

AN ACT concerning local government.

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

Section 5. The Illinois Municipal Code is amended by changing Sections 3.1-10-5, 3.1-10-50, and 3.1-10-51 as follows:

(65 ILCS 5/3.1-10-5) (from Ch. 24, par. 3.1-10-5)

Sec. 3.1-10-5. Qualifications; elective office.

(a) A person is not eligible for an elective municipal office unless that person is a qualified elector of the municipality and has resided in the municipality at least one year next preceding the election or appointment, except as provided in Section 3.1-20-25, subsection (b) of Section 3.1-25-75, Section 5-2-2, or Section 5-2-11.

(b) A person is not eligible to take the oath of office for a municipal office if that person is, at the time required for taking the oath of office, in arrears in the payment of a tax or other indebtedness due to the municipality or has been convicted in any court located in the United States of any infamous crime, bribery, perjury, or other felony.

(b-5) (Blank). ~~A person is not eligible to hold a municipal office, if that person is, at any time during the term of office, in arrears in the payment of a tax or other~~

~~indebtedness due to the municipality or has been convicted in any court located in the United States of any infamous crime, bribery, perjury, or other felony.~~

(c) A person is not eligible for the office of alderman of a ward unless that person has resided in the ward that the person seeks to represent, and a person is not eligible for the office of trustee of a district unless that person has resided in the municipality, at least one year next preceding the election or appointment, except as provided in Section 3.1-20-25, subsection (b) of Section 3.1-25-75, Section 5-2-2, or Section 5-2-11.

(d) If a person (i) is a resident of a municipality immediately prior to the active duty military service of that person or that person's spouse, (ii) resides anywhere outside of the municipality during that active duty military service, and (iii) immediately upon completion of that active duty military service is again a resident of the municipality, then the time during which the person resides outside the municipality during the active duty military service is deemed to be time during which the person is a resident of the municipality for purposes of determining the residency requirement under subsection (a).

(Source: P.A. 97-1091, eff. 8-24-12; 98-115, eff. 7-29-13.)

(65 ILCS 5/3.1-10-50)

Sec. 3.1-10-50. Events upon which an elective office

becomes vacant in municipality with population under 500,000.

(a) Vacancy by resignation. A resignation is not effective unless it is in writing, signed by the person holding the elective office, and notarized.

(1) Unconditional resignation. An unconditional resignation by a person holding the elective office may specify a future date, not later than 60 days after the date the resignation is received by the officer authorized to fill the vacancy, at which time it becomes operative, but the resignation may not be withdrawn after it is received by the officer authorized to fill the vacancy. The effective date of a resignation that does not specify a future date at which it becomes operative is the date the resignation is received by the officer authorized to fill the vacancy. The effective date of a resignation that has a specified future effective date is that specified future date or the date the resignation is received by the officer authorized to fill the vacancy, whichever date occurs later.

(2) Conditional resignation. A resignation that does not become effective unless a specified event occurs can be withdrawn at any time prior to the occurrence of the specified event, but if not withdrawn, the effective date of the resignation is the date of the occurrence of the specified event or the date the resignation is received by the officer authorized to fill the vacancy, whichever date

occurs later.

(3) Vacancy upon the effective date. For the purpose of determining the time period that would require an election to fill the vacancy by resignation or the commencement of the 60-day time period referred to in subsection (e), the resignation of an elected officer is deemed to have created a vacancy as of the effective date of the resignation.

(4) Duty of the clerk. If a resignation is delivered to the clerk of the municipality, the clerk shall forward a certified copy of the written resignation to the official who is authorized to fill the vacancy within 7 business days after receipt of the resignation.

(b) Vacancy by death or disability. A vacancy occurs in an office by reason of the death of the incumbent. The date of the death may be established by the date shown on the death certificate. A vacancy occurs in an office by permanent physical or mental disability rendering the person incapable of performing the duties of the office. The corporate authorities have the authority to make the determination whether an officer is incapable of performing the duties of the office because of a permanent physical or mental disability. A finding of mental disability shall not be made prior to the appointment by a court of a guardian ad litem for the officer or until a duly licensed doctor certifies, in writing, that the officer is mentally impaired to the extent that the officer is unable to effectively perform the duties of the office. If the corporate

authorities find that an officer is incapable of performing the duties of the office due to permanent physical or mental disability, that person is removed from the office and the vacancy of the office occurs on the date of the determination.

