

## Handbook Changes

### Chapter 1: Acts of Town Clerk

- Add Attestation to the list of “Partial Listing of Duties of Township Clerk”
- Duty #2 on the List-change “first Monday in May” to “third Monday in May”

### Chapter 8: Prevailing Wage

- Public Act 100-1177 changed the requirements effective June 1, 2019

### Chapter 9: Warrants - no handout

- Add Attestation

### Chapter 12: Public Notices

- Section 2, C-change to “not less than 15 days.....”
- Section 7-delete the paragraph regarding filing of the Prevailing Wage

### Chapter 15: Oaths

- Suggestion to Box or Highlight the oath to make it easier to spot on the page

### Chapter 16: Appointments by Board of Trustees

- Change Warrant to add the IL Statute verbiage

## Partial Listing of Duties of The Township Clerk

Generally, see 60 ILCS 1/75-5 et seq.

References to ILCS (Illinois Compiled Statutes) are made throughout this handbook. This database can be searched at <http://www.ilga.gov/legislation/ilcs/ilcs.asp>

1. The Township Clerk approves the Supervisor's bond for the town funds. 60 ILCS 1/70-5
2. The Township Clerk shall take the oath of office given by a person authorized to administer oaths before taking office on the ~~first~~ Monday in May after the election. 60 ILCS 1/55-10
3. The Township Clerk <sup>third</sup> can administer oaths and take affidavits which are required by law to be administered or taken by any township official. 60 ILCS 1/75-5(b)
4. The Township Clerk can administer oaths to absentee voters and persons registering to vote. 60 ILCS 1/75-30
5. The Township Clerk is the Clerk of the annual and special town meetings, and gives notice of such meetings, and calls the meeting to order for the purpose of electing a moderator. 60 ILCS 1/40-5, 75-10. Electors at the meeting shall be verified as voters registered within the township by the clerk, or a designee of the township clerk, through the use of township voter registration lists obtained by the township clerk from the election authority having jurisdiction over the township and updated to include voters registered no less than 28 days before the date of the meeting. 60 ILCS 1/40-5
6. The Township Clerk is the ex-officio clerk of the Road District. 60 ILCS 1/75-40.
7. The Township Clerk must file a list of those elected or appointed to office with the County Clerk and the State Board of Elections. The Township Clerk accepts filings of nomination papers for candidates for township office, and petitions for referenda, and certifies candidates and referenda to the County Clerk and/or Board of Election Commissioners.
8. In case of a tie vote on the Board of Trustees to appoint a person to fill a vacancy in township office, the Township Clerk can cast a tie-breaking vote.
9. The Township Clerk is a member of the following boards:
  - a. Township Board of Health. 60 ILCS 1/75-35.
  - b. Township Canvassing Board for primary elections. 60 ILCS 5/7-56.
  - c. Township Canvassing Board for general elections.
  - d. Township Officers Electoral Board (unless disqualified). 60 ILCS 5/10-9.
10. The Township Clerk may appoint one Deputy Clerk when authorized by the township board of trustees. The Deputy Clerk shall have the power and duty to:
  - a. Execute all documents required by law to be executed by the township clerk and affix the township clerk's seal to those documents when required by law. In signing a document, the deputy clerk shall sign the name of the clerk followed with the word "By" and the deputy clerk's own name and the words "Deputy Clerk".
  - b. Attend bid opening with respect to the sale, purchase, or lease of goods or services by the township or the road district comprised of that township.
  - c. Attend township meetings and township board meetings and take minutes of those meetings.

## Prevailing Wage Act Changes

### *Good News for Townships and Road Districts*

Each June, Townships, Road Districts, and all local governments in Illinois have been required to adopt prevailing wage ordinances “ascertaining” the applicable prevailing wages that the government must pay for public works projects. This requirement is contained in the Prevailing Wage Act, which also includes requirements for filing the ordinance with the state, publishing/posting the rates, and certain record-keeping requirements. ***This will all change with the enactment of Public Act 100-<sup>1177</sup>~~117~~ in March, which becomes effective on June 1, 2019.***

The new law does not eliminate the requirement that Townships and Road Districts pay prevailing wages. It did eliminate certain obligations Townships and Road Districts have under the Act and modified others, including the following:

- Townships and Road Districts *no longer* need to approve an annual prevailing wage ordinance each June. Instead, the prevailing wage schedule published on the Illinois Department of Labor’s website will automatically set the applicable wage rates for each local government.
- Townships and Road Districts no longer need to publish or file an ordinance since one is no longer required.
- The Illinois Department of Labor will be required to maintain an electronic database of certified payrolls, which must be in place by April 1, 2020. Once in place, contractors will submit certified payrolls directly online rather than filing them with the local government (Townships and Road Districts).
- The law did **NOT** modify existing requirements that all local governments, including Townships and Road Districts, include language in a call for bids, contract, or notice about prevailing wages where applicable.

