



2025 South Dakota Legislature

Senate Bill 167

Introduced by: **Senator Reed**

1 **An Act to revise certain provisions pertaining to municipal government.**

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 **Section 1. That § 9-6-1 be AMENDED:**

4 **9-6-1.** ~~Whenever a municipality shall have less than two hundred fifty population,~~
 5 ~~the owners of a majority of the real property therein, both in area and assessed valuation,~~
 6 ~~may petition the circuit court of the county in which such municipality or any part thereof~~
 7 ~~is situated for the dissolution of the municipality.~~ If a municipality has a population of less
 8 than two hundred fifty, the owners of a majority of the real property in the municipality,
 9 both in area and assessed valuation, may file a petition for the dissolution of the
 10 municipality. The petition for dissolution must be filed in the circuit court of the county in
 11 which the municipality is situated. If the municipality is located in more than one county,
 12 the petition for dissolution may be filed in either county.

13 **Section 2. That § 9-6-2 be AMENDED:**

14 **9-6-2.** ~~Such~~ A petition for dissolution must show the show:
 15 (1) ~~The name of the municipality, the;~~
 16 (2) ~~The date of its incorporation, the;~~
 17 (3) ~~The fact that it contains a population of less than two hundred fifty persons, and~~
 18 ~~that the;~~
 19 (4) ~~That the~~ petitioners are the owners of more than one-half of the real property
 20 contained within its limits, in area, as shown by a recorded deed or other
 21 instrument evidencing title to the property; and
 22 (5) ~~That the petitioners are the owners of more than one-half of such the real property~~
 23 contained within the limits of the municipality, in assessed valuation, as shown by
 24 the last assessment thereof prior to the filing of such petition. Such petition shall
 25 be verified by the affidavit of two or more of the petitioners to the effect that the

1 ~~statements contained in it are true and be filed in the office of the clerk of the~~
2 ~~circuit court~~ most recent assessed values available from the county or counties in
3 which the municipality is situated at the time of filing the petition for dissolution.

4 Two or more of the petitioners shall verify by affidavit that the statements
5 contained in the petition for dissolution are true.

6 **Section 3. That § 9-6-3 be AMENDED:**

7 **9-6-3.** Upon the filing of a petition for dissolution, as provided in §§ 9-6-1 and 9-
8 6-2, the circuit court shall issue an order to the municipality, ~~returnable in not less than~~
9 ~~ten nor more than thirty days~~, to show cause why the petition should not be granted. ~~Such~~
10 The order shall must be served in the same manner as ~~summons~~ a summons in a civil
11 action against municipalities ~~not less than ten nor more than thirty days before the return~~
12 ~~date thereof~~ a municipality.

13 **Section 4. That § 9-6-4 be AMENDED:**

14 **9-6-4.** ~~Upon the return day of such order, or any day to which the hearing thereon~~
15 ~~may be adjourned,~~ Any objections to the petition may for dissolution must be filed ~~on~~
16 ~~behalf~~ with the circuit court within thirty days from the date of service on the municipality.
17 Objections may be made by any public officer or employee of the municipality or any
18 property owner or taxpayer thereof, which objections shall of the municipality. An
19 objection must be in writing and ~~be verified in the same manner as the petition.~~

20 ~~The court may upon such hearing take such evidence as it may deem proper to a~~
21 ~~determination of the petition and objections thereto~~ verified by an affidavit affirming the
22 statements contained in the objection are true.

23 **Section 5. That § 9-6-5 be AMENDED:**

24 **9-6-5.** ~~If upon such hearing it appears to the satisfaction of,~~ after a hearing on the
25 petition for dissolution and any objections, the court ~~that the~~ determines there are
26 sufficient interests of ~~such the~~ the municipality and of its property owners and taxpayers
27 ~~require that the municipality be dissolved to support the dissolution of the municipality,~~
28 the court ~~shall~~ must appoint a referee to make an enumeration of its population and to
29 examine the records of ~~such the~~ the municipality and of the county in which the ~~same~~
30 municipality is situated, to ascertain whether ~~such the~~ the petition has been executed by

persons owning more than one-half of the real property within ~~such corporation~~ the municipality, both in area and assessed valuation.