(c) Vacancy by other causes.

(1) Abandonment and other causes. A vacancy occurs in an office by reason of abandonment of office; removal from office; or failure to qualify; or more than temporary removal of residence from the municipality; or in the case of an alderman of a ward or councilman or trustee of a district, more than temporary removal of residence from the ward or district, as the case may be. The corporate authorities have the authority to determine whether a vacancy under this subsection has occurred. If the corporate authorities determine that a vacancy exists, the office is deemed vacant as of the date of that determination for all purposes including the calculation under subsections (e), (f), and (g).

(2) Guilty of a criminal offense. An admission of guilt of a criminal offense that upon conviction would disqualify the municipal officer from holding the office, in the form of a written agreement with State or federal prosecutors to plead guilty to a felony, bribery, perjury, or other infamous crime under State or federal law, constitutes a resignation from that office, effective on the date the plea agreement is made. For purposes of this Section, a

conviction for an offense that disqualifies a municipal officer from holding that office occurs on the date of the return of a guilty verdict or, in the case of a trial by the court, on the entry of a finding of guilt.

(3) Election declared void. A vacancy occurs on the date of the decision of a competent tribunal declaring the election of the officer void.

(4) Owing a debt to the municipality. A vacancy occurs if a municipal official fails to pay a debt to a municipality in which the official has been elected or appointed to an elected position subject to the following:

(A) Before a vacancy may occur under this paragraph (4), the municipal clerk shall deliver, by personal service, a written notice to the municipal official that (i) the municipal official is in arrears of a debt to the municipality, (ii) that municipal official must either pay or contest the debt within 30 days after receipt of the notice or the municipal official will be disqualified and his or her office vacated, and (iii) if the municipal official chooses to contest the debt, the municipal official must provide written notice to the municipal clerk of the contesting of the debt. A copy of the notice, and the notice to contest, shall also be mailed by the municipal clerk to the appointed municipal attorney by certified mail. If the municipal clerk is the municipal official indebted to the

municipality, the mayor or president of the municipality shall assume the duties of the municipal clerk required under this paragraph (4).

(B) In the event that the municipal official chooses to contest the debt, a hearing shall be held within 30 days of the municipal clerk's receipt of the written notice of contest from the municipal official. An appointed municipal hearing officer shall preside over the hearing, and shall hear testimony and accept evidence relevant to the existence of the debt owed by the municipal officer to the municipality.

(C) Upon the conclusion of the hearing, the hearing officer shall make a determination on the basis of the evidence presented as to whether or not the municipal official is in arrears of a debt to the municipality. The determination shall be in writing and shall be designated as findings, decision, and order. The findings, decision, and order shall include: (i) the hearing officer's findings of fact; (ii) a decision of whether or not the municipal official is in arrears of a debt to the municipality based upon the findings of fact; and (iii) an order that either directs the municipal official to pay the debt within 30 days or be disqualified and his or her office vacated or dismisses the matter if a debt owed to the municipality is not proved. A copy of the hearing officer's written

determination shall be served upon the municipal official in open proceedings before the hearing officer. If the municipal official does not appear for receipt of the written determination, the written determination shall be deemed to have been served on the municipal official on the date when a copy of the written determination is personally served on the municipal official or on the date when a copy of the written determination is deposited in the United States mail, postage prepaid, addressed to the municipal official at the address on record with the municipality.

(D) A municipal official aggrieved by the determination of a hearing officer may secure judicial review of such determination in the circuit court of the county in which the hearing was held. The municipal official seeking judicial review must file a petition with the clerk of the court and must serve a copy of the petition upon the municipality by registered or certified mail within 5 days after service of the determination of the hearing officer. The petition shall contain a brief statement of the reasons why the determination of the hearing officer should be reversed. The municipal official shall file proof of service with the clerk of the court. No answer to the petition need be filed, but the municipality shall



cause the record of proceedings before the hearing officer to be filed with the clerk of the court on or before the date of the hearing on the petition or as ordered by the court. The court shall set the matter for hearing to be held within 30 days after the filing of the petition and shall make its decision promptly after such hearing.

(E) If a municipal official chooses to pay the debt, or is ordered to pay the debt after the hearing, the municipal official must present proof of payment to the municipal clerk that the debt was paid in full, and, if applicable, within the required time period as ordered by a hearing officer or circuit court judge.

