



## 94TH GENERAL ASSEMBLY

### State of Illinois

2005 and 2006

**HB3459**

Introduced 02/23/05, by Rep. Michael Tryon

#### SYNOPSIS AS INTRODUCED:

10 ILCS 5/25-2	from Ch. 46, par. 25-2
65 ILCS 5/3.1-10-5	from Ch. 24, par. 3.1-10-5
65 ILCS 5/3.1-10-50	
65 ILCS 5/3.1-10-51 new	
65 ILCS 5/5-2-15	from Ch. 24, par. 5-2-15

Amends the Election Code. Provides that a municipality having a population under 500,000 is not subject to the Section regarding the events by which an elective office becomes vacant. Amends the Illinois Municipal Code. Provides that a person who resides in a newly incorporated municipality or who resides in an area of a municipality that has been redistricted is eligible for elective municipal office, notwithstanding that the person has not lived in the new municipality or the different district for at least one year. Describes the events upon which a municipal elective office becomes vacant, such as unconditional resignation, conditional resignation, death, disability, and abandonment. Provides for the election of an acting mayor and an acting president in the event of a vacancy. Provides for the appointment of an alderman or trustee to fill a vacancy. Provides when a vacant position with an unexpired term must be filled by an election. Provides for filling a vacancy in an office of a municipal officer or an alderman. Provides for filling the vacancy of the office of a village alderman or trustee. Effective January 1, 2006.

LRB094 07656 AJO 37829 b

HOME RULE NOTE  
ACT MAY APPLY

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 Election Code is amended by changing Section  
5 25-2 as follows:

6 (10 ILCS 5/25-2) (from Ch. 46, par. 25-2)

7 Sec. 25-2. Events on which an elective office becomes  
8 vacant. Every elective office shall become vacant on the  
9 happening of any of the following events before the expiration  
10 of the term of such office:

11 (1) The death of the incumbent.

12 (2) His or her resignation.

13 (3) His or her becoming a person under legal  
14 disability.

15 (4) His or her ceasing to be an inhabitant of the  
16 State; or if the office is local, his or her ceasing to be  
17 an inhabitant of the district, county, town, or precinct  
18 for which he or she was elected; provided, that the  
19 provisions of this paragraph shall not apply to township  
20 officers whose township boundaries are changed in  
21 accordance with Section 10-20 of the Township Code, nor to  
22 township or multi-township assessors elected under  
23 Sections 2-5 through 2-15 of the Property Tax Code.

24 (5) His or her conviction of an infamous crime, or of  
25 any offense involving a violation of official oath.

26 (6) His or her removal from office.

27 (7) His or her refusal or neglect to take his or her  
28 oath of office, or to give or renew his or her official  
29 bond, or to deposit or file such oath or bond within the  
30 time prescribed by law.

31 (8) The decision of a competent tribunal declaring his  
32 or her election void.

1 No elective office, except as herein otherwise provided,  
2 shall become vacant until the successor of the incumbent of  
3 such office has been appointed or elected, as the case may be,  
4 and qualified.

5 An unconditional resignation, effective at a future date,  
6 may not be withdrawn after it is received by the officer  
7 authorized to fill the vacancy. Such resignation shall create a  
8 vacancy in office for the purpose of determining the time  
9 period which would require an election. The resigning office  
10 holder may continue to hold such office until the date or event  
11 specified in such resignation, but no later than the date at  
12 which his or her successor is elected and qualified.

13 An admission of guilt of a criminal offense that would,  
14 upon conviction, disqualify the holder of an elective office  
15 from holding that office, in the form of a written agreement  
16 with State or federal prosecutors to plead guilty to a felony,  
17 bribery, perjury, or other infamous crime under State or  
18 federal law, shall constitute a resignation from that office,  
19 effective at the time the plea agreement is made.

20 For purposes of this Section, a conviction for an offense  
21 that disqualifies the holder of an elective office from holding  
22 that office shall occur on the date of the return of a guilty  
23 verdict or, in the case of a trial by the court, the entry of a  
24 finding of guilt.

25 This Section does not apply to any elected or appointed  
26 officers or officials of any municipality having a population  
27 under 500,000.

28 (Source: P.A. 90-707, eff. 8-7-98.)