The court may also refer to ~~such~~ the referee any other question ~~in controversy~~ which that may arise ~~upon~~ regarding the petition and objections ~~thereto~~.

~~Such~~ The referee shall ~~with all convenient speed~~ make his report to the court ~~of on~~ all matters referred to ~~him~~, ~~and upon~~ the referee within the time designated by the court. Upon the filing of ~~such~~ the report and upon not less than six days' notice to the municipality, the court shall consider the report of the referee and may take evidence as it deems relevant.

Section 6. That § 9-6-6 be AMENDED:

~~9-6-6. If it appears from such report that the population of such municipality is less than two hundred fifty, and that such petition has been executed by property owners owning more than one-half of the real property within such municipality, both in area and in assessed valuation; and if it further appears to the satisfaction of the court that it is to the best interests of such municipality and of the property owners thereof that it be dissolved, the court shall render a judgment adjudging and decreeing the dissolution of such municipality~~ The court must render a judgment decreeing the dissolution of a municipality if:

(1) The referee reports that:

(a) At the time the petition for dissolution is filed, the population of the municipality is less than two hundred fifty; and

(b) The petition has been executed by property owners owning more than one-half of the real property within the municipality, both in area and in assessed valuation; and

(2) The court determines it is in the best interests of the municipality and the property owners that the municipality be dissolved.

Section 7. That § 9-6-7 be AMENDED:

~~9-6-7. The clerk of courts shall enter the petition and all objections thereto for dissolution, any objections, the report of the referee, and the judgment of dissolution shall be entered by the clerk of courts upon his into the judgment record, the same as judgments are entered in civil cases.~~

Section 8. That § 9-6-8 be AMENDED:

1 **9-6-8.** A copy of the judgment of dissolution, certified by the clerk of courts, ~~shall~~
2 must be filed in the office of the register of deeds in the county or counties in which ~~such~~
3 the municipality is situated and in the Office of the Secretary of State, ~~and upon.~~ Upon
4 the filing of ~~such copies such municipality shall be deemed to be dissolved, and it shall~~
5 ~~cease to be a municipality excepting~~ the copies, the municipality is dissolved and ceases
6 to be a municipality, except as set forth in § 9-6-9.

7 **Section 9. That § 9-6-9 be AMENDED:**

8 **9-6-9.** After the entry of the judgment of dissolution, ~~the territory comprised in~~
9 ~~such~~ formerly comprising the dissolved municipality ~~shall must~~ must revert to the jurisdiction
10 ~~and control and shall become a part~~ of the local subdivision or organization of which it
11 would have been a part had it never existed.

12 ~~Its~~ The municipal governing body and other officers ~~shall cease to possess any~~
13 ~~powers except that they~~ shall remain in office and ~~shall~~ possess, under the direction of
14 the circuit court, all powers necessary ~~to for~~ the winding up of the corporate affairs of ~~such~~
15 the municipality, including the power to levy and collect taxes to pay ~~its~~ any indebtedness,
16 and to make all orders necessary for the disposal of ~~its~~ municipal property and for the
17 proper distribution of the proceeds ~~thereof.~~ Such. The governing body and other officers
18 shall remain in office for ~~such purposes of winding up the corporate affairs of the~~
19 municipality only for the period of six months after the entry of the judgment of
20 dissolution, ~~unless the court entering such the judgment shall order orders~~ an extension
21 ~~of such period of six months~~ for the purpose of permitting the affairs of ~~such the~~
22 municipality to be fully closed.