(F) A municipal official will be disqualified and his or her office vacated pursuant to this paragraph (4) on the later of the following times if the municipal official: (i) fails to pay or contest the debt within 30 days of the municipal official's receipt of the notice of the debt; (ii) fails to pay the debt within 30 days after being served with a written determination under subparagraph (C) ordering the municipal official to pay the debt; or (iii) fails to pay the debt within 30 days after being served with a decision pursuant to subparagraph (D) upholding a hearing officer's determination that the municipal officer has failed to pay a debt owed to a

municipality.

(G) For purposes of this paragraph, a "debt" shall mean an arrearage in a definitely ascertainable and quantifiable amount after service of written notice thereof, in the payment of any indebtedness due to the municipality, which has been adjudicated before a tribunal with jurisdiction over the matter. A municipal official is considered in arrears of a debt to a municipality if a debt is more than 30 days overdue from the date the debt was due.

(d) Election of an acting mayor or acting president. The election of an acting mayor or acting president pursuant to subsection (f) or (g) does not create a vacancy in the original office of the person on the city council or as a trustee, as the case may be, unless the person resigns from the original office following election as acting mayor or acting president. If the person resigns from the original office following election as acting mayor or acting president, then the original office must be filled pursuant to the terms of this Section and the acting mayor or acting president shall exercise the powers of the mayor or president and shall vote and have veto power in the manner provided by law for a mayor or president. If the person does not resign from the original office following election as acting mayor or acting president, then the acting mayor or acting president shall exercise the powers of the mayor or president but shall be entitled to vote only in the

manner provided for as the holder of the original office and shall not have the power to veto. If the person does not resign from the original office following election as acting mayor or acting president, and if that person's original term of office has not expired when a mayor or president is elected and has qualified for office, the acting mayor or acting-president shall return to the original office for the remainder of the term thereof.

(e) Appointment to fill alderman or trustee vacancy. An appointment by the mayor or president or acting mayor or acting president, as the case may be, of a qualified person as described in Section 3.1-10-5 of this Code to fill a vacancy in the office of alderman or trustee must be made within 60 days after the vacancy occurs. Once the appointment of the qualified person has been forwarded to the corporate authorities, the corporate authorities shall act upon the appointment within 30 days. If the appointment fails to receive the advice and consent of the corporate authorities within 30 days, the mayor or president or acting mayor or acting president shall appoint and forward to the corporate authorities a second qualified person as described in Section 3.1-10-5. Once the appointment of the second qualified person has been forwarded to the corporate authorities, the corporate authorities shall act upon the appointment within 30 days. If the appointment of the second qualified person also fails to receive the advice and consent of the corporate authorities, then the mayor or

president or acting mayor or acting president, without the advice and consent of the corporate authorities, may make a temporary appointment from those persons who were appointed but whose appointments failed to receive the advice and consent of the corporate authorities. The person receiving the temporary appointment shall serve until an appointment has received the advice and consent and the appointee has qualified or until a person has been elected and has qualified, whichever first occurs.

(f) Election to fill vacancies in municipal offices with 4-year terms. If a vacancy occurs in an elective municipal office with a 4-year term and there remains an unexpired portion of the term of at least 28 months, and the vacancy occurs at least 130 days before the general municipal election next scheduled under the general election law, then the vacancy shall be filled for the remainder of the term at that general municipal election. Whenever an election is held for this purpose, the municipal clerk shall certify the office to be filled and the candidates for the office to the proper election authorities as provided in the general election law. If a vacancy occurs with less than 28 months remaining in the unexpired portion of the term or less than 130 days before the general municipal election, then:

(1) Mayor or president. If the vacancy is in the office of mayor or president, the vacancy must be filled by the corporate authorities electing one of their members as

acting mayor or acting president. Except as set forth in subsection (d), the acting mayor or acting president shall perform the duties and possess all the rights and powers of the mayor or president until a mayor or president is elected at the next general municipal election and has qualified. However, in villages with a population of less than 5,000, if each of the trustees either declines the election as acting president or is not elected by a majority vote of the trustees presently holding office, then the trustees may elect, as acting president, any other village resident who is qualified to hold municipal office, and the acting president shall exercise the powers of the president and shall vote and have veto power in the manner provided by law for a president.

(2) Alderman or trustee. If the vacancy is in the office of alderman or trustee, the vacancy must be filled by the mayor or president or acting mayor or acting president, as the case may be, in accordance with subsection (e).

