

HEYL ROYSTER

GOVERNMENTAL NEWSLETTER

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November-December 2009

Dear Friends:

As the year comes to a close, some thoughts come to mind.

There have been numerous discussions on the new changes coming to the Freedom of Information Act and the Open Meetings Act, but there are a number of other new laws coming for 2010. This was a busy legislative session, and now is the time to present an overview of the new laws that you will need to be aware of for the coming year. We've included a discussion of new weight limits and ordinances regarding maintenance and construction of roadways. Finally, there is a gentle reminder on the prohibition on self-dealing for public officials.

In October, we were pleased to see your friendly faces at our seminar on FOIA and OMA at the City of Canton. This is an important issue that local governmental entities need to stay abreast of, and we are pleased to see our local officials take it seriously, but also demonstrate a working knowledge of the new law.

Please feel free to contact John, Jesse, Tim, or me at (309) 676-0400 should you have any questions about the newsletter articles, or if you have any other questions about local government law.

Andy

Andrew J. Keyt is an associate with Heyl, Royster, Voelker & Allen. He concentrates his practice on both governmental affairs and in the defense of asbestos and toxic tort claims arising from environmental and occupational exposures, including products and premises liability claims. Andy represents and assists in the representation of public entities as their counsel. As counsel for local public entities, Andy attends monthly meetings, board meetings and provides counsel on a variety of legal issues.



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SECOND DISTRICT APPELLATE COURT ADDRESSES CONFLICTING STATUTORY POWERS OF TOWNSHIP BOARD AND ELECTORS

By **Timothy Bertschy**

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A recent case from the Second District Appellate Court, *Ziller v. Rossi*, Nos. 2-09-0511, 2-09-0592, 2009 WL 3048440 (Sept. 18, 2009, 2d Dist.), presents an important analysis of the conflicting powers of township boards and electors. At issue in the case was the construction of a township office building (town hall) in Grafton Township. Plaintiffs (electors) alleged that the electors of Grafton Township never authorized the board to enter into contracts for the construction of the town hall, nor did they authorize the submission of the bond issue to referendum. Defendants (township board members) contended that the township board had taken sufficient action to authorize the construction of the town hall. Plaintiffs requested an injunction prohibiting the defendants from approving bids relating to the construction of the town hall and this injunction was granted. It was the appeal from the injunction which was before the Second District.

There were a number of interesting issues in this case, including the adequacy of the agenda in permitting such an action

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to be taken and whether the court even possessed jurisdiction to consider this matter. For purposes of this discussion, however, only the Appellate Court's review of the competing powers of the board and electors is reviewed.

Defendants argued that three statutory grants of authority gave the board power to finance and construct new buildings. Defendants first pointed to Section 17(b) of the Local Government Debt Reform Act, which grants governing bodies the authority to enter into installment contracts for the purchases of property through agreements which provide for payment over a period not to exceed 20 years. 30 ILCS 350/17(b).

Second, Defendants relied upon Sections 85-10(c) and (d) of the Township Code, which grant a township the authority to construct a town hall under contracts providing for payment over a period not exceeding 10 years and provide further that a township may make all contracts necessary in the exercise of its powers. 60 ILCS 1/85-10(d).

Third, Defendants pointed to Section 8 of the Statute on Statutes, which grants to governmental entities powers supplementary to those found in the Local Government Debt Reform Act and states that all instruments providing for the payment of money executed by a governmental entity are valid and legally binding obligations of that entity. 5 ILCS 70/8.

Defendants further argued that electors have no express power to authorize the construction of a town hall. Accordingly, Defendants argued the trial court's ruling was in error.

The Appellate Court held that the described statutory authority does grant a "township" authority to purchase property, finance and construct a town hall, or enter into contracts. However, a township cannot act on its own but rather acts through its electors or its elected board officials. Thus, the question the Court faced was whether these statutory provisions granted a township board the authority to approve the construction or financing of a town hall without adequate notice to the electors, or, following the filing of a petition (under Code Section 140-5), a majority vote by the electors. The Court concluded that the board, with proper notice to the electors, may act unless or until the electors file a petition pursuant to Section 140-5 of the Township Code.

Section 140-5 of the Code provides:

"(a) Whenever it is desired to build, purchase, or lease, for a longer period than 10 years, a township hall, * * * at least 25 electors of the township may, before the time of giving notice of the annual township meeting, file with the township clerk a petition in writing that the proposition of building, purchasing, or leasing a township hall, * * * and issuing bonds for the building, purchase, or lease be submitted to the voters of the township at the next ensuing general election. * * * The petition shall be filed in the office of the township clerk.