23 **Section 10. That § 9-6-10 be AMENDED:**

24 **9-6-10.** ~~If an application~~ If the governing body of a municipality with a population
25 of less than one thousand at the time of filing is presented with a petition for dissolution
26 signed by fifteen percent of the registered voters of ~~any the~~ the municipality, based upon the
27 total number of registered voters at the last preceding general election, ~~having less than~~
28 ~~one thousand inhabitants is presented to the governing body asking for the dissolution of~~
29 ~~the municipality,~~ the governing body shall call a special election by giving fifty days'
30 published notice ~~thereof~~ to determine whether the municipality ~~shall must~~ must be dissolved.
31 ~~No~~ A signature on the ~~application petition~~ petition is ~~not~~ not valid if signed more than six months prior
32 to the filing of the ~~application petition.~~ petition. If any ~~such application petition~~ petition is presented on or
33 after January first prior to the annual municipal election and within sufficient time to

1 comply with the provisions of ~~§ 9-13-14~~ chapter 9-13, the question ~~shall~~ of dissolution
2 must be submitted at that annual municipal election.

3 The vote upon the question of dissolution ~~shall~~ must be by ballot and cast in the
4 manner provided ~~by~~ in chapter 9-13.

5 **Section 11. That § 9-6-11 be AMENDED:**

6 **9-6-11.** Where an election is ~~had under~~ held pursuant to § 9-6-10 and a majority
7 of the votes cast ~~at such election shall be~~ are against dissolution, ~~there shall be no other~~
8 another election may not be held for the purpose of dissolving the municipality until five
9 years after the date of ~~such~~ the first election.

10 **Section 12. That § 9-6-12 be AMENDED:**

11 **9-6-12.** If a majority of all the votes cast at an election ~~under~~ pursuant to § 9-6-
12 10 ~~shall be~~ are for dissolution and ~~such vote shall have been given by the~~ turnout for the
13 election was at least two-fifths of all the legal voters ~~in such of the~~ municipality, as shown
14 by the vote cast at the last preceding annual election therein, based upon the total number
15 of registered voters at the last preceding general election, then a statement of the vote
16 signed by the mayor or president of the ~~Board of Trustees~~ board of trustees and attested
17 by the ~~auditor or clerk shall~~ finance officer must be filed in the office of the register of
18 deeds of the ~~proper~~ county; ~~and such or counties in which the municipality is situated.~~
19 The municipality shall, at the expiration of six months from the time of holding ~~such the~~
20 election, cease to be a municipality, and the property belonging to ~~it the~~ municipality after
21 the payment of its debts and liabilities ~~shall~~ must be disposed of ~~in such manner as the~~
22 governing body may direct by transferring the property on an equitable basis to the county
23 or counties in which the municipality is situated.

24 ~~Such dissolution shall~~ Dissolution does not affect the rights of any person under any
25 contract with ~~such the~~ municipality.

26 **Section 13. That § 9-7-1 be AMENDED:**

27 **9-7-1.** The ~~Board of Trustees~~ board of trustees of a ~~third class~~ municipality ~~shall~~
28 consist of not less than three nor more than consists of either three or five members
29 elected at large. Each ~~shall~~ member must be a legal voter of the municipality in accordance
30 with § 9-14-2. The number of trustees of a municipality may be increased to five or
31 reduced to three in the manner prescribed by chapter 9-11.

1 **Section 14. That § 9-7-3 be AMENDED:**

2 **9-7-3.** The members of the ~~Board of Trustees~~ board of trustees shall hold office
3 for three years and until their successors are elected and qualified. A vacancy on the board
4 ~~shall must~~ be filled as provided in § 9-13-14.1 or 9-13-14.2.

5 ~~When a municipality is organized~~ For purposes of staggering terms, when a
6 municipality is organized, the trustees ~~shall must~~ be elected for terms of one, two, and
7 three years respectively at the first annual election. At subsequent elections each trustee
8 ~~shall must~~ be elected for a term of three years.

9 **Section 15. That § 9-7-5 be AMENDED:**

10 **9-7-5.** At the first regular meeting after their election, ~~the members of the Board~~
11 ~~of Trustees~~ board of trustees shall elect one of their number as president to serve for one
12 year and until ~~his~~ a successor is elected and qualified.

