

SUBJECT: Vacancies on a governing body in small municipalities

COMMITTEE: Urban Affairs — favorable, without amendment

VOTE: 5 ayes — Dutton, Alvarado, Elkins, Leach, J. Rodriguez
0 nays
2 absent — Anchia, Sanford

WITNESSES: For — None
Against — None

BACKGROUND: Local Government Code, ch. 22 governs the aldermanic form of government in a type-A general-law municipality. Sec. 22.041(b) states that an alderman’s office in a governing body is considered vacant if the alderman is absent for three consecutive meetings without obtaining a leave of absence for a reason other than sickness.

DIGEST: HB 2259 would amend Local Government Code, sec. 22.041 to state that, for the purpose of determining a vacancy due to consecutive absences, an alderman would be considered absent if he or she were not present at the adjournment of a meeting at which a quorum was established, unless the other members present unanimously voted to allow the alderman to withdraw.

This 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, 2013, and would apply only to a meeting held on or after that date.

SUPPORTERS SAY: HB 2259 would ensure that city aldermen of small municipalities fulfilled their duties and did not thwart the ability of their towns to deal with important issues. Currently, small municipalities have little recourse against an alderman’s absence other than bringing a lawsuit to remove the alderman or invoking the Local Government Code provision that removes a member from office following three consecutive, unexcused absences.

HB 2259 would close a loophole in the law that allows members to reach a quorum by appearing at a meeting and then immediately leaving, thereby not recording an absence. Such behavior in the Village of Vinton, as documented by a local news affiliate, has prevented the city council from dealing with serious issues. Litigation is an ineffective solution because it is costly and the legal process could last longer than a member's term.

Critics who fear that the bill would punish members with legitimate reasons to leave a city council meeting early should note that the bill would allow an alderman to be excused by unanimous vote of the other members.

**OPPONENTS
SAY:**

HB 2259 would create a blanket provision affecting all small municipalities to correct a problem that exists only in a few dysfunctional city councils. The bill could have punitive, unintended consequences for some members with valid reasons to leave a meeting.