(b) The township clerk shall certify the proposition to the

proper election officials, who shall submit the proposition to the legal voters of the township at an election in accordance with the general election law." (Emphasis supplied) 60 ILCS 1/140-5.

The Court observed that the impact of Section 140-5 and the township board's authority to construct a town hall was considered in *Baldacchino v. Thompson*, 289 Ill.App.3d 104, 106, 862 N.E. 2d 182 (1st Dist. 1997). The *Baldacchino* court concluded that the Township Code does not clearly answer the question of whether the decision to construct an addition to the town hall falls within the scope of authority afforded to the board or the electors. The *Baldacchino* court noted that in the prior case of *Evers v. Collinsville Township*, 269 Ill.App.3d 1069, 1072-73, 647 N.E. 2d 1058 (5th Dist. 1995), it was held that the township electors' enumerated powers did not include the authority to construct a town hall. However, the *Baldacchino* court concluded that the statements in *Evers* in this regard were merely dicta. *Baldacchino* reached the opposite result, observing that Section 140-5(a) requires, when a township desires to build a town hall and must borrow money and issue a bond for that purpose, "electors... present the matter at the annual meeting and issue a referendum on the matter." *Baldacchino*, 289 Ill.App.3d at 113. Therefore, the Court concluded that a "close reading of the [Code] tends to support the electors' position that the construction of a town hall is an area in which the [board] has no independent power, but must act only upon the direction of the electors." *Id.*

Ziller modified *Baldacchino* in a very significant way. The Court stated:

"We agree with *Baldacchino* in part. As defendants note, *Baldacchino* framed Section 140-5 as mandatory, when, in fact, it provides that the electors "may" act to have presented via referendum the question of building a town hall and issuing bonds for that purpose; this suggests that a referendum is not the exclusive method for constructing and financing a new building. However, we agree with *Baldacchino* to the extent that it holds that Section 140-5 grants some authority to the electors regarding the construction and financing of a town hall and, thus, that the board does not have exclusive authority in that domain. See also 1996 Ill. Att'y Gen. Op. No. 96-019 (township electors may exercise those powers delegated to them by statute or those implied powers that are essential to the exercise of the powers that have been expressly granted). We agree with the trial court here that the board, with proper notice to the electors, may act unless or until township electors file a petition pursuant to Section 140-5 of the Code." *Ziller*, 2009 WL 3048440 at *9.

The Court concluded that since the township board had not validly acted prior to the filing of the Section 140-5 petition, the Board could no longer act. Rather, after a Section 140-5(a) petition is filed, Section 140-5(b) requires that the township clerk

“shall” certify the proposition for submission to the voters at the next election. Accordingly, when Plaintiffs filed their petition in accordance with Section 140-5(a), the subject of constructing and financing a new town hall became a mandatory proposition for submission to voters.

This case raises some very interesting questions for township attorneys. A conservative view of township board powers in the past has assumed that township powers affecting property interests require elector approval. Moreover, when the statutes have not described specifically who takes an action authorized to a township, a conservative approach has been to assume that the electors must give approval. (See, for example, the last paragraph of Illinois Attorney General Opinion 97-010.) However, the *Ziller* case seems to suggest to the contrary, *i.e.*, unless stated in mandatory terminology, discretionary powers placed in the elector’s hands are a bar to board action only after the electors have taken steps to exercise their statutory authority. This presumes, of course, that there is statutory power somewhere in the Code for the township to engage in such activity. However, the breadth of 60 ILCS 1/85-10 and 1/85-13 leave few areas where townships are not permitted to act.

Perhaps the most interesting application of *Ziller*; at least to this author, is its application to 60 ILCS 1/30-50 regarding the purchase and use of property. There, the electors “may make all orders for the purchase, sale, conveyance, regulation, or use of the Township’s property ...” Defining the term “may” in that statute in light of *Ziller* can lead one to the conclusion that the township board can engage in any real estate or personal property transaction unless and until the electors determine to become involved. This clearly would be a departure from the prevailing view of the board’s powers in respect to sale or purchase of property. However, it is more in line with a modern view of how a township should operate.

The Township Code should not put township officials and attorneys in a position where they are required to guess what powers exist between the electors and board. Rather, the Code should be rewritten to give a clear understanding of who has what power at what time. Until then, *Ziller*; AG Opinion 97-010, and conventional wisdom leave us in a nebulous state.

