



Sen. John J. Cullerton

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09700HB2972sam003

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1 AMENDMENT TO HOUSE BILL 2972

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 2972 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Governmental Ethics Act is amended  
5 by adding Section 3A-40 as follows:

6 (5 ILCS 420/3A-40 new)

7 Sec. 3A-40. Appointees with expired terms; temporary and  
8 acting appointees.

9 (a) A person who is nominated by the Governor on or after  
10 the effective date of this amendatory Act of the 97th General  
11 Assembly for any affected office to which appointment requires  
12 the advice and consent of the Senate, who is appointed pursuant  
13 to that advice and consent, and whose term of office expires  
14 shall not continue in office longer than 60 calendar days after  
15 the expiration of that term of office. After that 60th day,  
16 each such office is considered vacant and shall be filled only

1 pursuant to the law applicable to making appointments to that  
2 office, subject to the provisions of this Section.

3 A person who has been nominated by the Governor before the  
4 effective date of this amendatory Act of the 97th General  
5 Assembly for any affected office to which appointment requires  
6 the advice and consent of the Senate, who has been appointed  
7 pursuant to that advice and consent, and whose term of office  
8 has expired before that effective date shall not continue in  
9 office longer than 60 calendar days after that effective date.  
10 After that 60 days, each such office is considered vacant and  
11 shall be filled only pursuant to the law applicable to making  
12 appointments to that office, subject to the provisions of this  
13 Section. For the purposes of this subsection (a), "affected  
14 office" means (i) an office in which one receives any form of  
15 compensation, including salary or per diem, but not including  
16 expense reimbursement, or (ii) membership on the board of  
17 trustees of a public university.

18 (b) A person who is appointed by the Governor on or after  
19 the effective date of this amendatory Act of the 97th General  
20 Assembly to serve as a temporary appointee, pursuant to Article  
21 V, Section 9(b) of the Illinois Constitution or any other  
22 applicable statute, to any office to which appointment requires  
23 the advice and consent of the Senate shall not continue in  
24 office after the next meeting of the Senate unless the Governor  
25 has filed a message with the Secretary of the Senate nominating  
26 that person to fill that office on or before that meeting date.

1 After that meeting date, each such office is considered vacant  
2 and shall be filled only pursuant to the law applicable to  
3 making appointments to that office, subject to the provisions  
4 of this Section.

5 A person who has been appointed by the Governor before the  
6 effective date of this amendatory Act of the 97th General  
7 Assembly to serve as a temporary appointee, pursuant to Article  
8 V, Section 9(b) of the Illinois Constitution or any other  
9 applicable statute, to any office to which appointment requires  
10 the advice and consent of the Senate shall not continue in  
11 office after that effective date or the next meeting of the  
12 Senate after that effective date, as applicable, unless the  
13 Governor has filed a message with the Secretary of the Senate  
14 nominating that person to fill that office on or before the  
15 next meeting of the Senate after that temporary appointment was  
16 made. After that effective date or meeting date, as applicable,  
17 each such office is considered vacant and shall be filled only  
18 pursuant to the law applicable to making appointments to that  
19 office, subject to the provisions of this Section.

20 For the purposes of this subsection (b), a meeting of the  
21 Senate does not include a perfunctory session day as designated  
22 by the Senate under its rules.

23 (c) A person who is designated by the Governor on or after  
24 the effective date of this amendatory Act of the 97th General  
25 Assembly to serve as an acting appointee to any office to which  
26 appointment requires the advice and consent of the Senate shall

1 not continue in office more than 60 calendar days unless the  
2 Governor files a message with the Secretary of the Senate  
3 nominating that person to fill that office within that 60 days.  
4 After that 60 days, each such office is considered vacant and  
5 shall be filled only pursuant to the law applicable to making  
6 appointments to that office, subject to the provisions of this  
7 Section. No person who has been designated by the Governor to  
8 serve as an acting appointee to any office to which appointment  
9 requires the advice and consent of the Senate shall, except at  
10 the Senate's request, be designated again as an acting  
11 appointee for that office at the same session of that Senate,  
12 subject to the provisions of this Section.

13 A person who has been designated by the Governor before the  
14 effective date of this amendatory Act of the 97th General  
15 Assembly to serve as an acting appointee to any office to which  
16 appointment requires the advice and consent of the Senate shall  
17 not continue in office longer than 60 calendar days after that  
18 effective date unless the Governor has filed a message with the  
19 Secretary of the Senate nominating that person to fill that  
20 office on or before that 60 days. After that 60 days, each such  
21 office is considered vacant and shall be filled only pursuant  
22 to the law applicable to making appointments to that office,  
23 subject to the provisions of this Section. No person who has  
24 been designated by the Governor to serve as an acting appointee  
25 to any office to which appointment requires the advice and  
26 consent of the Senate shall, except at the Senate's request, be

1 designated again as an acting appointee for that office at the  
2 same session of that Senate, subject to the provisions of this  
3 Section.

4 During the term of a General Assembly, the Governor may not  
5 designate a person to serve as an acting appointee to any  
6 office to which appointment requires the advice and consent of  
7 the Senate if that person's nomination to serve as the  
8 appointee for the same office was rejected by the Senate of the  
9 same General Assembly.

10 For the purposes of this subsection (c), "acting appointee"  
11 means a person designated by the Governor to serve as an acting  
12 director or acting secretary pursuant to Section 5-605 of the  
13 Civil Administrative Code of Illinois. "Acting appointee" also  
14 means a person designated by the Governor pursuant to any other  
15 statute to serve as an acting holder of any office, to execute  
16 the duties and functions of any office, or both.

17 (d) The provisions of this Section apply notwithstanding  
18 any law to the contrary. However, the provisions of this  
19 Section do not apply to appointments made under Article 1A of  
20 the Election Code or to the appointment of any person to serve  
21 as Director of the Illinois Power Agency.

22 Section 10. The Civil Administrative Code of Illinois is  
23 amended by changing Section 5-605 as follows:

24 (20 ILCS 5/5-605) (was 20 ILCS 5/12)

1           Sec. 5-605. Appointment of officers. Each officer whose  
2 office is created by the Civil Administrative Code of Illinois  
3 or by any amendment to the Code shall be appointed by the  
4 Governor, by and with the advice and consent of the Senate. In  
5 case of vacancies in those offices during the recess of the  
6 Senate, the Governor shall make a temporary appointment until  
7 the next meeting of the Senate, when the Governor shall  
8 nominate some person to fill the office, and any person so  
9 nominated who is confirmed by the Senate shall hold office  
10 during the remainder of the term and until his or her successor  
11 is appointed and qualified. If the Senate is not in session at  
12 the time the Code or any amendments to the Code take effect,  
13 the Governor shall make a temporary appointment as in the case  
14 of a vacancy.

15           During the absence or inability to act of the director of  
16 any department, or of the Secretary of Human Services or the  
17 Secretary of Transportation, or in case of a vacancy in any  
18 such office until a successor is appointed and qualified, the  
19 Governor may designate some person as acting director or acting  
20 secretary to execute the powers and discharge the duties vested  
21 by law in that director or secretary.

22           During the term of a General Assembly, the Governor may not  
23 designate a person to serve as an acting director or secretary  
24 under this Section if that person's nomination to serve as the  
25 director or secretary of that same Department was rejected by  
26 the Senate of the same General Assembly. This Section is

1 subject to the provisions of subsection (c) of Section 3A-40 of  
2 the Illinois Governmental Ethics Act.

3 (Source: P.A. 91-239, eff. 1-1-00.)

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