

1 AN ACT in relation to municipalities.

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

4 Section 5. The Election Code is amended by changing
5 Section 25-2 as follows:

6 (10 ILCS 5/25-2) (from Ch. 46, par. 25-2)

7 Sec. 25-2. Events on which an elective office becomes
8 vacant. Every elective office shall become vacant on the
9 happening of any of the following events before the
10 expiration of the term of such office:

11 (1) The death of the incumbent.

12 (2) His or her resignation.

13 (3) His or her becoming a person under legal
14 disability.

15 (4) His or her ceasing to be an inhabitant of the
16 State; or if the office is local, his or her ceasing to
17 be an inhabitant of the district, county, town, or
18 precinct for which he or she was elected; provided, that
19 the provisions of this paragraph shall not apply to
20 township officers whose township boundaries are changed
21 in accordance with Section 10-20 of the Township Code,
22 nor to township or multi-township assessors elected under
23 Sections 2-5 through 2-15 of the Property Tax Code.

24 (5) His or her conviction of an infamous crime, or
25 of any offense involving a violation of official oath.

26 (6) His or her removal from office.

27 (7) His or her refusal or neglect to take his or
28 her oath of office, or to give or renew his or her
29 official bond, or to deposit or file such oath or bond
30 within the time prescribed by law.

31 (8) The decision of a competent tribunal declaring

1 his or her election void.

2 No elective office, except as herein otherwise provided,
3 shall become vacant until the successor of the incumbent of
4 such office has been appointed or elected, as the case may
5 be, and qualified.

6 An unconditional resignation, effective at a future date,
7 may not be withdrawn after it is received by the officer
8 authorized to fill the vacancy. Such resignation shall
9 create a vacancy in office for the purpose of determining the
10 time period which would require an election. The resigning
11 office holder may continue to hold such office until the date
12 or event specified in such resignation, but no later than the
13 date at which his or her successor is elected and qualified.

14 An admission of guilt of a criminal offense that would,
15 upon conviction, disqualify the holder of an elective office
16 from holding that office, in the form of a written agreement
17 with State or federal prosecutors to plead guilty to a
18 felony, bribery, perjury, or other infamous crime under State
19 or federal law, shall constitute a resignation from that
20 office, effective at the time the plea agreement is made.

21 For purposes of this Section, a conviction for an offense
22 that disqualifies the holder of an elective office from
23 holding that office shall occur on the date of the return of
24 a guilty verdict or, in the case of a trial by the court, the
25 entry of a finding of guilt.

26 This Section does not apply to any elected or appointed
27 officers or officials of municipalities.

28 (Source: P.A. 90-707, eff. 8-7-98.)

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

31 (65 ILCS 5/3.1-10-5) (from Ch. 24, par. 3.1-10-5)

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

1 (a) A person is not eligible for an elective municipal
2 office unless that person is a qualified elector of the
3 municipality and has resided in the municipality at least one
4 year next preceding the election.

5 (b) A person is not eligible for an elective municipal
6 office if that person is in arrears in the payment of a tax
7 or other indebtedness due to the municipality or has been
8 convicted in any court located in the United States of any
9 infamous crime, bribery, perjury, or other felony.

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

15 (Source: P.A. 91-667, eff. 6-1-00.)

16 (65 ILCS 5/3.1-10-50)

17 Sec. 3.1-10-50. Vacancies.

18 (a) Vacancy by resignation.

19 (1) An unconditional resignation by either an
20 elected official or appointed officer can specify a
21 future date, no longer than 60 days, at which time it
22 becomes operative, but the resignation may not be
23 withdrawn after it is received by the officer authorized
24 to fill the vacancy. The effective date of a resignation
25 that does not specify a future date at which it becomes
26 operative is the date the resignation is received by the
27 officer authorized to fill the vacancy. The effective
28 date of a resignation that has a specified future
29 effective date is that specified future date.

30 (2) A resignation that does not become effective
31 unless a specified event occurs can be withdrawn at any
32 time prior to the occurrence of the specified event, but
33 if not withdrawn, the effective date of the resignation

1 is the happening of the specified event.

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

8 (4) If a written resignation is delivered to the
9 clerk of the municipality, the clerk shall forward a true
10 copy of the written resignation to the official who is
11 authorized to fill the vacancy.

12 (b) Vacancy by death or disability. A vacancy occurs in
13 an office by reason of death. The date of the death may be
14 established by the date shown on the death certificate or
15 other evidence. A vacancy occurs in an office by permanent
16 physical or mental disability rendering the person incapable
17 of performing the duties of his or her office. The corporate
18 authorities have the authority to make the determination
19 whether an official or officer is incapable of performing the
20 duties of his or her office because of a permanent physical
21 or mental disability. A finding of mental disability shall
22 not be made prior to the appointment by a court of a guardian
23 ad litem for the official or officer or until a duly licensed
24 doctor certifies, in writing, that the official or officer is
25 mentally impaired to the extent that the official or officer
26 is unable to effectively perform the duties of the office. If
27 the corporate authorities find an official or officer is
28 incapable of performing the duties of his or her office due
29 to permanent physical or mental disability, that person is
30 disqualified from that office and the vacancy of that office
31 occurs on the date of that determination.

32 (c) Vacancy by other causes.

