

1 AN ACT concerning local government.

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 3.1-10-51, and by adding
6 Section 8-1-2.10 as follows:

7 (65 ILCS 5/3.1-10-50)

8 Sec. 3.1-10-50. Events upon which an elective office
9 becomes vacant in municipality with population under 500,000.

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

13 (1) Unconditional resignation. An unconditional
14 resignation by a person holding the elective office may
15 specify a future date, not later than 60 days after the
16 date the resignation is received by the officer authorized
17 to fill the vacancy, at which time it becomes operative,
18 but the resignation may not be withdrawn after it is
19 received by the officer authorized to fill the vacancy. The
20 effective date of a resignation that does not specify a
21 future date at which it becomes operative is the date the
22 resignation is received by the officer authorized to fill
23 the vacancy. The effective date of a resignation that has a

1 specified future effective date is that specified future
2 date or the date the resignation is received by the officer
3 authorized to fill the vacancy, whichever date occurs
4 later.

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7 withdrawn at any time prior to the occurrence of the
8 specified event, but if not withdrawn, the effective date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

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

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

24 (b) Vacancy by death or disability. A vacancy occurs in an
25 office by reason of the death of the incumbent. The date of the
26 death may be established by the date shown on the death

1 certificate. A vacancy occurs in an office by permanent
2 physical or mental disability rendering the person incapable of
3 performing the duties of the office. The corporate authorities
4 have the authority to make the determination whether an officer
5 is incapable of performing the duties of the office because of
6 a permanent physical or mental disability. A finding of mental
7 disability shall not be made prior to the appointment by a
8 court of a guardian ad litem for the officer or until a duly
9 licensed doctor certifies, in writing, that the officer is
10 mentally impaired to the extent that the officer is unable to
11 effectively perform the duties of the office. If the corporate
12 authorities find that an officer is incapable of performing the
13 duties of the office due to permanent physical or mental
14 disability, that person is removed from the office and the
15 vacancy of the office occurs on the date of the determination.

16 (c) Vacancy by other causes.

17 (1) Abandonment and other causes. A vacancy occurs in
18 an office by reason of abandonment of office; removal from
19 office; or failure to qualify; or more than temporary
20 removal of residence from the municipality; or in the case
21 of an alderman of a ward or councilman or trustee of a
22 district, more than temporary removal of residence from the
23 ward or district, as the case may be. The corporate
24 authorities have the authority to determine whether a
25 vacancy under this subsection has occurred. If the
26 corporate authorities determine that a vacancy exists, or

1 if a third violation of Section 8-1-2.10 of this Code
2 occurs, the office is deemed vacant as of the date of that
3 determination for all purposes including the calculation
4 under subsections (e), (f), and (g).

5 (2) Guilty of a criminal offense. An admission of guilt
6 of a criminal offense that upon conviction would disqualify
7 the municipal officer from holding the office, in the form
8 of a written agreement with State or federal prosecutors to
9 plead guilty to a felony, bribery, perjury, or other
10 infamous crime under State or federal law, constitutes a
11 resignation from that office, effective on the date the
12 plea agreement is made. For purposes of this Section, a
13 conviction for an offense that disqualifies a municipal
14 officer from holding that office occurs on the date of the
15 return of a guilty verdict or, in the case of a trial by
16 the court, on the entry of a finding of guilt.

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

20 (d) Election of an acting mayor or acting president. The
21 election of an acting mayor or acting president pursuant to
22 subsection (f) or (g) does not create a vacancy in the original
23 office of the person on the city council or as a trustee, as
24 the case may be, unless the person resigns from the original
25 office following election as acting mayor or acting president.
26 If the person resigns from the original office following

1 election as acting mayor or acting president, then the original
2 office must be filled pursuant to the terms of this Section and
3 the acting mayor or acting president shall exercise the powers
4 of the mayor or president and shall vote and have veto power in
5 the manner provided by law for a mayor or president. If the
6 person does not resign from the original office following
7 election as acting mayor or acting president, then the acting
8 mayor or acting president shall exercise the powers of the
9 mayor or president but shall be entitled to vote only in the
10 manner provided for as the holder of the original office and
11 shall not have the power to veto. If the person does not resign
12 from the original office following election as acting mayor or
13 acting president, and if that person's original term of office
14 has not expired when a mayor or president is elected and has
15 qualified for office, the acting mayor or acting-president
16 shall return to the original office for the remainder of the
17 term thereof.

18 (e) Appointment to fill alderman or trustee vacancy. An
19 appointment by the mayor or president or acting mayor or acting
20 president, as the case may be, of a qualified person as
21 described in Section 3.1-10-5 of this Code to fill a vacancy in
22 the office of alderman or trustee must be made within 60 days
23 after the vacancy occurs. Once the appointment of the qualified
24 person has been forwarded to the corporate authorities, the
25 corporate authorities shall act upon the appointment within 30
26 days. If the appointment fails to receive the advice and

1 consent of the corporate authorities within 30 days, the mayor
2 or president or acting mayor or acting president shall appoint
3 and forward to the corporate authorities a second qualified
4 person as described in Section 3.1-10-5. Once the appointment
5 of the second qualified person has been forwarded to the
6 corporate authorities, the corporate authorities shall act
7 upon the appointment within 30 days. If the appointment of the
8 second qualified person also fails to receive the advice and
9 consent of the corporate authorities, then the mayor or
10 president or acting mayor or acting president, without the
11 advice and consent of the corporate authorities, may make a
12 temporary appointment from those persons who were appointed but
13 whose appointments failed to receive the advice and consent of
14 the corporate authorities. The person receiving the temporary
15 appointment shall serve until an appointment has received the
16 advice and consent and the appointee has qualified or until a
17 person has been elected and has qualified, whichever first
18 occurs.