Again, the new law eliminates certain administrative and record-keeping requirements of Townships and Road Districts, but does not change the underlying requirements of paying prevailing wages for projects subject to the Prevailing Wage Act.

This is good news for Townships and Road Districts. If you have any questions, please feel free to contact TOI. Toll Free 866-897-4688.

B. Form of Notice. The form of the notice is specifically set forth in the statute regarding the truth in taxation procedure. See 35 ILCS 200/18-80. Any notice which includes any information not specified and required by the Truth in Taxation Act is an invalid notice. 35 ILCS 200/18-80.

Public Act  
100-1177  
delete

7. Public Notice of Prevailing Wage Ordinance. Each public body shall during the month of June of each calendar year ascertain the prevailing rate of wages and publicly post or keep available for inspection by any interested party in the main office of such public body as determination of such prevailing rate of wage. 820 ILCS 130/9. In addition, the public body shall promptly file no later than July 15 of each year a certified copy of its termination with ~~the Office of the Secretary of State and the office of the Illinois Department of Labor.~~ 820 ILCS 130/9. The public body shall, within thirty (30) days after such filing with ~~the Secretary of State and~~ the office of the Illinois Department of Labor, publish in a newspaper of general circulation within the area that the determination is effective, a notice of its determination. 820 ILCS 130/9. It shall also promptly mail a copy of its determination to any employer or association of employers or employees who have filed their names and addresses requesting such copies. 820 ILCS 130/9.

8. Notice to Advertise for Bids.

A. Road District Purchases. Whenever a bidding procedure is required for the purchase of construction, materials, supplies, new machinery or equipment in a road district, the road district must advertise for bids. 605 ILCS 5/6-201.7. Bids must be advertised at least once, and at least ten (10) days prior to the time set for opening of such bids. 605 ILCS 5/6-201.7. The advertisement must be in a newspaper published within the township or road district. 605 ILCS 5/6-201.7. If no newspaper is published within the township or road district, then in one published within the county. 605 ILCS 5/6-201.7. If no newspaper is published within the county, then in a newspaper having general circulation within the township or road district. 605 ILCS 5/6-201.7.

B. Township Purchase. Whenever a bidding procedure is required for the purchase of services, materials, supplies, or equipment in a township, the township must advertise for bids. 60 ILCS 1/85-30. There must be an advertisement for bids at least once. 60 ILCS 1/85-30. The advertisement must be in a newspaper published within the township. 60 ILCS 1/85-30. If no newspaper is published within the township, then in one published within the county. 60 ILCS 1/85-30. If no newspaper is published within the county, then a newspaper having general circulation within the township. 60 ILCS 1/85-30.

C. Sale of Township or Road District Personal Property. *(Any time during the year, the Township or Township road district may dispose of personal property by a vote of the Township board or request of The Township Hwy., Commissioner. As a result, the bidding process and notice requirements set forth in this section will probably not be used.)* Whenever a bidding procedure is required for the sale of township or road district personal property, the township or road district must be advertised for bids. 60 ILCS 1/30-50. The clerk shall publish the resolution of sale once in a newspaper published in the township. If there is no newspaper published in the township, then in a newspaper generally circulated in the township. 60 ILCS 1/30-50. If no newspaper is generally circulated in the township, the clerk shall post the resolution in five (5) of the most public places in the township. 60 ILCS 1/30-50. In addition to publishing the resolution in the newspaper, the clerk shall post the resolution at the office of the township or at the office of the road district (if road district property is involved). 60 ILCS 1/30-50.