(3) Other elective office. If the vacancy is in any elective municipal office other than mayor or president or alderman or trustee, the mayor or president or acting mayor or acting president, as the case may be, must appoint a qualified person to hold the office until the office is filled by election, subject to the advice and consent of the city council or the board of trustees, as the case may

be.

(g) Vacancies in municipal offices with 2-year terms. In the case of an elective municipal office with a 2-year term, if the vacancy occurs at least 130 days before the general municipal election next scheduled under the general election law, the vacancy shall be filled for the remainder of the term at that general municipal election. If the vacancy occurs less than 130 days before the general municipal election, then:

(1) Mayor or president. If the vacancy is in the office of mayor or president, the vacancy must be filled by the corporate authorities electing one of their members as acting mayor or acting president. Except as set forth in subsection (d), the acting mayor or acting president shall perform the duties and possess all the rights and powers of the mayor or president until a mayor or president is elected at the next general municipal election and has qualified. However, in villages with a population of less than 5,000, if each of the trustees either declines the election as acting president or is not elected by a majority vote of the trustees presently holding office, then the trustees may elect, as acting president, any other village resident who is qualified to hold municipal office, and the acting president shall exercise the powers of the president and shall vote and have veto power in the manner provided by law for a president.

(2) Alderman or trustee. If the vacancy is in the

office of alderman or trustee, the vacancy must be filled by the mayor or president or acting mayor or acting president, as the case may be, in accordance with subsection (e).

(3) Other elective office. If the vacancy is in any elective municipal office other than mayor or president or alderman or trustee, the mayor or president or acting mayor or acting president, as the case may be, must appoint a qualified person to hold the office until the office is filled by election, subject to the advice and consent of the city council or the board of trustees, as the case may be.

(h) In cases of vacancies arising by reason of an election being declared void pursuant to paragraph (3) of subsection (c), persons holding elective office prior thereto shall hold office until their successors are elected and qualified or appointed and confirmed by advice and consent, as the case may be.

(i) This Section applies only to municipalities with populations under 500,000.

(Source: P.A. 94-645, eff. 8-22-05; 95-646, eff. 1-1-08.)

(65 ILCS 5/3.1-10-51)

Sec. 3.1-10-51. Vacancies in municipalities with a population of 500,000 or more.

(a) Events upon which an elective office in a municipality

of 500,000 or more shall become vacant:

(1) A municipal officer may resign from office. A vacancy occurs in an office by reason of resignation, failure to elect or qualify (in which case the incumbent shall remain in office until the vacancy is filled), death, permanent physical or mental disability rendering the person incapable of performing the duties of his or her office, conviction of a disqualifying crime, abandonment of office, removal from office, or removal of residence from the municipality or, in the case of an alderman of a ward, removal of residence from the ward.

(2) An admission of guilt of a criminal offense that would, upon conviction, disqualify the municipal officer from holding that office, in the form of a written agreement with State or federal prosecutors to plead guilty to a felony, bribery, perjury, or other infamous crime under State or federal law, shall constitute a resignation from that office, effective at the time the plea agreement is made. For purposes of this Section, a conviction for an offense that disqualifies the municipal officer from holding that office occurs on the date of the return of a guilty verdict or, in the case of a trial by the court, the entry of a finding of guilt.

(3) Owing a debt to the municipality. A vacancy occurs if a municipal official fails to pay a debt to a municipality in which the official has been elected or



appointed to an elected position subject to the following:

(A) Before a vacancy may occur under this paragraph (3), the municipal clerk shall deliver, by personal service, a written notice to the municipal official that (i) the municipal official is in arrears of a debt to the municipality, (ii) that municipal official must either pay or contest the debt within 30 days after receipt of the notice or the municipal official will be disqualified and his or her office vacated, and (iii) if the municipal official chooses to contest the debt, the municipal official must provide written notice to the municipal clerk of the contesting of the debt. A copy of the notice, and the notice to contest, shall also be mailed by the municipal clerk to the appointed municipal attorney by certified mail. If the municipal clerk is the municipal official indebted to the municipality, the mayor or president of the municipality shall assume the duties of the municipal clerk required under this paragraph (3).

(B) In the event that the municipal official chooses to contest the debt, a hearing shall be held within 30 days of the municipal clerk's receipt of the written notice of contest from the municipal official. An appointed municipal hearing officer shall preside over the hearing, and shall hear testimony and accept evidence relevant to the existence of the debt owed by

the municipal officer to the municipality.

