



Rep. Anthony DeLuca

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LRB099 04550 AWJ 34183 a

1 AMENDMENT TO HOUSE BILL 735

2 AMENDMENT NO. _____. Amend House Bill 735 by replacing
3 everything after the enacting clause with the following:

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

1 to fill the vacancy, at which time it becomes operative,
2 but the resignation may not be withdrawn after it is
3 received by the officer authorized to fill the vacancy. The
4 effective date of a resignation that does not specify a
5 future date at which it becomes operative is the date the
6 resignation is received by the officer authorized to fill
7 the vacancy. The effective date of a resignation that has a
8 specified future effective date is that specified future
9 date or the date the resignation is received by the officer
10 authorized to fill the vacancy, whichever date occurs
11 later.

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14 withdrawn at any time prior to the occurrence of the
15 specified event, but if not withdrawn, the effective date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

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

26 (4) Duty of the clerk. If a resignation is delivered to

1 the clerk of the municipality, the clerk shall forward a
2 certified copy of the written resignation to the official
3 who is authorized to fill the vacancy within 7 business
4 days after receipt of the resignation.

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

23 (c) Vacancy by other causes.

24 (1) Abandonment and other causes. A vacancy occurs in
25 an office by reason of abandonment of office; removal from
26 office; or failure to qualify; or more than temporary

1 removal of residence from the municipality; or in the case
2 of an alderman of a ward or councilman or trustee of a
3 district, more than temporary removal of residence from the
4 ward or district, as the case may be. The corporate
5 authorities have the authority to determine whether a
6 vacancy under this subsection has occurred. If the
7 corporate authorities determine that a vacancy exists, or
8 if a third violation of Section 8-1-2.10 of this Code
9 occurs, the office is deemed vacant as of the date of that
10 determination for all purposes including the calculation
11 under subsections (e), (f), and (g).

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

24 (3) Election declared void. A vacancy occurs on the
25 date of the decision of a competent tribunal declaring the
26 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

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

26 (f) Election to fill vacancies in municipal offices with

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

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

1 village resident who is qualified to hold municipal office,
2 and the acting president shall exercise the powers of the
3 president and shall vote and have veto power in the manner
4 provided by law for a president.

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

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

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

25 (1) Mayor or president. If the vacancy is in the office
26 of mayor or president, the vacancy must be filled by the

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

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

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

1 the city council or the board of trustees, as the case may
2 be.

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

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

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

12 (65 ILCS 5/3.1-10-51)

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

15 (a) A municipal officer may resign from office. A vacancy
16 occurs in an office by reason of resignation, failure to elect
17 or qualify (in which case the incumbent shall remain in office
18 until the vacancy is filled), death, permanent physical or
19 mental disability rendering the person incapable of performing
20 the duties of his or her office, conviction of a disqualifying
21 crime, or if a third violation of Section 8-1-2.10 of this Code
22 occurs, abandonment of office, removal from office, or removal
23 of residence from the municipality or, in the case of an
24 alderman of a ward, removal of residence from the ward. An
25 admission of guilt of a criminal offense that would, upon

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

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

1 shall appoint a qualified person to the office subject to the
2 advice and consent of the city council.

3 (c) If a vacancy occurs later than the time provided in
4 subsection (b) in a 4-year term, a vacancy in the office of
5 mayor shall be filled by the corporate authorities electing one
6 of their members acting mayor. The acting mayor shall perform
7 the duties and possess all the rights and powers of the mayor
8 until a mayor is elected at the next general municipal election
9 and has qualified. A vacancy occurring later than the time
10 provided in subsection (b) in a 4-year term in any elective
11 office other than mayor shall be filled by appointment by the
12 mayor, with the advice and consent of the corporate
13 authorities.

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

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

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

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

2 (65 ILCS 5/8-1-2.10 new)

3 Sec. 8-1-2.10. Use of municipal funds for advertisements.

4 No advertisement may be purchased using municipal funds that
5 would include the name of any person holding an elected office.

6 For purposes of this Section, "advertisement" means any type of
7 announcement that is purchased for promotional purposes for
8 print in a book, publication, brochure, sign, or digital media
9 including, but not limited to, a website, a sign, advertisement

10 program, or electronic display. "Advertisement" does not
11 include a community newsletter providing information
12 pertaining to the community that is distributed to all
13 residents and businesses within the community, a welcome sign
14 posted upon entering a community, or a sign located at a
15 governmental facility.

16 A violation of this Section shall result in the violator
17 repaying the municipal funds used for the advertisement. A
18 third violation of this Section will result in the violator's
19 removal from municipal office, and the office declared
20 vacant."