of Business" of the Madison General Ordinances is amended as follows:

"(9)    No ordinance shall be introduced unless the same shall have been submitted to and approved as to form by the City Attorney. The City Clerk shall refuse to process any ordinance that has not been so approved. Upon complaint to the Common Council President that the City Attorney has unreasonably withheld approval of an ordinance, the ordinance may be introduced by a two-thirds (⅔) vote of the entire Common Council. <u>Any amendment to an ordinance, including any made on the Council floor shall be submitted in writing to and approved as to form by the City Attorney prior to consideration by the Council.</u>"

     2.     Subsection (10) of Section 2.05 entitled "Introduction of Business" of the Madison General Ordinances is amended as follows:

"(10)   No later than noon on the day of any Common Council meeting, an Alder may request exclusion of any agenda item from the consent agenda for the meeting by notifying Common Council staff in writing. <u>If an Alder requests referral or another action that is different than the recommended action on the agenda or the consent agenda document, the item shall be excluded from the consent agenda. The Council President shall approve the consent agenda including any recommended actions or referrals listed on the consent agenda pursuant to Sec. 2.055(5).</u> However, the Council President shall not

approve a recommended action or referral on the consent agenda that differs from the recommendation of the lead referral and which obtains a sponsor without the consent of the lead sponsor. Prior to the Council meeting, Common Council staff shall create and circulate a consent agenda document identifying recommendations or referrals not printed on the agenda, and exclusions requested by noon on the day of the Council meeting. The consent agenda document shall be distributed to Alders and the Mayor, and made available to the public. Additional agenda items may be excluded from the consent agenda by request of an Alder at the Common Council meeting. All items excluded from the consent agenda shall be considered separately. A Department Head or their designee of the City agency responsible for the subject matter or implementation of a proposal included on the meeting agenda shall be in attendance and available to respond to questions of Alders until such time as the Council considers the item, either as part of the consent agenda or as a separate item."

3.      Subsection (3) of Section 2.055 entitled "Referral and Consideration of Business" of the Madison General Ordinances is repealed.

4.      Subsection (5) of Section 2.055 entitled "Referral and Consideration of Business" of the Madison General Ordinances is amended as follows:

"(5)    A Sub-unit shall be designated as the lead referral for any matter referred to more than one board, committee or commission. If there is only one referral, that Sub-unit shall be considered the lead referral. When the committee to which an ordinance or resolution has been referred reports such ordinance or resolution to the Council at a subsequent meeting, the ordinance or resolution shall stand for final action in accordance with the report of the lead committee, unless an agenda note approved by the Council President indicates a different recommended action. However, the Council President shall not approve an agenda note indicating a different recommendation from the lead referral which obtains a sponsor without the consent of the lead sponsor. If the ordinance or resolution is modified by the committee, it will stand as a substitute if the sponsor of the ordinance or resolution so agrees; if the sponsor does not so agree, the committee report shall stand as an alternate, provided that such alternate or substitute is germane to the ordinance or resolution originally referred to such committee. All recommendations of Sub-units shall be reported to the Council. An amendment approving or adopting a report or document which has been revised or amended after introduction shall include a reference to the appropriate version of the accompanying report or document."

5.      Subsection (4) of Section 2.08 entitled "Motions" of the Madison General Ordinances is created as follows:

"(4)    The presiding officer shall recognize the Council President or another member of the Council to initiate motions for each agenda item pursuant to Sec. 2.055(5). The President or recognized member may defer to another alder to make such a motion. Other germane motions are in order at any time after the initial motion is made."

6.      Subdivision (a) entitled "Retention Schedule" of Subsection (8) entitled "Retention Schedules" of Section 3.70 entitled "Public Records" of the Madison General Ordinances is created as follows:

"(a)    Retention Schedule . The Information Technology Director, in consultation with the City Attorney, shall

develop and maintain the City of Madison's Records Retention Schedule in accordance with the provisions of Wis. Stats. §§ 16.61(3)(e) and 19.21(4) and such records shall be maintained in accordance with the provisions of that schedule. Such schedule must be approved by the Wisconsin Public Records Board and published by the Information Technology Director. Consistent with this schedule, records documenting legislative proposals introduced for Council consideration are public records and the City encourages the greatest public access and transparency to such records regardless of whether a particular version of a legislative proposal is ultimately adopted by the Common Council. All versions of proposed ordinances and resolutions and all accompanying documents referenced in a proposed ordinance or resolution that have been introduced or considered by the Council, or that have been ~~submitted into the legislative file~~ published as part of an agenda, shall be retained in the legislative file consistent with the applicable retention schedule. Any changes to an ordinance or resolution or any accompanying report or other document introduced for consideration before the Council or any board, commission or committee shall be labeled sequentially and added as a new version of such ordinance, resolution, report or document, and any previous versions shall be retained visible to users of the legislative management system."

EDITOR'S NOTE:
Subsection (3) of Section 2.055 entitled "Referral and Consideration of Business" of the Madison General Ordinances currently reads as follows:
"(3)     Any objection to a referral included on the consent agenda shall be excluded from the consent agenda and acted upon separately. Referrals made without the consent of the lead sponsor shall be excluded from the consent agenda and acted upon separately."