

- SUBJECT:** Allowing city council members to be appointed to mayoral vacancy
- COMMITTEE:** Urban Affairs — favorable, without amendment
- VOTE:** 6 ayes — Bailey, Murphy, Menendez, Cohen, Latham, Mallory Caraway
0 nays
1 absent — Martinez Fischer
- SENATE VOTE:** On final passage, March 28— 30-0, on Local and Uncontested Calendar
- WITNESSES:** For — Lauren Crawford, Texas Municipal League
Against — None
- BACKGROUND:** The common law doctrine of “self-appointment incompatibility” generally prohibits public officers from appointing a member of their own governing body to another public office. In 2005, Atty. Gen. Greg Abbott issued opinion GA-0377, which invoked legal precedents to determine that the self-appointment aspect of the common-law incompatibility doctrine bars a sitting member of a body from being appointed to fill a vacancy on the body itself. The attorney general held that this common-law doctrine could be overridden by a statute that was within constitutional bounds and plainly expressed such an intent. The opinion has been interpreted as prohibiting a city council from appointing one of its own members to a vacancy in the office of the mayor.
- DIGEST:** SB 653 would amend Local Government Code sections relating to general-law and home-rule municipalities to explicitly authorize a person serving as a member of the governing body to be appointed to fill a vacancy in the office of the mayor. A member would not be allowed to vote on his or her own appointment to the vacant position. An appointment in a home-rule municipality would be subject to a municipal charter and other statutory provisions governing appointments.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2007.