

call to order

Abstention

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Every member of a governmental body has a duty and obligation to vote. Budgets are approved, ordinances enacted, and resolutions adopted by members casting their votes. If a member of a body has a conflict of interest, then that member needs to abstain from voting. In fact, if a member has a conflict of interest they should not participate in debate, or even be in the room where the discussion is occurring.

What if a member does not wish to vote? The member may have no conflict of interest, but may believe the issue is too controversial, may feel the matter should not be before the body, or does not have enough information. Can a member abstain for these reasons, or no reason at all?

The Madison City Council had a rule that required every member to vote on every issue unless they had a conflict of interest. One of its members did not have a conflict of interest but chose not to vote, that he did not have enough information to cast an intelligent vote. Enforcing council policy, the mayor issued a reprimand and levied a small fine. The alderman took the city to court. The court, in *Wrzeski v. City of Madison*, ruled in favor of the alderman. The court ruled the body could not compel a member to vote. This is in effect compelling a person to speak, which violates their freedom of speech protected by the First Amendment.

Robert's Rules of Order also recognizes the right of members to abstain by stating, that while it is the duty of every member to express their opinion by voting,

they cannot be compelled to vote. It should also be noted that when an office or position is being filled by a number of candidates, it is permissible to partially abstain by voting for less candidates than entitled to. As an example, in an election for a board of directors where members are entitled to vote for three candidates and five are running, the member may vote for one, two, or three. In fact, if a member feels strongly about one candidate then they should vote for only one. By voting for more than one, you are helping to defeat the candidate you support.

Wisconsin law requires members to abstain when they have a conflict of interest. *Robert's Rules of Order* also states that no member should vote on a question in which the member has a direct personal or pecuniary interest. A member voting on a contract with an organization of which the member is an officer would have a conflict of interest. It should be understood, that the rule on abstaining from voting on a question of direct personal interest does not mean that a member cannot vote for him or herself for an office or position which members are generally eligible.

Robert's clarifies that the chair should not call for abstentions in taking a vote, since the number of members who respond to such a call is meaningless. To "abstain" means not to vote at all and a member who makes no response if "abstentions" are called for abstains just as effectively as one who responds. In a roll call vote, if a member does not wish to vote the member answers "present" or "abstain."

continues

Wis. Stats. 59.02(2) states that, “Ordinances may be enacted and resolutions may be adopted by a majority vote of a quorum or by such larger vote as may be required by law.” Wis. Stats. 59.02 (3) states that, “A majority of the supervisors who are entitled to a seat on the board shall constitute a quorum. All questions shall be determined by a majority of the supervisors who are present unless otherwise provided.”

A majority vote is “more than half, “which means more than half the votes cast by persons entitled to vote excluding blanks or abstentions. In addition, a quorum of the body must vote, meaning the aye and nay votes must add up to a quorum.

There was a situation in Wisconsin, where 33 members of a 36-member board were present. The vote was 15 ayes, 10 nays, and 8 abstentions. Does the matter pass? Yes, there was a quorum present and

voting (25) and a majority of the members voted aye (15 of the 25). Let us assume in this same situation there were 10 ayes, 8 nays, and 15 abstentions. Does the matter pass? No, the members voting aye and nay total 18, one short of a quorum, which is 19 for a 36-member board.

Sometimes statute or local rules may require a majority of the entire body to determine an issue. With that rule, in the situation described above, 19 members of the 36-member body would have to vote in the affirmative for the matter to pass.

The power to express one’s opinion by casting a vote should not be taken lightly. Every vote is important and could be the decisive vote. Use the right of abstention judiciously.

Source: *Robert’s Rules of Order Newly Revised, 11th Edition*



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