

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 3.1-10-5, 3.1-10-50, and 3.1-10-51 as
6 follows:

7 (65 ILCS 5/3.1-10-5) (from Ch. 24, par. 3.1-10-5)

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

9 (a) A person is not eligible for an elective municipal
10 office unless that person is a qualified elector of the
11 municipality and has resided in the municipality at least one
12 year next preceding the election or appointment, except as
13 provided in Section 3.1-20-25, subsection (b) of Section
14 3.1-25-75, Section 5-2-2, or Section 5-2-11.

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

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

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

4 (c) A person is not eligible for the office of alderman of
5 a ward unless that person has resided in the ward that the
6 person seeks to represent, and a person is not eligible for the
7 office of trustee of a district unless that person has resided
8 in the municipality, at least one year next preceding the
9 election or appointment, except as provided in Section
10 3.1-20-25, subsection (b) of Section 3.1-25-75, Section 5-2-2,
11 or Section 5-2-11.

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

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

24 (65 ILCS 5/3.1-10-50)

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

1 becomes vacant in municipality with population under 500,000.

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

5 (1) Unconditional resignation. An unconditional
6 resignation by a person holding the elective office may
7 specify a future date, not later than 60 days after the
8 date the resignation is received by the officer authorized
9 to fill the vacancy, at which time it becomes operative,
10 but the resignation may not be withdrawn after it is
11 received by the officer authorized to fill the vacancy. The
12 effective date of a resignation that does not specify a
13 future date at which it becomes operative is the date the
14 resignation is received by the officer authorized to fill
15 the vacancy. The effective date of a resignation that has a
16 specified future effective date is that specified future
17 date or the date the resignation is received by the officer
18 authorized to fill the vacancy, whichever date occurs
19 later.

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

1 occurs later.

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

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

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

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

5 (c) Vacancy by other causes.

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

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

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

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

8 (4) Owing a debt to the municipality. A vacancy occurs
9 if a municipal official fails to pay a debt to a
10 municipality in which the official has been elected or
11 appointed to an elected position. In order for this
12 paragraph to apply, the municipal official shall have been
13 delivered by certified mail or personal service a notice
14 that (i) the municipal official is in arrears of a debt to
15 a municipality, (ii) that the debt must be paid within 30
16 days after receipt of the notice, (iii) that once the debt
17 is paid, proof of payment must be presented to the
18 municipal clerk that the debt was paid in full, and (iv) if
19 proof of payment is not presented to the municipal clerk,
20 the municipal official will be disqualified and his or her
21 office vacated. For purposes of this paragraph, a municipal
22 official is considered in arrears of a debt to a
23 municipality if a debt is more than 30 days overdue from
24 the date the debt was due.

25 (d) Election of an acting mayor or acting president. The
26 election of an acting mayor or acting president pursuant to

1 subsection (f) or (g) does not create a vacancy in the original
2 office of the person on the city council or as a trustee, as
3 the case may be, unless the person resigns from the original
4 office following election as acting mayor or acting president.
5 If the person resigns from the original office following
6 election as acting mayor or acting president, then the original
7 office must be filled pursuant to the terms of this Section and
8 the acting mayor or acting president shall exercise the powers
9 of the mayor or president and shall vote and have veto power in
10 the manner provided by law for a mayor or president. If the
11 person does not resign from the original office following
12 election as acting mayor or acting president, then the acting
13 mayor or acting president shall exercise the powers of the
14 mayor or president but shall be entitled to vote only in the
15 manner provided for as the holder of the original office and
16 shall not have the power to veto. If the person does not resign
17 from the original office following election as acting mayor or
18 acting president, and if that person's original term of office
19 has not expired when a mayor or president is elected and has
20 qualified for office, the acting mayor or acting-president
21 shall return to the original office for the remainder of the
22 term thereof.

23 (e) Appointment to fill alderman or trustee vacancy. An
24 appointment by the mayor or president or acting mayor or acting
25 president, as the case may be, of a qualified person as
26 described in Section 3.1-10-5 of this Code to fill a vacancy in

1 the office of alderman or trustee must be made within 60 days
2 after the vacancy occurs. Once the appointment of the qualified
3 person has been forwarded to the corporate authorities, the
4 corporate authorities shall act upon the appointment within 30
5 days. If the appointment fails to receive the advice and
6 consent of the corporate authorities within 30 days, the mayor
7 or president or acting mayor or acting president shall appoint
8 and forward to the corporate authorities a second qualified
9 person as described in Section 3.1-10-5. Once the appointment
10 of the second qualified person has been forwarded to the
11 corporate authorities, the corporate authorities shall act
12 upon the appointment within 30 days. If the appointment of the
13 second qualified person also fails to receive the advice and
14 consent of the corporate authorities, then the mayor or
15 president or acting mayor or acting president, without the
16 advice and consent of the corporate authorities, may make a
17 temporary appointment from those persons who were appointed but
18 whose appointments failed to receive the advice and consent of
19 the corporate authorities. The person receiving the temporary
20 appointment shall serve until an appointment has received the
21 advice and consent and the appointee has qualified or until a
22 person has been elected and has qualified, whichever first
23 occurs.

24 (f) Election to fill vacancies in municipal offices with
25 4-year terms. If a vacancy occurs in an elective municipal
26 office with a 4-year term and there remains an unexpired

1 portion of the term of at least 28 months, and the vacancy
2 occurs at least 130 days before the general municipal election
3 next scheduled under the general election law, then the vacancy
4 shall be filled for the remainder of the term at that general
5 municipal election. Whenever an election is held for this
6 purpose, the municipal clerk shall certify the office to be
7 filled and the candidates for the office to the proper election
8 authorities as provided in the general election law. If a
9 vacancy occurs with less than 28 months remaining in the
10 unexpired portion of the term or less than 130 days before the
11 general municipal election, then:

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

1 president and shall vote and have veto power in the manner
2 provided by law for a president.

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

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

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

23 (1) Mayor or president. If the vacancy is in the office
24 of mayor or president, the vacancy must be filled by the
25 corporate authorities electing one of their members as
26 acting mayor or acting president. Except as set forth in

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

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

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

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

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

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

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

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

13 (a) Events upon which an elective office in a municipality
14 of 500,000 or more shall become vacant:

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

25 (2) An admission of guilt of a criminal offense that

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

12 (3) Owing a debt to the municipality. A vacancy occurs
13 if a municipal official fails to pay a debt to a
14 municipality in which the official has been elected or
15 appointed to an elected position. In order for this
16 paragraph to apply, the municipal official shall have been
17 delivered by certified mail or personal service a notice
18 that (i) the municipal official is in arrears of a debt to
19 a municipality, (ii) that the debt must be paid within 30
20 days after receipt of the notice, (iii) that once the debt
21 is paid, proof of payment must be presented to the
22 municipal clerk that the debt was paid in full, and (iv) if
23 proof of payment is not presented to the municipal clerk,
24 the municipal official will be disqualified and his or her
25 office vacated. For purposes of this paragraph, a municipal
26 official is considered in arrears of a debt to a

1 municipality if a debt is more than 30 days overdue from
2 the date the debt was due.

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

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

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

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

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

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

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

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