19 (f) Election to fill vacancies in municipal offices with
20 4-year terms. If a vacancy occurs in an elective municipal
21 office with a 4-year term and there remains an unexpired
22 portion of the term of at least 28 months, and the vacancy
23 occurs at least 130 days before the general municipal election
24 next scheduled under the general election law, then the vacancy
25 shall be filled for the remainder of the term at that general
26 municipal election. Whenever an election is held for this

1 purpose, the municipal clerk shall certify the office to be
2 filled and the candidates for the office to the proper election
3 authorities as provided in the general election law. If a
4 vacancy occurs with less than 28 months remaining in the
5 unexpired portion of the term or less than 130 days before the
6 general municipal election, then:

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

24 (2) Alderman or trustee. If the vacancy is in the
25 office of alderman or trustee, the vacancy must be filled
26 by the mayor or president or acting mayor or acting

1 president, as the case may be, in accordance with
2 subsection (e).

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

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

18 (1) Mayor or president. If the vacancy is in the office
19 of mayor or president, the vacancy must be filled by the
20 corporate authorities electing one of their members as
21 acting mayor or acting president. Except as set forth in
22 subsection (d), the acting mayor or acting president shall
23 perform the duties and possess all the rights and powers of
24 the mayor or president until a mayor or president is
25 elected at the next general municipal election and has
26 qualified. However, in villages with a population of less

1 than 5,000, if each of the trustees either declines the
2 election as acting president or is not elected by a
3 majority vote of the trustees presently holding office,
4 then the trustees may elect, as acting president, any other
5 village resident who is qualified to hold municipal office,
6 and the acting president shall exercise the powers of the
7 president and shall vote and have veto power in the manner
8 provided by law for a president.

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

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

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

1 be.

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

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

5 (65 ILCS 5/3.1-10-51)

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

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, or if a third violation of Section 8-1-2.10 of this Code
15 occurs, abandonment of office, removal from office, or removal
16 of residence from the municipality or, in the case of an
17 alderman of a ward, removal of residence from the ward. An
18 admission of guilt of a criminal offense that would, upon
19 conviction, disqualify the municipal officer from holding that
20 office, in the form of a written agreement with State or
21 federal prosecutors to plead guilty to a felony, bribery,
22 perjury, or other infamous crime under State or federal law,
23 shall constitute a resignation from that office, effective at
24 the time the plea agreement is made. For purposes of this
25 Section, a conviction for an offense that disqualifies the

1 municipal officer from holding that office occurs on the date
2 of the return of a guilty verdict or, in the case of a trial by
3 the court, the entry of a finding of guilt.

4 (b) If a vacancy occurs in an elective municipal office
5 with a 4-year term and there remains an unexpired portion of
6 the term of at least 28 months, and the vacancy occurs at least
7 130 days before the general municipal election next scheduled
8 under the general election law, then the vacancy shall be
9 filled for the remainder of the term at that general municipal
10 election. Whenever an election is held for this purpose, the
11 municipal clerk shall certify the office to be filled and the
12 candidates for the office to the proper election authorities as
13 provided in the general election law. If the vacancy is in the
14 office of mayor, the city council shall elect one of their
15 members acting mayor. The acting mayor shall perform the duties
16 and possess all the rights and powers of the mayor until a
17 successor to fill the vacancy has been elected and has
18 qualified. If the vacancy is in any other elective municipal
19 office, then until the office is filled by election, the mayor
20 shall appoint a qualified person to the office subject to the
21 advice and consent of the city council.

22 (c) If a vacancy occurs later than the time provided in
23 subsection (b) in a 4-year term, a vacancy in the office of
24 mayor shall be filled by the corporate authorities electing one
25 of their members acting mayor. The acting mayor shall perform
26 the duties and possess all the rights and powers of the mayor

1 until a mayor is elected at the next general municipal election
2 and has qualified. A vacancy occurring later than the time
3 provided in subsection (b) in a 4-year term in any elective
4 office other than mayor shall be filled by appointment by the
5 mayor, with the advice and consent of the corporate
6 authorities.

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

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

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

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

21 (65 ILCS 5/8-1-2.10 new)

22 Sec. 8-1-2.10. Use of municipal funds for advertisements.
23 No advertisement may be purchased using municipal funds that
24 would include the name of any person holding an elected office.
25 For purposes of this Section, "advertisement" means any type of

1 announcement that is purchased for promotional purposes for
2 print in a book, publication, brochure, sign, or digital media
3 including, but not limited to, a website, a sign, advertisement
4 program, or electronic display. "Advertisement" does not
5 include a community newsletter providing information
6 pertaining to the community that is distributed to all
7 residents and businesses within the community, a welcome sign
8 posted upon entering a community, or a sign located at a
9 governmental facility.

10 A violation of this Section shall result in the violator
11 repaying the municipal funds used for the advertisement. A
12 third violation of this Section will result in the violator's
13 removal from municipal office, and the office declared vacant.