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No SELF-DEALING FOR PUBLIC OFFICIALS

By: **Jesse A. Placher**
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Introduction

The Illinois Public Officer Prohibited Activities Act provides that no person holding any office, either by election or appointment under the laws or Constitution of this State, may be in any manner financially interested directly in his own name or indirectly in the name of any other person, association, trust, or corporation, in any contract or the performance of any work in the making or letting of which such officer may be called upon to act or vote. Additionally, no such officer may represent, either as agent or otherwise, any person, association, trust, or corporation, with respect to any application or bid for any contract or work in regard to which such officer may be called upon to vote. Nor may any such officer take or receive, or offer to take or receive, either directly or indirectly, any money or other thing of value as a gift or bribe or means of influencing his vote or action in his official character. Any contract made and procured in violation of the Act is void. 50 ILCS 105/3.

Our Court’s Interpretation

This Act essentially prohibits conflicts of interest in conducting public business by barring public officials from self-dealing. An Illinois federal court has upheld the Act, holding it fairly informs public officials of their duty to avoid becoming interested, either directly or indirectly, in contracts which may inure to their benefit. Of significance, the court held that the Act, in its regulation of the conduct of public officials, is not so overbroad as to invade the area of other constitutionally protected freedoms. *Shoresman v. Burgess*, 412 F. Supp. 831 (E.D. Ill. 1976).

The Supreme Court of Illinois has addressed the consequences of violating the Act, holding that the interested officer is not entitled to any compensation for anything he or she may do under such contract. *Huszagh v. City of Oakbrook Terrace*, 41 Ill. 2d 387, 243 N.E. 2d 831 (1968). In addition, the Court held that money paid out because of the purported contract may

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be recovered. *Village of Dwight v. Palmer*, 74 Ill. 295 (1874).

Illinois courts have also addressed the issue of determining what constitutes an interest in a contract. The interest in a contract of the municipality which disqualifies the public officer from executing such a contract in his or her official capacity must be certain, definable, and pecuniary or proprietary. *Panozzo v. City of Rockford*, 306 Ill. App. 443, 28 N.E. 2s 748 (2d Dist. 1940). The court in *Panozzo* held that a relationship between a public officer and a contractor is not a disqualifying interest without proof that the officer has a pecuniary interest in the contract. The question of whether the relation of a debtor and contracting party to a public officer constitutes an interest within the rule prohibiting such officer from being interested in a contract with the public is to be determined from the facts and circumstances appearing in evidence. *Furlong v. South Park Commissioners*, 340 Ill. 363, 172 N.E. 757 (1930).

Exemptions

There are a number of exemptions. For example, pursuant to section (b) of the Act, any elected or appointed member of the governing body may provide materials, merchandise, property, services, or labor, subject to the following provisions:

(1) If:

A. the contract is with a person, firm, partnership, association, corporation, or cooperative association in which such interested member of the governing body of the municipality has less than a 7 1/2 % share in the ownership; and

B. such interested member publicly discloses the nature and extent of his interest prior to or during deliberations concerning the proposed award of the contract; and

C. such interested member abstains from voting on the award of the contract, though he shall be considered present for the purposes of establishing a quorum; and

D. such contract is approved by a majority vote of those members presently holding office; and

E. the contract is awarded after sealed bids to the lowest responsible bidder if the amount of the contract exceeds \$1500, or awarded without bidding if the amount of the contract is less than \$1500; and

F. the award of the contract would not cause the aggregate amount of all such contracts so awarded to the same person, firm, association, partnership, corporation, or cooperative association in the same fiscal year to exceed \$25,000.

(2) If:

A. the award of the contract is approved by a majority vote of the governing body of the municipality provided that any such interested member shall abstain from voting; and

B. the amount of the contract does not exceed \$2,000; and

C. the award of the contract would not cause the aggregate amount of all such contracts so awarded to the same person, firm, association, partnership, corporation, or cooperative association in the same fiscal year to exceed \$4,000; and

D. such interested member publicly discloses the nature and extent of his interest prior to or during deliberations concerning the proposed award of the contract; and

E. such interested member abstains from voting on the award of the contract, though he shall be considered present for the purposes of establishing a quorum. 50 ILCS 105/3(b)(1-2).

