

1 AN ACT concerning municipalities.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 5. The Illinois Municipal Code is amended by
5 changing Section 3.1-10-50 as follows:

6 (65 ILCS 5/3.1-10-50)

7 Sec. 3.1-10-50. Vacancies.

8 (a) A municipal officer may resign from office. A
9 vacancy occurs in an office by reason of resignation, failure
10 to elect or qualify (in which case the incumbent shall remain
11 in office until the vacancy is filled), death, permanent
12 physical or mental disability rendering the person incapable
13 of performing the duties of his or her office, conviction of
14 a disqualifying crime, abandonment of office, removal from
15 office, or removal of residence from the municipality or, in
16 the case of aldermen of a ward or trustees of a district,
17 removal of residence from the ward or district, as the case
18 may be. An admission of guilt of a criminal offense that
19 would, upon conviction, disqualify the municipal officer from
20 holding that office, in the form of a written agreement with
21 State or federal prosecutors to plead guilty to a felony,
22 bribery, perjury, or other infamous crime under State or
23 federal law, shall constitute a resignation from that office,
24 effective at the time the plea agreement is made. For
25 purposes of this Section, a conviction for an offense that
26 disqualifies the municipal officer from holding that office
27 shall occur on the date of the return of a guilty verdict or,
28 in the case of a trial by the court, the entry of a finding
29 of guilt.

30 (b) If a vacancy occurs in an elective municipal office
31 with a 4-year term and there remains an unexpired portion of

1 the term of at least 28 months, and the vacancy occurs at
2 least 130 days before the general municipal election next
3 scheduled under the general election law, the vacancy shall
4 be filled for the remainder of the term at that general
5 municipal election. Whenever an election is held for this
6 purpose, the municipal clerk shall certify the office to be
7 filled and the candidates for the office to the proper
8 election authorities as provided in the general election law.
9 If the vacancy is in the office of mayor, the city council
10 shall elect one of their members acting mayor; if the vacancy
11 is in the office of president, the vacancy shall be filled by
12 the appointment by the trustees of an acting president from
13 the members of the board of trustees. In villages with a
14 population of less than 5,000, if each of the members of the
15 board of trustees either declines the appointment as acting
16 president or is not approved for the appointment by a
17 majority vote of the trustees presently holding office, then
18 the board of trustees may appoint as acting president any
19 other village resident who is qualified to hold municipal
20 office. The acting mayor or acting president shall perform
21 the duties and possess all the rights and powers of the mayor
22 or president until a successor to fill the vacancy has been
23 elected and has qualified. If the vacancy is in any other
24 elective municipal office, then until the office is filled by
25 election, the mayor or president shall appoint a qualified
26 person to the office subject to the advice and consent of the
27 city council or trustees.

28 (c) In a 2 year term, or if the vacancy occurs later
29 than the time provided in subsection (b) in a 4 year term, a
30 vacancy in the office of mayor shall be filled by the
31 corporate authorities electing one of their members acting
32 mayor; if the vacancy is in the office of president, the
33 vacancy shall be filled by the appointment by the trustees of
34 an acting president from the members of the board of

1 trustees. In villages with a population of less than 5,000,
2 if each of the members of the board of trustees either
3 declines the appointment as acting president or is not
4 approved for the appointment by a majority vote of the
5 trustees presently holding office, then the board of trustees
6 may appoint as acting president any other village resident
7 who is qualified to hold municipal office. The acting mayor
8 or acting president shall perform the duties and possess all
9 the rights and powers of the mayor or president until a mayor
10 or president is elected at the next general municipal
11 election and has qualified. A vacancy in any elective office
12 other than mayor or president shall be filled by appointment
13 by the mayor or president, with the advice and consent of the
14 corporate authorities.

15 (d) Municipal officers appointed or elected under this
16 Section shall hold office until their successors are elected
17 and have qualified.

18 (e) An appointment to fill a vacancy in the office of
19 alderman shall be made within 60 days after the vacancy
20 occurs. The requirement that an appointment be made within
21 60 days is an exclusive power and function of the State and
22 is a denial and limitation under Article VII, Section 6,
23 subsection (h) of the Illinois Constitution of the power of a
24 home rule municipality to require that an appointment be made
25 within a different period after the vacancy occurs.

26 (f) If the council or board fails to give its advice and
27 consent to an appointment of a qualified person to the office
28 of alderman or trustee prior to the 60th day after a vacancy
29 occurs and if the mayor or president has nominated a minimum
30 of 2 persons for appointment and each has failed to be
31 confirmed, the mayor or president may make a temporary
32 appointment from those persons who were nominated but failed
33 to be confirmed by the council or board. That person shall
34 serve until an appointee has been nominated, confirmed, and

1 qualified or until a person has been elected and qualified.

2 (Source: P.A. 90-429, eff. 8-15-97; 90-707, eff. 8-7-98;

3 91-357, eff. 7-29-99.)