29 Section 10. The Illinois Municipal Code is amended by  
30 changing Sections 3.1-10-5, 3.1-10-50, and 5-2-15 and by adding  
31 Section 3.1-10-51 as follows:

32 (65 ILCS 5/3.1-10-5) (from Ch. 24, par. 3.1-10-5)

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

34 (a) A person is not eligible for an elective municipal

1 office unless that person is a qualified elector of the  
2 municipality and, in other than newly incorporated  
3 municipalities, has resided in the municipality at least one  
4 year next preceding the election or appointment, except as  
5 provided in subsection (c) of Section 3.1-20-25, subsection (b)  
6 of Section 3.1-25-75, Section 5-2-2, or Section 5-2-11.

7 (b) A person is not eligible for an elective municipal  
8 office if that person is in arrears in the payment of a tax or  
9 other indebtedness due to the municipality or has been  
10 convicted in any court located in the United States of any  
11 infamous crime, bribery, perjury, or other felony.

12 ~~(c) A person is not eligible for the office of alderman of~~  
13 ~~a ward unless that person has resided in the ward that the~~  
14 ~~person seeks to represent, and a person is not eligible for the~~  
15 ~~office of trustee of a district unless that person has resided~~  
16 ~~in the municipality, at least one year next preceding the~~  
17 ~~election or appointment, except as provided in subsection (c)~~  
18 ~~of Section 3.1-20-25, subsection (b) of Section 3.1-25-75,~~  
19 ~~Section 5-2-2, or Section 5-2-11.~~

20 (Source: P.A. 93-847, eff. 7-30-04.)

21 (65 ILCS 5/3.1-10-50)

22 Sec. 3.1-10-50. Events upon which an elective office  
23 becomes vacant ~~Vacancies.~~

24 (a) Vacancy by resignation. A resignation is not effective  
25 unless it is in writing and signed by the person holding the  
26 elective office.

27 (1) Unconditional resignation. An unconditional  
28 resignation by a person holding the elective office may  
29 specify a future date, not later than 60 days after the  
30 date the resignation is received by the officer authorized  
31 to fill the vacancy, at which time it becomes operative,  
32 but the resignation may not be withdrawn after it is  
33 received by the officer authorized to fill the vacancy. The  
34 effective date of a resignation that does not specify a  
35 future date at which it becomes operative is the date the

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

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

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

21 (4) Duty of the clerk. If a resignation is delivered to  
22 the clerk of the municipality, the clerk shall forward a  
23 certified copy of the written resignation to the official  
24 who is authorized to fill the vacancy.

25 (b) Vacancy by death or disability. A vacancy occurs in an  
26 office by reason of the death of the incumbent. The date of the  
27 death may be established by the date shown on the death  
28 certificate or other evidence. A vacancy occurs in an office by  
29 permanent physical or mental disability rendering the person  
30 incapable of performing the duties of the office. The corporate  
31 authorities have the authority to make the determination  
32 whether an officer is incapable of performing the duties of the  
33 office because of a permanent physical or mental disability. A  
34 finding of mental disability shall not be made prior to the  
35 appointment by a court of a guardian ad litem for the officer  
36 or until a duly licensed doctor certifies, in writing, that the

1 officer is mentally impaired to the extent that the officer is  
2 unable to effectively perform the duties of the office. If the  
3 corporate authorities find that an officer is incapable of  
4 performing the duties of the office due to permanent physical  
5 or mental disability, that person is removed from the office  
6 and the vacancy of the office occurs on the date of the  
7 determination.

8 (c) Vacancy by other causes.

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

22 (2) Guilty of a criminal offense. An admission of guilt  
23 of a criminal offense that upon conviction would disqualify  
24 the municipal officer from holding the office, in the form  
25 of a written agreement with State or federal prosecutors to  
26 plead guilty to a felony, bribery, perjury, or other  
27 infamous crime under State or federal law, constitutes a  
28 resignation from that office, effective on the date the  
29 plea agreement is made. For purposes of this Section, a  
30 conviction for an offense that disqualifies a municipal  
31 officer from holding that office occurs on the date of the  
32 return of a guilty verdict or, in the case of a trial by  
33 the court, on the entry of a finding of guilt.

34 (3) Election declared void. A vacancy occurs on the  
35 date of the decision of a competent tribunal declaring the  
36 election of the officer void.

