



Rep. Anthony DeLuca

**Filed: 4/8/2015**

09900HB3444ham001

LRB099 11144 AWJ 33798 a

1 AMENDMENT TO HOUSE BILL 3444

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 3444 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Municipal Code is amended by  
5 changing Sections 3.1-10-5, 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

1 taking the oath of office, in arrears in the payment of a tax  
2 or other indebtedness due to the municipality or has been  
3 convicted in any court located in the United States of any  
4 infamous crime, bribery, perjury, or other felony.

5 (b-5) (Blank) ~~A person is not eligible to hold a municipal~~  
6 ~~office, if that person is, at any time during the term of~~  
7 ~~office, in arrears in the payment of a tax or other~~  
8 ~~indebtedness due to the municipality or has been convicted in~~  
9 ~~any court located in the United States of any infamous crime,~~  
10 ~~bribery, perjury, or other felony.~~

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

19 (d) If a person (i) is a resident of a municipality  
20 immediately prior to the active duty military service of that  
21 person or that person's spouse, (ii) resides anywhere outside  
22 of the municipality during that active duty military service,  
23 and (iii) immediately upon completion of that active duty  
24 military service is again a resident of the municipality, then  
25 the time during which the person resides outside the  
26 municipality during the active duty military service is deemed

1 to be time during which the person is a resident of the  
2 municipality for purposes of determining the residency  
3 requirement under subsection (a).

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

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

6 Sec. 3.1-10-50. Events upon which an elective office  
7 becomes vacant in municipality with population under 500,000.

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

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

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

9           (3) Vacancy upon the effective date. For the purpose of  
10 determining the time period that would require an election  
11 to fill the vacancy by resignation or the commencement of  
12 the 60-day time period referred to in subsection (e), the  
13 resignation of an elected officer is deemed to have created  
14 a vacancy as of the effective date of the resignation.

15           (4) Duty of the clerk. If a resignation is delivered to  
16 the clerk of the municipality, the clerk shall forward a  
17 certified copy of the written resignation to the official  
18 who is authorized to fill the vacancy within 7 business  
19 days after receipt of the resignation.

20           (b) Vacancy by death or disability. A vacancy occurs in an  
21 office by reason of the death of the incumbent. The date of the  
22 death may be established by the date shown on the death  
23 certificate. A vacancy occurs in an office by permanent  
24 physical or mental disability rendering the person incapable of  
25 performing the duties of the office. The corporate authorities  
26 have the authority to make the determination whether an officer

1 is incapable of performing the duties of the office because of  
2 a permanent physical or mental disability. A finding of mental  
3 disability shall not be made prior to the appointment by a  
4 court of a guardian ad litem for the officer or until a duly  
5 licensed doctor certifies, in writing, that the officer is  
6 mentally impaired to the extent that the officer is unable to  
7 effectively perform the duties of the office. If the corporate  
8 authorities find that an officer is incapable of performing the  
9 duties of the office due to permanent physical or mental  
10 disability, that person is removed from the office and the  
11 vacancy of the office occurs on the date of the determination.

12 (c) Vacancy by other causes.

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

26 (2) Guilty of a criminal offense. An admission of guilt

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

12 (3) Election declared void. A vacancy occurs on the  
13 date of the decision of a competent tribunal declaring the  
14 election of the officer void.

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

1       the municipal official will be disqualified and his or her  
2       office vacated. For purposes of this paragraph, a municipal  
3       official is considered in arrears of a debt to a  
4       municipality if a debt is more than 30 days overdue from  
5       the date the debt was due.

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

1 qualified for office, the acting mayor or acting-president  
2 shall return to the original office for the remainder of the  
3 term thereof.

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

1 appointment shall serve until an appointment has received the  
2 advice and consent and the appointee has qualified or until a  
3 person has been elected and has qualified, whichever first  
4 occurs.

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

19 (1) Mayor or president. If the vacancy is in the office  
20 of mayor or president, the vacancy must be filled by the  
21 corporate authorities electing one of their members as  
22 acting mayor or acting president. Except as set forth in  
23 subsection (d), the acting mayor or acting president shall  
24 perform the duties and possess all the rights and powers of  
25 the mayor or president until a mayor or president is  
26 elected at the next general municipal election and has

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

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

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

23 (g) Vacancies in municipal offices with 2-year terms. In  
24 the case of an elective municipal office with a 2-year term, if  
25 the vacancy occurs at least 130 days before the general  
26 municipal election next scheduled under the general election

1 law, the vacancy shall be filled for the remainder of the term  
2 at that general municipal election. If the vacancy occurs less  
3 than 130 days before the general municipal election, then:

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

21 (2) Alderman or trustee. If the vacancy is in the  
22 office of alderman or trustee, the vacancy must be filled  
23 by the mayor or president or acting mayor or acting  
24 president, as the case may be, in accordance with  
25 subsection (e).

26 (3) Other elective office. If the vacancy is in any

1 elective municipal office other than mayor or president or  
2 alderman or trustee, the mayor or president or acting mayor  
3 or acting president, as the case may be, must appoint a  
4 qualified person to hold the office until the office is  
5 filled by election, subject to the advice and consent of  
6 the city council or the board of trustees, as the case may  
7 be.

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

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

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

17 (65 ILCS 5/3.1-10-51)

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

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

22 (1) A municipal officer may resign from office. A  
23 vacancy occurs in an office by reason of resignation,  
24 failure to elect or qualify (in which case the incumbent  
25 shall remain in office until the vacancy is filled), death,

1 permanent physical or mental disability rendering the  
2 person incapable of performing the duties of his or her  
3 office, conviction of a disqualifying crime, abandonment  
4 of office, removal from office, or removal of residence  
5 from the municipality or, in the case of an alderman of a  
6 ward, removal of residence from the ward.

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

19 (3) Owing a debt to the municipality. A vacancy occurs  
20 if a municipal official fails to pay a debt to a  
21 municipality in which the official has been elected or  
22 appointed to an elected position. In order for this  
23 paragraph to apply, the municipal official shall have been  
24 delivered by certified mail or personal service a notice  
25 that (i) the municipal official is in arrears of a debt to  
26 a municipality, (ii) that the debt must be paid within 30

1       days after receipt of the notice, (iii) that once the debt  
2       is paid, proof of payment must be presented to the  
3       municipal clerk that the debt was paid in full, and (iv) if  
4       proof of payment is not presented to the municipal clerk,  
5       the municipal official will be disqualified and his or her  
6       office vacated. For purposes of this paragraph, a municipal  
7       official is considered in arrears of a debt to a  
8       municipality if a debt is more than 30 days overdue from  
9       the date the debt was due.

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

1 advice and consent of the city council.

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

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

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

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

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

1           Section 99. Effective date. This Act takes effect upon  
2    becoming law.".