## CHAPTER 15

### Oaths

The township clerk is authorized to administer oaths and take affidavits in all cases required by law to be administered or taken by township officers. The clerk is also authorized to administer oaths for absent voters as required by the general election law. 60 ILCS 1/75-5. If the clerk administers an oath that the law does not authorize, the oath will be ineffective thereby nullifying the purpose for which the oath was administered. *Albertson v. Town of Cicero*, 129 Ill. 226, 21 N.E. 815 (1889).

In various circumstances, the law requires the township clerk to administer an oath. The most prominent circumstance concerns the election or appointment of persons holding a township office or other township position. Every person elected or appointed to the office of supervisor, township clerk, assessor, trustee, commissioner of highways, township enforcement officer, or collector, before entering upon the duties of that office, must take and subscribe to oath of office prescribed by the Constitution. Ill. Const. Art. 13, sec. 3, and The Oaths and Affirmations Act, 5 ILCS 255/0.01 et seq.

The oath should be framed as follows:

I do solemnly swear that I will support the Constitution of the United States, and the Constitution of the State of Illinois, and that I will faithfully discharge the duties of the office of to the best of my ability. "

The oath of an elected or appointed official is normally given orally, with the official raising his/her right hand and repeating the words of the oath. However, this is not strictly necessary, and the oath can simply be in writing, signed by the official before the clerk. Quite often, the township will arrange for a judge to give the oaths to newly-elected officers. In either case, the clerk should make sure that written oaths are prepared and signed both by the person taking the oath and administering the oath. The original written oath should be kept with the township's permanent records. The term of office of the township officials elected every four years do not begin simultaneously.

For instance, the assessor's term generally does not begin until January 1 of the following year. In some townships, it is customary to swear in all the newly-elected officials at once, usually at the first meeting following the canvass of the voters. However, despite the early administration of the oath, the new officials cannot begin their service until the date specified by law for their particular offices.

Within eight (8) days after the oath is taken, the oath must be filed with the township clerk or the clerk of the multi-township board, as the case may be, and the county clerk. 60 ILCS 1/55-10.

Therefore, aside from simply administering an oath as authorized by law, the clerk must file a certificate of the oath in their office and the county clerk's office within 8 days, counting the day the oath was given as the first day. If any person elected or appointed neglects to take the oath or cause the certificate to be filed, the law interprets the neglect as a refusal to serve. 60 ILCS 1/55-15. The duty to take an oath is with the person who is elected or appointed, not on the township clerk. The township clerk simply has the authority to administer the oath when necessary. The township board may have a policy or practice which defines how and when an elected or appointed person is to take the oath.

*Note: Execute in duplicate: One copy for the Township clerk's records, and one copy for the County Clerk.*

State of Illinois                    }  
County of \_\_\_\_\_ } SS  
Township of \_\_\_\_\_ }

Warrant of Appointment of the \_\_\_\_\_ Township Board of Trustees  
To Fill a Vacancy in the Office  
Of Township Trustee  
(To Fill a Vacancy)

To \_\_\_\_\_ Clerk of the Township of \_\_\_\_\_.

WHEREAS the office of \_\_\_\_\_ in said township became vacant  
\_\_\_\_\_, 20\_\_ due to \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

WHEREAS Section 60-5 of the township Code expressly authorizes the \_\_\_\_\_  
Township Board of Trustees to fill said vacancy by appointment (60 ILCS 1/60-5); and

THEREFORE, we the undersigned, being a majority of the members of the Township Board of  
Trustees of said \_\_\_\_\_ Township, \_\_\_\_\_ County and \_\_\_\_\_ State, have appointed  
\_\_\_\_\_ to the office of \_\_\_\_\_ for said  
Township to hold said office until some other person shall be chosen or appointed and to have the same  
powers, and be subject to the same duties and penalties as if he had been chosen by the electors of said  
Township.

IN WITNESS WHEREOF, we have hereunto subscribed our names and affixed our seals at  
\_\_\_\_\_ on \_\_\_\_\_, 20\_\_.

Filed \_\_\_\_\_, 20 \_\_\_\_\_,  
In the Clerk's office in the Township of \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_, Township Clerk

\_\_\_\_\_  
Supervisor  
\_\_\_\_\_  
Trustee, Township Board of Trustees  
\_\_\_\_\_  
Trustee, Township Board of Trustees  
\_\_\_\_\_  
Trustee, Township Board of Trustees  
\_\_\_\_\_  
Trustee, Township Board of Trustees