13 **Section 16. That § 9-7-6 be AMENDED:**

14 **9-7-6.** The board of trustees shall hold regular meetings at ~~such~~ the times as may
15 be provided by ordinance.

16 Special meetings of the board may be held at any time upon call of the president
17 or ~~clerk~~ finance officer by oral or written notice to the members ~~present within the~~
18 municipality.

19 **Section 17. That § 9-7-7 be AMENDED:**

20 **9-7-7.** A majority of the members of the board ~~shall constitute~~ of trustees
21 constitutes a quorum, but ~~no~~ an act of the board ~~shall be~~ is not effective unless assented
22 to by a majority of the members. Unless a vacancy exists due to removal, resignation,
23 death, or by operation of law, the quorum consists of the majority of all the trustees
24 qualified to serve as trustees by election or appointment pursuant to chapter 9-13.

25 **Section 18. That a NEW SECTION be added to chapter 9-7:**

26 The board of trustees has the authority to summon and compel the attendance of
27 witnesses and the production of books and papers, if necessary for the effective discharge
28 of the board's duties. Any process necessary to enforce the powers conferred by this

1 section must be signed by the president of the board, attested by the finance officer, and
2 served by a municipal law enforcement officer or by the sheriff of the county.

3 **Section 19. That § 9-8-1.1 be AMENDED:**

4 **9-8-1.1.** ~~A person~~An individual may be nominated, elected, or appointed as a
5 mayor or as an alderman, if the person is a citizen of the United States, a voter of the
6 municipality, and a resident of the municipality, ~~and, if an~~ in accordance with § 9-14-2.
7 An alderman, representing a ward must be a voter of and resident of the ward for which
8 the person is to hold office. If the mayor or an alderman at large moves to a permanent
9 residence outside the corporate limits of the municipality, the office is immediately
10 vacated. If an alderman representing a ward moves to a permanent residence outside the
11 boundaries of his or her ward, the office is immediately vacated.

12 **Section 20. That § 9-8-2 be AMENDED:**

13 **9-8-2.** If there is a vacancy from any cause in the office of the mayor, the vacancy
14 ~~shall~~ must be filled by appointment by a majority vote of all the aldermen, as soon as
15 practicable after the vacancy occurs, to serve until the office is filled by election for the
16 unexpired term at the next annual municipal election or by special election as provided in
17 § 9-13-14.2. Until the vacancy is filled ~~or during the time of temporary absence or~~
18 ~~disability of the mayor~~, the powers and duties of mayor are executed by the ~~president or~~
19 ~~vice president of the council~~ mayor pro tempore, as provided in § 9-8-7.

20 A resignation by the mayor must be in writing and must specify the effective date
21 of the resignation. A temporary absence or temporary incapacitation of the mayor is not
22 a vacancy in the office of the mayor.

23 **Section 21. That § 9-8-3 be AMENDED:**

24 **9-8-3.** The mayor presides at all meetings of the council ~~but~~. The mayor votes only
25 ~~votes in the~~ case of a tie, except pursuant to § 9-8-10. The mayor performs other duties
26 as may be prescribed by the laws and ordinances, and takes care that the laws and
27 ordinances are faithfully executed. The mayor shall annually, or as may be necessary,
28 give the council information relative to the affairs of the municipality, and recommend for
29 the council's consideration the measures the mayor deems ~~expedient~~ prudent. The mayor
30 may sign or veto any ordinance or resolution passed by the common council, ~~and~~. The
31 mayor may veto any part or item of an ordinance or resolution appropriating money.

