

1 AN ACT concerning elections.

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 Section 3.1-10-50 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 In villages with a population of less than 5,000, if each of  
12 the members of the board of trustees either declines the  
13 appointment as acting president or is not approved for the  
14 appointment by a majority vote of the trustees presently  
15 holding office, then the board of trustees may appoint as  
16 acting president any other village resident who is qualified to  
17 hold municipal office. The acting mayor or acting president  
18 shall perform the duties and possess all the rights and powers  
19 of the mayor or president until a successor to fill the vacancy  
20 has been elected and has qualified. If the vacancy is in any  
21 other elective municipal office, then until the office is  
22 filled by election, the mayor or president shall appoint a  
23 qualified person to the office subject to the advice and  
24 consent of the city council or trustees.

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

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

9 (d) The election of an acting mayor or acting president in  
10 a municipality with a population under 500,000 does not create  
11 a vacancy in the original office of the person on the city  
12 council or as a trustee, as the case may be, unless the person  
13 resigns from the original office following election as acting  
14 mayor or acting president. If the person resigns from the  
15 original office following election as acting mayor or acting  
16 president, then the original office must be filled pursuant to  
17 the terms of this Section and the acting mayor or acting  
18 president shall exercise the powers of the mayor or president  
19 and shall vote and have veto power in the manner provided by  
20 law for a mayor or president. If the person does not resign  
21 from the original office following election as acting mayor or  
22 acting president, then the acting mayor or acting president  
23 shall exercise the powers of the mayor or president but shall  
24 be entitled to vote only in the manner provided for as the  
25 holder of the original office and shall not have the power to  
26 veto. If the person does not resign from the original office  
27 following election as acting mayor or acting president, and if  
28 that person's original term of office has not expired when a  
29 mayor or president is elected and has qualified for office, the  
30 acting mayor or acting president shall return to the original  
31 office for the remainder of the term thereof.

32 (e) ~~(d)~~ Municipal officers appointed or elected under this  
33 Section shall hold office until their successors are elected  
34 and have qualified.

35 (f) ~~(e)~~ An appointment to fill a vacancy in the office of  
36 alderman shall be made within 60 days after the vacancy occurs.

1 The requirement that an appointment be made within 60 days is  
2 an exclusive power and function of the State and is a denial  
3 and limitation under Article VII, Section 6, subsection (h) of  
4 the Illinois Constitution of the power of a home rule  
5 municipality to require that an appointment be made within a  
6 different period after the vacancy occurs.

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

9 Section 99. Effective date. This Act takes effect January  
10 1, 2006.