

1 AN ACT to amend the Illinois Municipal Code by changing
2 Section 3.1-10-50.

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

5 Section 5. The Illinois Municipal Code is amended by
6 changing Section 3.1-10-50 as follows:

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

8 Sec. 3.1-10-50. Vacancies.

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

31 (b) If a vacancy occurs in an elective municipal office

1 with a 4-year term and there remains an unexpired portion of
2 the term of at least 28 months, and the vacancy occurs at
3 least 130 days before the general municipal election next
4 scheduled under the general election law, the vacancy shall
5 be filled for the remainder of the term at that general
6 municipal election. Whenever an election is held for this
7 purpose, the municipal clerk shall certify the office to be
8 filled and the candidates for the office to the proper
9 election authorities as provided in the general election law.
10 If the vacancy is in the office of mayor, the city council
11 shall elect one of their members acting mayor; if the vacancy
12 is in the office of president, the vacancy shall be filled by
13 the appointment by the trustees of an acting president from
14 the members of the board of trustees. In villages with a
15 population of less than 5,000, if each of the members of the
16 board of trustees either declines the appointment as acting
17 president or is not approved for the appointment by a
18 majority vote of the trustees presently holding office, then
19 the board of trustees may appoint as acting president any
20 other village resident who is qualified to hold municipal
21 office. The acting mayor or acting president shall perform
22 the duties and possess all the rights and powers of the mayor
23 or president until a successor to fill the vacancy has been
24 elected and has qualified. If the vacancy is in any other
25 elective municipal office, then until the office is filled by
26 election, the mayor or president shall appoint a qualified
27 person to the office subject to the advice and consent of the
28 city council or trustees.

29 (c) In a 2 year term, or if the vacancy occurs later
30 than the time provided in subsection (b) in a 4 year term, a
31 vacancy in the office of mayor shall be filled by the
32 corporate authorities electing one of their members acting
33 mayor; if the vacancy is in the office of president, the
34 vacancy shall be filled by the appointment by the trustees of

1 an acting president from the members of the board of
2 trustees. In villages with a population of less than 5,000,
3 if each of the members of the board of trustees either
4 declines the appointment as acting president or is not
5 approved for the appointment by a majority vote of the
6 trustees presently holding office, then the board of trustees
7 may appoint as acting president any other village resident
8 who is qualified to hold municipal office. The acting mayor
9 or acting president shall perform the duties and possess all
10 the rights and powers of the mayor or president until a mayor
11 or president is elected at the next general municipal
12 election and has qualified. A vacancy in any elective office
13 other than mayor or president shall be filled by appointment
14 by the mayor or president, with the advice and consent of the
15 corporate authorities.

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

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

27 (f) If the council or board fails to give its advice and
28 consent to an appointment of a qualified person to the office
29 of alderman or trustee prior to the 60th day after a vacancy
30 occurs and if the mayor or president has nominated a minimum
31 of 2 persons for appointment and each has failed to be
32 confirmed, the mayor or president may make a temporary
33 appointment from those persons who were nominated but failed
34 to be confirmed by the council or board. That person shall

1 serve until an appointee has been nominated, confirmed, and
2 qualified or until a person has been elected and qualified.

3 (Source: P.A. 90-429, eff. 8-15-97; 90-707, eff. 8-7-98;
4 91-357, eff. 7-29-99.)