In addition to the above exemptions, pursuant to Section (b-5), any elected or appointed member of the governing body may provide materials, merchandise, property, services, or labor if:

A. the contract is with a person, firm, partnership, association, corporation, or cooperative association in which the interested member of the governing body of the municipality, advisory panel, or commission has less than a 1% share in the ownership; and

B. the award of the contract is approved by a majority vote of the governing body of the municipality provided that any such interested member shall abstain from voting; and

C. such interested member publicly discloses the nature and extent of his interest before or during deliberations concerning the proposed award of the contract; and

D. such interested member abstains from voting on the award of the contract, though he shall be considered present for the purposes of establishing a quorum. 50 ILCS 105/3(b-5).

(c) A contract for the procurement of public utility services by a public entity with a public utility company is not barred by this section by one or more members of the governing body of the public entity being an officer or employee of the public utility company or holding an ownership interest of no more than 7 1/2 % in the public utility company, or holding an ownership interest of any size if the public entity is a municipality with a population of less than 7,500 and the public utility's rates are approved by the Illinois Commerce Commission. An elected or appointed member of the governing body of the public entity having such an interest shall be deemed not to have a prohibited interest. 50 ILCS 105/3(c).

A municipal officer shall not be deemed interested if he or she is an employee of a company and/or owns or holds an interest of 1% or less in the municipal officer's individual name in a company which is involved in the transaction of business with the municipality, and that company's stock is traded on a nationally recognized securities market, provided the interested member:

(i) publicly discloses the fact that he or she is an employee or holds an interest of 1% or less in a company before deliberation of the proposed award of the contract; (ii) refrains from evaluating, recommending, approving, deliberating, or otherwise

participating in negotiation, approval, or both, of the contract, work, or business; (iii) abstains from voting on the award of the contract though he or she shall be considered present for purposes of establishing a quorum; and (iv) the contract is approved by a majority vote of those members currently holding office. Additionally, a municipal officer shall not be deemed interested if he or she owns or holds an interest of 1% or less, not in the officer's individual name but through a mutual fund, in a company which is involved in the transaction of business with the municipality, and that company's stock is traded on a nationally recognized securities market. 50 ILCS 105/3(e).

Recent Amendment

The legislature recently added an additional section to the Act which provides greater latitude associated with public officials' dealings with not-for-profit entities. Effective January 1, 2010, under either of the following circumstances, a municipal officer may hold a position on the board of a not-for-profit corporation that is interested in a contract, work, or business of the municipality:

(1) If the municipal officer is appointed by the governing body of the municipality to represent the interests of the municipality on a not-for-profit corporation's board, then the municipal officer may actively vote on matters involving either that board or the municipality, at any time, so long as the membership on the not-for-profit board is not a paid position, except that the municipal officer may be reimbursed by the non-for-profit board for expenses incurred as the result of membership on the non-for-profit board.

(2) If the municipal officer is not appointed to the governing body of a not-for-profit corporation by the governing body of the municipality, then the municipal officer may continue to serve; however, the municipal officer shall abstain from voting on any proposition before the municipal governing body directly involving the not-for-profit corporation and, for those matters, shall not be counted as present for the purposes of a quorum of the municipal governing body. 50 ILCS 105/3(f).

Conclusion

As you can see, the language of the Act is quite broad and seems to apply to essentially all public officials and all public contracts. However, a number of exemptions exist, mostly to protect you from being restricted from investing in good faith. Furthermore, the Act does not appear to apply to such matters as client entertainment. Finally, the recent amendment associated with not-for-profits indicates that the legislature is willing to limit the scope of this Act in order to promote your good faith involvement in certain affairs.

In sum, it is highly recommended that you consult an attorney before authorizing a contract in which you may have a financial interest.

Jesse A. Placher is an associate in the Peoria office of Heyl Royster. He joined the governmental practice group as of December 2008. He concentrates his practice in governmental law, commercial litigation, and insurance defense. Jesse represents municipalities, townships, and other governmental agencies. He focuses primarily on liquor hearings and appeals.



LEGISLATIVE UPDATE

By **Andrew J. Keyt**

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This has been a busy legislative session in Springfield. The list below provides a brief overview of some of the changes to Illinois statutes.

The important amendments and changes are to the Freedom of Information Act/Open Meetings Act, the Prevailing Wage Act, forfeitures for official misconduct, and procedures for lien collections/enforcement. This by no means encompasses all of the changes which affect local governmental entities or their officials. In fact, there are more changes that affect local governmental entities and officials than are provided below.

