



## 93RD GENERAL ASSEMBLY

### State of Illinois

#### 2003 and 2004

Introduced 02/04/04, by Kevin Joyce, James D. Brosnahan

#### SYNOPSIS AS INTRODUCED:

65 ILCS 5/3.1-10-50

65 ILCS 5/3.1-50-5

from Ch. 24, par. 3.1-50-5

Amends the Illinois Municipal Code. Provides that, upon a vacancy in the office of village president, the village trustees shall appoint an acting village president from the members of the board of trustees or from among the elected village officers (now, from the members of the board of trustees). Provides that, in a village with a population of less than 5,000, if each member of the board of trustees and each elected village officer (now, each member of the board of trustees) declines or is not approved for appointment, the board of trustees may appoint any other village resident as acting village president. Provides that an acting village president shall receive the salary or other compensation that is fixed by ordinance for the elected village president whose vacancy the acting president was appointed to fill. Effective immediately.

LRB093 19001 MKM 44736 b

FISCAL NOTE ACT  
MAY APPLY

1 AN ACT concerning villages.

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 Sections 3.1-10-50 and 3.1-50-5 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 vacancy  
9 occurs in an office by reason of resignation, failure to elect  
10 or qualify (in which case the incumbent shall remain in office  
11 until the vacancy is filled), death, permanent physical or  
12 mental disability rendering the person incapable of performing  
13 the duties of his or her office, conviction of a disqualifying  
14 crime, abandonment of office, removal from office, or removal  
15 of residence from the municipality or, in the case of aldermen  
16 of a ward or trustees of a district, removal of residence from  
17 the ward or district, as the case may be. An admission of guilt  
18 of a criminal offense that would, upon conviction, disqualify  
19 the municipal officer from holding that office, in the form of  
20 a written agreement with State or federal prosecutors to plead  
21 guilty to a felony, bribery, perjury, or other infamous crime  
22 under State or federal law, shall constitute a resignation from  
23 that office, effective at the time the plea agreement is made.  
24 For purposes of this Section, a conviction for an offense that  
25 disqualifies the municipal officer from holding that office  
26 shall occur on the date of the return of a guilty verdict or,  
27 in the case of a trial by the court, the entry of a finding of  
28 guilt.

29 (b) If a vacancy occurs in an elective municipal office  
30 with a 4-year term and there remains an unexpired portion of  
31 the term of at least 28 months, and the vacancy occurs at least  
32 130 days before the general municipal election next scheduled

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

26 (c) In a 2 year term, or if the vacancy occurs later than  
27 the time provided in subsection (b) in a 4 year term, a vacancy  
28 in the office of mayor shall be filled by the corporate  
29 authorities electing one of their members acting mayor; if the  
30 vacancy is in the office of president, the vacancy shall be  
31 filled by the appointment by the trustees of an acting  
32 president from the members of the board of trustees. In  
33 villages with a population of less than 5,000, if each of the  
34 members of the board of trustees either declines the  
35 appointment as acting president or is not approved for the  
36 appointment by a majority vote of the trustees presently

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

10 (d) Municipal officers appointed or elected under this  
11 Section shall hold office until their successors are elected  
12 and have qualified.

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

21 (Source: P.A. 90-429, eff. 8-15-97; 90-707, eff. 8-7-98;  
22 91-357, eff. 7-29-99.)

23 (65 ILCS 5/3.1-50-5) (from Ch. 24, par. 3.1-50-5)

24 Sec. 3.1-50-5. Establishment.

25 (a) All municipal officers, except as otherwise provided,  
26 shall receive the salary or other compensation that is fixed by  
27 ordinance. Salaries or other compensation shall not be  
28 increased or diminished so as to take effect during the term of  
29 any officer holding an elective office. The salaries, fees, or  
30 other compensation of any appointed municipal officer, not  
31 including those appointed to fill vacancies in elective  
32 offices, may be increased but not diminished so as to take  
33 effect during the term for which the officer was appointed.

34 (b) Notwithstanding any other provision of law to the  
35 contrary, an acting village president shall receive the salary

1 or other compensation that is fixed by ordinance for the  
2 elected village president whose vacancy the acting president  
3 was appointed to fill.

4 (Source: P.A. 87-1119.)

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