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

25       (e) Appointment to fill alderman or trustee vacancy. An  
26 appointment by the mayor or president or acting mayor or acting  
27 president, as the case may be, of a qualified person as  
28 described in Section 3.1-10-5 of this Code to fill a vacancy in  
29 the office of alderman or trustee must be made within 60 days  
30 after the vacancy occurs. Once the appointment of the qualified  
31 person has been forwarded to the corporate authorities, the  
32 corporate authorities shall act upon the appointment within 30  
33 days. If the appointment fails to receive the advice and  
34 consent of the corporate authorities within 30 days, the mayor  
35 or president or acting mayor or acting president shall appoint  
36 and forward to the corporate authorities a second qualified

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

16 (f) Election to fill vacancies in municipal offices with  
17 4-year terms. If a vacancy occurs in an elective municipal  
18 office with a 4-year term and there remains an unexpired  
19 portion of the term of at least 28 months, and the vacancy  
20 occurs at least 130 days before the general municipal election  
21 next scheduled under the general election law, then the vacancy  
22 shall be filled for the remainder of the term at that general  
23 municipal election. Whenever an election is held for this  
24 purpose, the municipal clerk shall certify the office to be  
25 filled and the candidates for the office to the proper election  
26 authorities as provided in the general election law. If a  
27 vacancy occurs with less than 28 months remaining in the  
28 unexpired portion of the term or less than 130 days before the  
29 general municipal election, then:

30 (1) Mayor or president. If the vacancy is in the office  
31 of mayor or president, the vacancy must be filled by the  
32 corporate authorities electing one of their members as  
33 acting mayor or acting president. Except as set forth in  
34 subsection (d), the acting mayor or acting president shall  
35 perform the duties and possess all the rights and powers of  
36 the mayor or president until a mayor or president is



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

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

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

24 (g) Vacancies in municipal offices with 2-year terms. In  
25 the case of an elective municipal office with a 2-year term, if  
26 the vacancy occurs at least 130 days before the general  
27 municipal election next scheduled under the general election  
28 law, the vacancy shall be filled for the remainder of the term  
29 at that general municipal election. If the vacancy occurs less  
30 than 130 days before the general municipal election, then:

31 (1) Mayor or president. If the vacancy is in the office  
32 of mayor or president, the vacancy must be filled by the  
33 corporate authorities electing one of their members as  
34 acting mayor or acting president. Except as set forth in  
35 subsection (d), the acting mayor or acting president shall  
36 perform the duties and possess all the rights and powers of

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

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

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

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

31 ~~(a) A municipal officer may resign from office. A vacancy~~  
32 ~~occurs in an office by reason of resignation, failure to elect~~  
33 ~~or qualify (in which case the incumbent shall remain in office~~  
34 ~~until the vacancy is filled), death, permanent physical or~~  
35 ~~mental disability rendering the person incapable of performing~~  
36 ~~the duties of his or her office, conviction of a disqualifying~~

1 ~~crime, abandonment of office, removal from office, or removal~~  
2 ~~of residence from the municipality or, in the case of aldermen~~  
3 ~~of a ward or trustees of a district, removal of residence from~~  
4 ~~the ward or district, as the case may be. An admission of guilt~~  
5 ~~of a criminal offense that would, upon conviction, disqualify~~  
6 ~~the municipal officer from holding that office, in the form of~~  
7 ~~a written agreement with State or federal prosecutors to plead~~  
8 ~~guilty to a felony, bribery, perjury, or other infamous crime~~  
9 ~~under State or federal law, shall constitute a resignation from~~  
10 ~~that office, effective at the time the plea agreement is made.~~  
11 ~~For purposes of this Section, a conviction for an offense that~~  
12 ~~disqualifies the municipal officer from holding that office~~  
13 ~~shall occur on the date of the return of a guilty verdict or,~~  
14 ~~in the case of a trial by the court, the entry of a finding of~~  
15 ~~guilt.~~

