

How Local Agencies Make Things Happen

Local agency governing bodies make policy and spending (fiscal) decisions. This is a collective decision-making process in which a majority of decision-makers concur on a given course of action.

The *policy* tools local agencies have to take collective action include:

- Ordinances
- Resolutions
- Motions and Minute Orders

In addition, the voters can play a role in decision-making through the **referendum and initiative** process.

The concepts and processes to understand on the fiscal side of local agencies' responsibilities include budget, expenditures and warrants.

Ordinances

Local agencies make local laws through ordinances. Ordinances typically require or prohibit certain actions under certain circumstances. A local agency's ordinances are frequently indexed and recorded into a "code." These codes become part of the city or county's legislative history and may prove useful even many years after adopted. As access to technology improves, many local agencies publish and/or make their codes available online.

- **Drafting.** Typically, an agency's staff, along with the help or oversight of the agency's attorney, will prepare a preliminary ordinance for review by the decision-making body and the public. This also enables staff to be aware of and help the agency comply with any special notice requirements that may apply to that particular kind of ordinance.

Other Kinds of Action: Quasi-Judicial

Local agency officials also, from time to time, act in a quasi-judicial capacity. This is when decision-makers apply existing policies to specific situation (much as a judge applies legal standards in court cases).

Some of the procedural standards that apply in quasi-judicial decision-making are explored in www.ca-ilg.org/bias.

- **Timing Issues.** There is usually a waiting period between the time the ordinance is first considered by that body (known as the “introduction” of the ordinance) and second or final presentation of the ordinance during which it is considered by the governing body for adoption. This introduction process is also known as the first “reading” of the proposed ordinance, because it is the first opportunity decision-makers have to consider the merits of the proposed ordinance. In some limited circumstances, urgency and certain other types of ordinances can be adopted at the time of their introduction without going through a later waiting period.
- **Making Revisions during the Adoption Process.** Sometimes decision-makers will ask staff to revise the proposed ordinance. Such changes may respond to ideas or concerns expressed by decision-makers or the public; changes may also result in language that a majority of the decision-making body can support. If substantive changes are made to a proposed ordinance after it is first introduced, it generally will need to be re-introduced and another waiting period must pass before the modified ordinance can be adopted. These steps ensure that laws are drafted as carefully as possible and to ensure that a full and open review of the ordinance occurs that permits the public to review and comment on the proposed law prior to its approval.
- **Adoption.** After the initial “reading” and waiting period have occurred, the ordinance is then presented at a subsequent meeting for second reading. A member of the decision-making body moves for approval of the ordinance. If the motion receives a second, the body votes on whether to adopt the ordinance.
- **Effective Date.** Most ordinances are effective 30 days after the date of adoption. Staff will typically take care of any requirements for publicizing the ordinance’s adoption during this period (for example, by publishing the ordinance in a newspaper and adding the ordinance to the agency’s code).

Resolutions

A resolution is a legal action by a decision-making body, such as setting fees and adopting policies. It can also be a vehicle through which the body expresses its opinion on a matter.

Resolutions are formal actions by the decision-making body and are retained as part of the agency’s record. Compared to ordinances, though, resolutions involve fewer procedural requirements. For example, they do not have to be “introduced” and “adopted” over the space of two meetings but may be adopted at one meeting. Furthermore, with limited exceptions (for example, setting tax rates), resolutions do not have to be published in a newspaper.¹

Motions and Minute Orders

Local agencies do not always have to adopt an ordinance or resolution to take action. For less important actions, local agencies also may act by motion, which may be summarized in a minute order. Typically, the agenda materials will describe the action that is proposed to be taken.

These actions, along with others at the meeting, are memorialized in the record of the meeting (the minutes). Once approved by the body, the minutes become the official record of the meeting. The agency's secretary or clerk maintains the official records of the agency, including the minutes.