33 (1) Abandonment of office. A vacancy occurs in an
34 office by reason of abandonment of office, removal from

1 office, or failure to qualify, or more than temporary
2 removal of residence from the municipality, or, in the
3 case of an alderman of a ward or councilman or trustee of
4 a district, more than temporary removal of residence from
5 the ward or district, as the case may be. The corporate
6 authorities have the authority to determine whether a
7 vacancy under this subsection has occurred. If the
8 corporate authorities determine that a vacancy exists,
9 the office is deemed vacant as of the date of that
10 determination for the purposes of calculation under
11 subsections (e), (f), and (g).

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

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

28 (d) Election of an acting mayor or president. The
29 election of an acting mayor or acting president pursuant to
30 subsection (f) or (g) does not create a vacancy on the city
31 council or board of trustees, as the case may be, unless the
32 acting mayor or president resigns the position of trustee or
33 member of the city council. If the acting mayor or president
34 does resign his or her office as trustee or member of the

1 council, then that office must be filled pursuant to the
2 terms of this Section. In that case, the acting mayor or
3 president shall exercise the powers of the mayor or president
4 and shall vote and veto in the manner provided by law for a
5 mayor or president. If the acting mayor or president does not
6 resign the position of trustee or member of the council, then
7 he or she shall exercise the powers of the mayor or president
8 but shall be entitled to vote only as a trustee or member of
9 the council, and shall not have the power to veto. If the
10 acting mayor or president does not resign his or her office
11 as trustee or member of the council, and if that person's
12 term of office has not expired when a new mayor or president
13 assumes that office, the acting mayor or president shall
14 return to the position as trustee or councilman to complete
15 the term of office.

16 (e) Alderman vacancy. An appointment to fill a vacancy
17 in the office of alderman must be made within 60 days after
18 the vacancy occurs. If the council or board fails to give its
19 advice and consent to an appointment of a qualified person to
20 an elected office other than the office of mayor or president
21 prior to the 60th day after a vacancy occurs and, if the
22 mayor or president has nominated a minimum of 2 persons for
23 appointment and each person has failed to be confirmed, the
24 mayor or president may make a temporary appointment from
25 those persons who were nominated but failed to be confirmed
26 by the council or board. The appointed person shall serve
27 until an appointee has been nominated, confirmed, and
28 qualified or until a person has been elected and qualified.

29 (f) Vacancies in municipal offices with 4-year terms. If
30 a vacancy occurs in an elective municipal office with a
31 4-year term, there remains an unexpired portion of the term
32 of at least 28 months, and the vacancy occurs at least 130
33 days before the general municipal election next scheduled
34 under the general election law, the vacancy shall be filled

1 for the remainder of the term at that general municipal
2 election. Whenever an election is held for this purpose, the
3 municipal clerk shall certify the office to be filled and the
4 candidates for the office to the proper election authorities
5 as provided in the general election law. If the vacancy is in
6 the office of mayor, the city council shall elect one of
7 their members acting mayor; if the vacancy is in the office
8 of president, the vacancy shall be filled by the appointment
9 by the trustees of an acting president from the members of
10 the board of trustees. In villages with a population of less
11 than 5,000, if each of the members of the board of trustees
12 either declines the appointment as acting president or is not
13 approved for the appointment by a majority vote of the
14 trustees presently holding office, then the board of trustees
15 may appoint, as acting president, any other village resident
16 who is qualified to hold municipal office. If the vacancy is
17 in any other elective municipal office, then, until the
18 office is filled by election, the mayor or president must
19 appoint a qualified person to the office subject to the
20 advice and consent of the city council or trustees.

21 (g) Vacancies in municipal offices with 2-year terms;
22 vacancies in 4-year term offices occurring less than 130 days
23 before the next scheduled municipal election. In a 2-year
24 term or, if the vacancy occurs later than the time provided
25 in subsection (f) in a 4-year term, a vacancy in the office
26 of mayor must be filled by the corporate authorities electing
27 one of their members as acting mayor. If the vacancy is in
28 the office of president, the vacancy shall be filled by the
29 appointment by the trustees of an acting president from the
30 members of the board of trustees. In villages with a
31 population of less than 5,000, if each of the members of the
32 board of trustees either declines the appointment as acting
33 president or is not approved for the appointment by a
34 majority vote of the trustees presently holding office, then

1 the board of trustees may appoint as acting president any
 2 other village resident who is qualified to hold municipal
 3 office. The acting mayor or acting president shall perform
 4 the duties and possess all the rights and powers of the mayor
 5 or president until a mayor or president is elected at the
 6 next general municipal election and has qualified. A vacancy
 7 in any elective office other than mayor or president must be
 8 filled by appointment by the mayor or president, with advice
 9 and consent of the corporate authorities.

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

32 (b) ~~If a vacancy occurs in an elective municipal office~~
 33 ~~with a 4-year term and there remains an unexpired portion of~~
 34 ~~the term of at least 28 months, and the vacancy occurs at~~

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

27 (c) In a 2-year term, or if the vacancy occurs later
28 than the time provided in subsection (b) in a 4-year term, a
29 vacancy in the office of mayor shall be filled by the
30 corporate authorities electing one of their members acting
31 mayor; if the vacancy is in the office of president, the
32 vacancy shall be filled by the appointment by the trustees of
33 an acting president from the members of the board of
34 trustees. In villages with a population of less than 5,000,

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

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

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

25 (Source: P.A. 90-429, eff. 8-15-97; 90-707, eff. 8-7-98;
26 91-357, eff. 7-29-99.)

27 Section 99. Effective date. This Act takes effect on
28 January 1, 2004.