

Use and Misuse of Substitute Amendments

Michael P. May, Attorney, Boardman & Clark LLP

Other than the main motion, motions to amend are the most common of motions under Robert's Rules. Thus, after a motion and second to adopt Resolution 321, members of the body may propose changes to Resolution 321 by moving an amendment.

If we grant that motions to amend – to change the text of a matter pending before the body – are among the most common offered, how are we to treat that special type of motion to amend, the *motion to adopt a substitute amendment*?

The motion to substitute – or to move a substitute amendment – is simply one form of the motion to amend. It has, however, special characteristics and treatment. The chair and members of a body should be aware of its proper and improper use.

Before taking up the unique aspects of a substitute amendment, let's review some of the basic rules for the motion to amend. Robert's Rules says that the motion to amend "is probably the most widely used of the subsidiary motions ..." *RONR* 12.3 (12 ed. 2020). The motion to amend proposes to change the text of the matter before the body. The motion to amend has a low

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priority; it takes precedence only over the main motion and the motion to postpone indefinitely, but yields to all other subsidiary motions. Motions to amend are either primary or secondary (sometimes called first level and second level). Thus, there can be a motion to amend the main motion (primary) and a motion to amend the amendment (secondary), but the body can go no further than that. There can be no third level of amendment. The body must deal with the secondary amendment before taking up another one. *RONR* 12:11-13.

The substitute amendment is used when the member wants to strike out entire sentences, paragraphs, or even the full body of the pending motion,

and then replace the stricken words with new words. It is a means of making wholesale changes in the matter pending before the body in one motion. The same result could be reached by a series of motions to strike and replace, but the substitute amendment is much more efficient at bringing the proposed changes to the body. *RONR* 12:69

The substitute is very useful in committee work. Let's take up our imaginary Resolution 321 (the same can be applied to ordinances). The Resolution has been referred by the governing body to a committee. The committee meets and debates, say 12 individual amendments to the legislation. If the committee agrees to recommend 10 of the 12 proposed changes, those changes may then be incorporated in a single *substitute amendment* that will be the recommendation from the committee. The governing body can consider all the changes at one time.

When Resolution 321 is back before the governing body, we still have the main motion to approve R.321 as introduced, and a motion to approve the Substitute Amendment to R.321.

Since the main characteristic of the motion for a substitute is that it is an *amendment*, once the substitute has been approved, it becomes the main motion before the body. That main motion is still subject to debate, referral, or even additional amendments so long as they are not repeating or attempting to change the amendments made by the substitute. In short, approving the substitute amendment makes it the main motion, but a further vote is needed for adoption.

Robert's Rules of Order has special recommendations on how the chair should handle a substitute amendment. See *RONR* 12:69 -12:90. Once a substitute has been offered and seconded, Robert's recommends that the chair first deal with any remaining or potential amendments to the underlying motion. This is designed for the body to clarify the underlying motion so the body knows exactly the choices between the main motion and the substitute. It also gives proponents of the main motion the opportunity to make it more acceptable to the body, avoiding

adoption of the substitute. Thus, there still may be changes in the main motion before the substitute is taken up.

Then the chair asks if there are any amendments to the substitute. This can be changes to the text proposed to be stricken, along with changes to the text to be added. Note that because the substitute is already an amendment, only one level of amendment may be offered to it under the rule against going beyond a secondary amendment (See *RONR* 12:11). Once all other amendments have been made, a vote is taken on whether to adopt the substitute. If that vote passes, then the substitute stands in the place of and becomes the main motion before the body.

Robert's also has limitations on types of amendment that are in order once a substitute has been approved, e.g., the substitute cannot be amended by attempting to take matters from what was once the main motion and putting them in the substitute if the effect is to reverse some or all of the adoption of the substitute. Any such attempt is really

a concealed motion for reconsideration and should be treated as such.

The chair and parliamentarians should take care to teach members of the body not to misuse the term substitute. As an example, I have seen members of a body make what they call a "substitute amendment to refer to the next meeting." Such a motion is not a substitute at all; it does not propose any changes to the text of the underlying motion. Mislabeling a motion as a substitute may confuse the body, and accidentally bring on the rules for considering a substitute when that is not at all what is desired.

Finally, although it is not a requirement of Robert's Rules of Order, it is often wise to prepare a written version of a substitute for distribution to the body. Because a substitute amendment is often quite complex, presenting a written amendment is often helpful.

Contact Mike at
mmay@boardmanclark.com

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For the Good of the Order: Column by Attorney Mike May, Boardman & Clark LLP on the use and misuse of substitute amendments. Discusses how to properly make a motion to adopt a substitute amendment and the order that such motions should follow in relation to the main motion.

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