(C) Upon the conclusion of the hearing, the hearing officer shall make a determination on the basis of the evidence presented as to whether or not the municipal official is in arrears of a debt to the municipality. The determination shall be in writing and shall be designated as findings, decision, and order. The findings, decision, and order shall include: (i) the hearing officer's findings of fact; (ii) a decision of whether or not the municipal official is in arrears of a debt to the municipality based upon the findings of fact; and (iii) an order that either directs the municipal official to pay the debt within 30 days or be disqualified and his or her office vacated or dismisses the matter if a debt owed to the municipality is not proved. A copy of the hearing officer's written determination shall be served upon the municipal official in open proceedings before the hearing officer. If the municipal official does not appear for receipt of the written determination, the written determination shall be deemed to have been served on the municipal official on the date when a copy of the written determination is personally served on the municipal official or on the date when a copy of the written determination is deposited in the United States mail, postage prepaid, addressed to the

municipal official at the address on record in the files of the municipality.

(D) A municipal official aggrieved by the determination of a hearing officer may secure judicial review of such determination in the circuit court of the county in which the hearing was held. The municipal official seeking judicial review must file a petition with the clerk of the court and must serve a copy of the petition upon the municipality by registered or certified mail within 5 days after service of the determination of the hearing officer. The petition shall contain a brief statement of the reasons why the determination of the hearing officer should be reversed. The municipal official shall file proof of service with the clerk of the court. No answer to the petition need be filed, but the municipality shall cause the record of proceedings before the hearing officer to be filed with the clerk of the court on or before the date of the hearing on the petition or as ordered by the court. The court shall set the matter for hearing to be held within 30 days after the filing of the petition and shall make its decision promptly after such hearing.

(E) If a municipal official chooses to pay the debt, or is ordered to pay the debt after the hearing, the municipal official must present proof of payment to

the municipal clerk that the debt was paid in full, and, if applicable, within the required time period as ordered by a hearing officer.

(F) A municipal official will be disqualified and his or her office vacated pursuant to this paragraph (3) on the later of the following times the municipal official: (i) fails to pay or contest the debt within 30 days of the municipal official's receipt of the notice of the debt; (ii) fails to pay the debt within 30 days after being served with a written determination under subparagraph (C) ordering the municipal official to pay the debt; or (iii) fails to pay the debt within 30 days after being served with a decision pursuant to subparagraph (D) upholding a hearing officer's determination that the municipal officer has failed to pay a debt owed to a municipality.

(G) For purposes of this paragraph, a "debt" shall mean an arrearage in a definitely ascertainable and quantifiable amount after service of written notice thereof, in the payment of any indebtedness due to the municipality, which has been adjudicated before a tribunal with jurisdiction over the matter. A municipal official is considered in arrears of a debt to a municipality if a debt is more than 30 days overdue from the date the debt was due.

(b) If a vacancy occurs in an elective municipal office

with a 4-year term and there remains an unexpired portion of the term of at least 28 months, and the vacancy occurs at least 130 days before the general municipal election next scheduled under the general election law, then the vacancy shall be filled for the remainder of the term at that general municipal election. Whenever an election is held for this purpose, the municipal clerk shall certify the office to be filled and the candidates for the office to the proper election authorities as provided in the general election law. If the vacancy is in the office of mayor, the city council shall elect one of their members acting mayor. The acting mayor shall perform the duties and possess all the rights and powers of the mayor until a successor to fill the vacancy has been elected and has qualified. If the vacancy is in any other elective municipal office, then until the office is filled by election, the mayor shall appoint a qualified person to the office subject to the advice and consent of the city council.

(c) If a vacancy occurs later than the time provided in subsection (b) in a 4-year term, a vacancy in the office of mayor shall be filled by the corporate authorities electing one of their members acting mayor. The acting mayor shall perform the duties and possess all the rights and powers of the mayor until a mayor is elected at the next general municipal election and has qualified. A vacancy occurring later than the time provided in subsection (b) in a 4-year term in any elective office other than mayor shall be filled by appointment by the

mayor, with the advice and consent of the corporate authorities.

(d) A municipal officer appointed or elected under this Section shall hold office until the officer's successor is elected and has qualified.

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

(f) This Section applies only to municipalities with a population of 500,000 or more.

(Source: P.A. 95-646, eff. 1-1-08.)

Section 99. Effective date. This Act takes effect upon becoming law.