Any specific questions regarding these changes, or any other changes to Illinois statutes, can be directed to Tim, Andy, Jesse or John.

FOIA/OMA Reforms – P.A. 96-0542 – Amends the FOIA and OMA. The basic changes involve how public entities procedurally respond to FOIA requests and establishes within the Attorney General's Office a Public Access Counselor to oversee compliance and education regarding FOIA and OMA. Effective January 1, 2010.

Prevailing Wage – P.A. 96-0437 – Amends the Prevailing Wage Act. For those contracts not awarded through public bidding process, public bodies must make contractors aware of the prevailing wage requirements. Effective January 1, 2010.

Prevailing Wage – P.A. 96-0186 – Amends the Prevailing Wage Act. Demolition projects are now specifically covered by the PWA as "public works." Effective January 1, 2010.

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Truth in Taxation – P.A. 96-0504 – Authorizes the taxing authority to include a statement regarding the district's limits under tax caps. Effective August 14, 2009.

Recycling Metal Highway Signs – P.A. 96-0507 – Recycling dealers must obtain specified records before accepting metal highway signs for recycling, this amendment adds to those previously existing requirements. The law was designed to prevent theft of highway signs. The new amendment requires an affirmative statement be signed by the person delivering the material for recycling. Effective August 14, 2009.

Annexation Agreements -- P.A. 96-0188 – Property subject to an annexation agreement which is more than 1.5 miles from the corporate boundaries of the annexing entity is subject to the jurisdiction (including ordinances) unless the county board retains control via 2/3 vote of its members. Effective August 10, 2009.

Ambulance Equipment Grant Program – P.A. 96-0386 – Amends the State Fire Marshal Act to require their supervision of a grant program for ambulance services (includes volunteer, non-profit and stand-alone ambulance services) to purchase defibrillators and communication equipment. The program was previously limited to fire departments and fire protection districts for fire related equipment. Effective August 13, 2009.

Municipal Officers Serving on Non-Profit Corporate Boards – P.A. 96-0277 – Amends the prohibited interests in contracts provisions, by allowing officers of a municipality to vote on certain matters (or abstain if necessary). Effective January 1, 2010.

Municipal Liens for Weeds/Garbage/Debris, etc... -- P.A. 96-0462 – Amends several acts to provide a uniform method for the filing of liens and recovery of costs associated with those liens for municipal corporations. Effective August 14, 2009.

Attendance of Clerks at Executive Sessions – P.A. 96-0294 – Amends the section dealing with the duties of municipal clerks to specifically add attendance at executive sessions, unless the clerk is the subject matter of the executive session and attendance would create a conflict of interest. Effective August 11, 2009.

Wind Tower Setbacks – P.A. 96-0306 – Amends the current wind tower provisions of the county and municipal codes to prohibit setbacks greater than 1.1 times the height of the tower (or other renewable energy source) for those who are owners of the property and also end users of the power source. Effective January 1, 2010.

Election Code and Local Records Act – P.A. 96-0475 – Amends the Local Records Act and the Election Code to establish the Local Records Act as the governing Act in relation to the destruction of records pertaining to elections. Effective August 14, 2009.

Forfeiture Related to Officer Misconduct – P.A. 96-0597 – Creates the Elected Officials Misconduct Forfeiture Act which allows for the recovery of all proceeds traceable to an elected official's criminal misconduct. Effective August 18, 2009.

Postings Related to the Americans with Disabilities Act – P.A. 96-0650 – Amends the counties, township and municipal codes to require the posting of the contact information for the ADA coordinator for the entity on any public entities website, along with grievance and complaint procedures. If the entity does not have a website, the information must be posted in a newspaper or newsletter. Effective January 1, 2010.

Increase Vehicle Width – P.A. 96-0220 – Amends the Illinois Vehicle Code to allow for vehicles up to 8 feet, 6 inches (an increase from 8 feet). Effective January 1, 2010.

Regulation of Pigeons – P.A. 96-0646 – Amends the Carrier, Racing, Hobby and Show Pigeon Act to now allow municipalities (other than Chicago) to regulate (but not prohibit) the keeping of such pigeons. Effective August 24, 2009.

Lease of State Property – P.A. 96-0557 – Creates a new law allowing local entities to lease closed State parks or closed State historic sites, subject to a host of requirements, including the entity assuming all liability for the operation of the facility. Effective August 18, 2009.