Initiative and Referendum

In California, the public also plays a role in the decision-making process by voting on ballot measures. The rules relating to placing matters on the ballot are both complex and technical. Ballot measure proponents are well advised to seek advice from experienced attorneys and political consultants on these matters to avoid missteps.

- **Referendum.** If members of the community disagree with a legislative act approved by elected officials, then they can circulate a petition to put the matter on the ballot for the voters to decide whether the law should be repealed. This is called a “referendum” because the petition requires the matter to be *referred* to the voters for approval. The petition process must occur within a short window of time before the law goes into effect.

When a successful referendum petition occurs, a governing body has two choices. It can repeal the law that is the subject of the referendum petition. If the repeal occurs, it becomes unnecessary for the matter to go to a community vote. Otherwise the body must put the matter on a ballot for a vote.

- **Initiative.** The public may also propose a new law (or an amendment to an existing law). To do that, they circulate petitions that must include a copy of the proposed law. If enough people sign the petition, then the governing body must either adopt the proposed law without change or put the matter on the ballot for a community vote. This process is known as the “initiative” process, because members of the community are *initiating* the legislative proposal.

Decisions to Spend Money

Perhaps one of the most important roles elected officials play is deciding how to allocate public funds to pay for necessary services and facilities. There are a number of steps in this process.

For More Information . . .

On *Financial Management for Public Officials*, see www.ca-ilg.org/financeguide

- **Budget.** A budget is a device that enables decision-makers to project what revenues will be available to fund services and facilities and how those revenues should be allocated and spent. The decision to spend money for particular purposes is an “appropriation,” which is an authorization to spend money consistent with the budget.

Typically the budgeting process involves:

- The administrative head of the agency (county executive officer, city manager or general manager of a special district) prepares and transmits a set of instructions to department heads for submitting budget information and requests;
- Department heads prepare and submit their budget information and requests;
- The administrative head reviews the requests and assembles them into a comprehensive budget document;
- The decision-making body holds budget hearings at which elected officials and the public receive information about the proposed budget;
- Elected officials receive public input/reactions to the proposed budget;
- Elected officials evaluate all the information received and revise (as necessary) and adopt the final budget; and
- The administrative head of the agency (typically the city manager, county executive officer, city manager or district manager) is responsible for implementing and executing the budget.

(Note that the budget includes decisions about money that don’t involve “spending “ per se, such as saving for capital projects, and allocated and unallocated reserves.)

- **Expenditures.** The agency then spends money throughout the year in a manner consistent with the adopted budget, which may include expenditures to satisfy contractual obligations (for example, labor agreements, and contracts for goods or services). Some expenditures, such as election costs related to an initiative, referendum or recall may not be budgeted for, but may be a required expenditure directed by the public through the signature gathering process.
- **Warrants.** These are specific authorizations to spend money from a local agency’s bank account. To avoid

For More Information . . .

For more information about how cities and counties are funded, see the Institute for Local Government’s publication *Understanding the Basics of County and City Revenues* (2008), at www.ca-ilg.org/revenuebasics.

having to take every minor payment to the decision-making body for approval, some agencies have policies delegating authority to staff to authorize payment for budgeted expenditures up to certain amounts.

Reference

¹ The rates of taxes to be levied or the amount of revenue required to be raised by taxation must be fixed either by ordinance or resolution. Government Code Sections 36936.1, 53724. If such tax rate or amount of revenue is fixed by resolution, the resolution must be published in the same manner and within the same time as ordinances are required to be published. Government Code Section 36936.1. Tax levies are subject to voter approval. Government Code Sections 53722, 53723. Some taxes (for example a documentary transfer tax) must be approved by ordinance. *See* Revenue and Taxation Code Section 11911.

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*The Institute welcomes feedback and suggestions on enhancing this resource:

- *Email:* info@ca-ilg.org Subject: Ways Local Agencies Take Action
- *Fax:* 916.444.7535
- *Mail:* 1400 K Street, Suite 205 ▪ Sacramento, CA ▪ 95814