16 ~~(b) If a vacancy occurs in an elective municipal office~~  
17 ~~with a 4 year term and there remains an unexpired portion of~~  
18 ~~the term of at least 28 months, and the vacancy occurs at least~~  
19 ~~130 days before the general municipal election next scheduled~~  
20 ~~under the general election law, the vacancy shall be filled for~~  
21 ~~the remainder of the term at that general municipal election.~~  
22 ~~Whenever an election is held for this purpose, the municipal~~  
23 ~~clerk shall certify the office to be filled and the candidates~~  
24 ~~for the office to the proper election authorities as provided~~  
25 ~~in the general election law. If the vacancy is in the office of~~  
26 ~~mayor, the city council shall elect one of their members acting~~  
27 ~~mayor; if the vacancy is in the office of president, the~~  
28 ~~vacancy shall be filled by the appointment by the trustees of~~  
29 ~~an acting president from the members of the board of trustees.~~  
30 ~~In villages with a population of less than 5,000, if each of~~  
31 ~~the members of the board of trustees either declines the~~  
32 ~~appointment as acting president or is not approved for the~~  
33 ~~appointment by a majority vote of the trustees presently~~  
34 ~~holding office, then the board of trustees may appoint as~~  
35 ~~acting president any other village resident who is qualified to~~  
36 ~~hold municipal office. The acting mayor or acting president~~

1 ~~shall perform the duties and possess all the rights and powers~~  
2 ~~of the mayor or president until a successor to fill the vacancy~~  
3 ~~has been elected and has qualified. If the vacancy is in any~~  
4 ~~other elective municipal office, then until the office is~~  
5 ~~filled by election, the mayor or president shall appoint a~~  
6 ~~qualified person to the office subject to the advice and~~  
7 ~~consent of the city council or trustees.~~

8 ~~(c) In a 2 year term, or if the vacancy occurs later than~~  
9 ~~the time provided in subsection (b) in a 4 year term, a vacancy~~  
10 ~~in the office of mayor shall be filled by the corporate~~  
11 ~~authorities electing one of their members acting mayor; if the~~  
12 ~~vacancy is in the office of president, the vacancy shall be~~  
13 ~~filled by the appointment by the trustees of an acting~~  
14 ~~president from the members of the board of trustees. In~~  
15 ~~villages with a population of less than 5,000, if each of the~~  
16 ~~members of the board of trustees either declines the~~  
17 ~~appointment as acting president or is not approved for the~~  
18 ~~appointment by a majority vote of the trustees presently~~  
19 ~~holding office, then the board of trustees may appoint as~~  
20 ~~acting president any other village resident who is qualified to~~  
21 ~~hold municipal office. The acting mayor or acting president~~  
22 ~~shall perform the duties and possess all the rights and powers~~  
23 ~~of the mayor or president until a mayor or president is elected~~  
24 ~~at the next general municipal election and has qualified. A~~  
25 ~~vacancy in any elective office other than mayor or president~~  
26 ~~shall be filled by appointment by the mayor or president, with~~  
27 ~~the advice and consent of the corporate authorities.~~

28 ~~(d) Municipal officers appointed or elected under this~~  
29 ~~Section shall hold office until their successors are elected~~  
30 ~~and have qualified.~~

31 ~~(e) An appointment to fill a vacancy in the office of~~  
32 ~~alderman shall be made within 60 days after the vacancy occurs.~~  
33 ~~The requirement that an appointment be made within 60 days is~~  
34 ~~an exclusive power and function of the State and is a denial~~  
35 ~~and limitation under Article VII, Section 6, subsection (h) of~~  
36 ~~the Illinois Constitution of the power of a home rule~~

1 ~~municipality to require that an appointment be made within a~~  
2 ~~different period after the vacancy occurs.~~

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

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

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, abandonment of office, removal from office, or removal  
15 of residence from the municipality or, in the case of an  
16 alderman of a ward, removal of residence from the ward. An  
17 admission of guilt of a criminal offense that would, upon  
18 conviction, disqualify the municipal officer from holding that  
19 office, in the form of a written agreement with State or  
20 federal prosecutors to plead guilty to a felony, bribery,  
21 perjury, or other infamous crime under State or federal law,  
22 shall constitute a resignation from that office, effective at  
23 the time the plea agreement is made. For purposes of this  
24 Section, a conviction for an offense that disqualifies the  
25 municipal officer from holding that office occurs on the date  
26 of the return of a guilty verdict or, in the case of a trial by  
27 the court, the entry of a finding of guilt.