Revolving Loans for Fire Stations – P.A. 96-0135 – Creates a new law allowing the Illinois Finance Authority and State Fire Marshal to administer a loan program for the construction, rehabilitation, remodeling and expansion of fire stations, including the acquisition of land for such construction. The act includes township fire departments and fire protection districts. Effective July 1, 2009.

Wireless Telephone and Electronic Communications – P.A. 96-0130 and 0131 – Bans use of electronic communication devices to compose, send or read an electronic message while driving, and bans use of cell phones while driving in construction zones or school zones. There are exemptions built into each ban. Effective January 1, 2010.

NEW LAWS ALLOW 80,000 POUND LEGAL LOADS AND MORE WIDTH ON ROADWAYS

By John M. Redlingshafer
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Author's Note: A special "thank you" goes out to our highway commissioner friends that have already "weighed-in" with us on this situation, and provided their thoughts and concerns about these changes.

The Illinois General Assembly recently adopted its capital budget bill. As part of that bill, a very important change in Illinois law appeared: a uniform 80,000 pound truck weight limit for state routes and other local roads.

This new law will not take effect until January 1, 2010, but highway commissioners and other road officials need to start thinking about how to prepare for this change.

However, weight loads were not the only thing the General Assembly addressed this year. The General Assembly also passed a law that allows a vehicle up to 8' 6" wide (an increase of 6 inches) on Illinois roadways (also taking effect on January 1, 2010).

With these changes in mind, we are left with the question of how to protect your roads that you feel cannot support the new weight or width allowances. Despite these new laws, you will still have the power to establish temporary weight limitations by resolution or ordinance, and also to establish limits on certain bridges. As you know, 625 ILCS 5/15-316(a) allows a local authority to make a temporary weight restriction not to exceed 90 days in any one calendar year. The only thing that is required is to determine that a certain road needs to be restricted, pass a resolution on the issue, and then post the necessary signs to restrict the weight. Once the resolution has passed and the signs posted, any person or vehicle found to be in violation of the restriction will be subject to fines under the Illinois Vehicle Code.

Arguably, you will have another option, too. 625 ILCS 5/15-316(c) has not been changed – and it is the statute that provides you with a more permanent (but trickier) solution. 316(c) allows for a "local authority" to permanently prohibit and/or impose limitations on the weight on "designated highways" by ordinance or resolution, as long as signs announcing the ban are placed on such highways. When it comes to permanent restrictions on a roadway in any fashion, we would highly recommend (at a minimum) consultation with an engineer, as certain entities may challenge your actions as unreasonable (arbitrary without engineering support, etc.), and seek a legal review of your decision.

The crucial phrase in 316(c) is "designated highways." It is important because that is the only type of highway on which

these permanent prohibitions can be placed. Under the Illinois Vehicle Code at 625 ILCS 5/1-126.1, the definition of highway designations states:

Highway Designations. The Department of Transportation may designate streets or highways in the system of State highways as follows:

(a) Class I highways include interstate highways, expressways, tollways, and other highways deemed appropriate by the department.

(b) Class II highways include major arterials not built to interstate highway standards that have at least 11 feet lane widths.

(c) Class III highways include those State highways that have lane widths of less than 11 feet.

(d) Non-designated highways are highways in the system of State highways not designated as Class I, II, or III, or local highways which are part of any county, township, municipal, or district road system. Local authorities also may designate Class II or Class III highways within their systems of highways.

You will note Subparagraph (d) specifically mentions local roads as non-designated highways, but allows highway commissioners and other local authorities to designate their roads as Class II or Class III highways. If such highways are "designated", it would appear that you then could place the permanent prohibitions and/or limitations. Obviously, it will be the local road authority's responsibility to make sure all other specifications are met, too (such as width, surface, etc., as required for a Class II or III highway).

Assuming you wish to designate certain routes, you will have to plan for the enforcement and/or collection of fines related thereto with local law enforcement agencies. Please be advised of several statutes under the Illinois Vehicle Code (for example 625 ILCS 5/16-105) which allow for the fine and other penalties collected to go to either the county treasurer or a state fund depending on the law enforcement agency that enforces the violation (County Sheriff, Illinois State Police, etc.). These statutes do not allow for township collection of the same, but do allow a municipality to recover and put in its own treasury if it collects the fines.

We are happy to assist you in drafting any ordinances (temporary or permanent restrictions) or offer other legal considerations on designations of your local road system.

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*The statutes and other materials presented here are in summary form. To be certain of their applicability and use for specific situations, we recommend an attorney be consulted.
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