28 (b) If a vacancy occurs in an elective municipal office  
29 with a 4-year term and there remains an unexpired portion of  
30 the term of at least 28 months, and the vacancy occurs at least  
31 130 days before the general municipal election next scheduled  
32 under the general election law, then the vacancy shall be  
33 filled for the remainder of the term at that general municipal  
34 election. Whenever an election is held for this purpose, the  
35 municipal clerk shall certify the office to be filled and the

1 candidates for the office to the proper election authorities as  
2 provided in the general election law. If the vacancy is in the  
3 office of mayor, the city council shall elect one of their  
4 members acting mayor. The acting mayor shall perform the duties  
5 and possess all the rights and powers of the mayor or president  
6 until a successor to fill the vacancy has been elected and has  
7 qualified. If the vacancy is in any other elective municipal  
8 office, then until the office is filled by election, the mayor  
9 or president shall appoint a qualified person to the office  
10 subject to the advice and consent of the city council or  
11 trustees.

12 (c) A municipal officer appointed or elected under this  
13 Section shall hold office until the officer's successor is  
14 elected and has qualified.

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

23 (e) This Section applies only to municipalities with a  
24 population of 500,000 or more.

25 (65 ILCS 5/5-2-15) (from Ch. 24, par. 5-2-15)

26 Sec. 5-2-15. Trustees; tenure; vacancies.

27 (a) In each village operating under Section 5-2-12, the  
28 electors of the village shall elect 6 trustees. The term of  
29 office of the trustees shall be 4 years and until their  
30 successors are elected and have qualified. Trustees elected at  
31 the first election for village officers after a village is  
32 incorporated, however, shall by lot designate one-half of their  
33 number whose terms shall be 2 years and until their successors  
34 are elected and have qualified. In all villages having a  
35 population of less than 50,000 in which only 3 trustees were

1 elected for a 4 year term in the year 1941, 3 trustees shall be  
2 elected for a 4 year term at the regular village election in  
3 the year 1943, and thereafter 3 trustees shall be elected in  
4 each odd numbered year for a term of 4 years.

5 (b) Appointment to fill an alderman or trustee vacancy. An  
6 appointment by the mayor or president or acting mayor or acting  
7 president, as the case may be, of a qualified person as  
8 described in Section 3.1-10-5 of this Code to fill a vacancy in  
9 the office of alderman or trustee must be made within 60 days  
10 after the vacancy occurs. Once the appointment of the qualified  
11 person has been forwarded to the corporate authorities, the  
12 corporate authorities shall act upon the appointment within 30  
13 days. If the appointment fails to receive the advice and  
14 consent of the corporate authorities within the 30 days, the  
15 mayor or president or acting mayor or acting president shall  
16 appoint and forward to the corporate authorities a second  
17 qualified person as described in Section 3.1-10-5. Once the  
18 appointment of the second qualified person has been forwarded  
19 to the corporate authorities, the corporate authorities shall  
20 act upon the appointment within 30 days. If the appointment of  
21 the second qualified person also fails to receive the advice  
22 and consent of the corporate authorities within 30 days, then  
23 the mayor or president or acting mayor or acting president,  
24 without the advice and consent of the corporate authorities,  
25 may make a temporary appointment from those persons who were  
26 appointed but whose appointments failed to receive the advice  
27 and consent of the corporate authorities. The person receiving  
28 the temporary appointment shall serve until an appointment has  
29 received the advice and consent of the corporate authorities or  
30 until a person has been elected and has qualified, whichever  
31 first occurs. ~~Whenever a vacancy in the office of a trustee in~~  
32 ~~any village, whether incorporated under a general or a special~~  
33 ~~Act, occurs during his or her term, the vacancy shall be filled~~  
34 ~~for the remainder of the term as provided in Section 3.1-10-50.~~  
35 ~~During the period from the time that the vacancy occurs until a~~  
36 ~~trustee is elected under this Section and has qualified, the~~

1 ~~vacancy may be filled by the appointment of a trustee by the~~  
2 ~~president with the advice and consent of the remaining~~  
3 ~~trustees. An appointment to fill a vacancy shall be made within~~  
4 ~~60 days after the vacancy occurs. The requirement that an~~  
5 ~~appointment be made within 60 days is an exclusive power and~~  
6 ~~function of the State and is a denial and limitation under~~  
7 ~~Article VII, Section 6, subsection (h) of the Illinois~~  
8 ~~Constitution of the power of a home rule municipality to~~  
9 ~~require that an appointment be made within a different period~~  
10 ~~after the vacancy occurs.~~

11 (Source: P.A. 87-1052; 87-1119; 88-45.)

12 Section 99. Effective date. This Act takes effect January  
13 1, 2006.