Section 22. That § 9-8-4 be AMENDED:

9-8-4. The common council consists of the mayor elected at large and two aldermen elected from and by the voters of each ward of the municipality. The term of office is two years, unless a municipality adopts an ordinance establishing the term of office to be three, four, or five years. The Except as otherwise provided in § 9-8-2, the mayor and aldermen hold office until their successors are elected and qualified. At the first election of aldermen, the council shall stagger the initial terms of the alderman in each ward to provide that the two aldermen from the same ward are not up for reelection in the same year. A person may hold office for more than one term. The vacancy of an alderman is filled as provided in § 9-13-14.1 or 9-13-14.2.

A resignation by an alderman must be in writing and must specify the effective date of the resignation.

Section 23. That § 9-8-5 be AMENDED:

9-8-5. The council is the judge of the election and qualification of its members. The council determines may, by ordinance, determine its rules of procedure and code of conduct, and may punish its members for disorderly conduct while performing the duties of office, and, with the concurrence of two-thirds of the aldermen, may expel a member.

Any alderman who is convicted of bribery shall vacate the position. The office of a mayor or any alderman convicted of a crime that involves bribery is deemed vacated upon entry of a judgment of conviction.

The council may, by ordinance, establish requirements for attendance at regular meetings and provide for the expulsion of a member in violation of the attendance requirements.

Section 24. That § 9-8-7 be AMENDED:

9-8-7. At the first regular meeting after the annual election in each year and after the qualification of the newly elected aldermen, the council shall elect from among its members a president and vice president, who shall hold their respective offices ~~for the municipal year.~~

~~The president of the council in the absence of the mayor acts as the presiding officer of the council. During the absence of the mayor from the municipality or the mayor's temporary disability, the president of the council is acting mayor and has all the powers of the mayor.~~

~~In the absence or disability of the mayor and president of the council, the vice president of the council shall perform the duties of the mayor and president of the council.~~

~~However, the president of the council or vice president of the council acting as the mayor shall only vote as an alderman. No alderman acting as mayor may vote as the mayor to break a tie vote.~~ until a president and vice president are elected the following year. In a year when there is no annual election, the council shall elect from among its members a president and vice president at the first regular meeting that occurs no more than one year after the president and vice president were last elected from among the council's members.

If an emergency prevents the first regular meeting from occurring, the election must take place at either the next regular meeting or a special meeting. If there is a vacancy in the office of the president, the council must elect a president from among its members at the first regular or special meeting that occurs after the vacancy occurred.

If there is a vacancy in the office of the vice president, the council must elect a vice president from among its members at the first regular or special meeting that occurs after the vacancy occurred. If the vacancy in the office of the vice president occurs during a meeting, the council may choose to elect a vice president from among its members during the same meeting.

Section 25. That § 9-8-8 be AMENDED:

9-8-8. The council holds its regular meetings on the first Monday of each month but may, by ordinance, change the day of its regular monthly meetings. The council may prescribe by ordinance the manner in which special meetings may be called.

~~A majority of the aldermen constitutes a quorum to do business. When~~ Unless a seat on a council is vacant due to removal, resignation, death, or by operation of law, the quorum consists of the majority of ~~the remaining~~ all the aldermen who are qualified to serve as aldermen by election or appointment pursuant to chapter 9-13. The council may compel the attendance of absentees under ~~such~~ the penalties as may be prescribed by ordinance.

~~The meetings of the council are open to the public and it shall keep a journal of its proceedings.~~ The council shall keep minutes of its meetings.

Section 26. That § 9-8-10 be AMENDED:

9-8-10. ~~A roll call vote shall be taken upon the passage of all ordinances and upon any proposal to expend or appropriate money, and in all other cases at the request of any~~

1 ~~member. All votes shall be entered in the minutes of its proceedings.~~ All votes must be
2 taken orally or by roll call. A vote may not be taken by secret ballot. If any member of the
3 council requests a roll call vote, a roll call vote must be taken. All votes must be entered
4 in the minutes of the council's proceedings.

5 The majority vote of all the aldermen ~~shall be~~ is necessary to pass an ordinance or
6 proposal ~~which that~~ expends or appropriates money, and the. The mayor may not break
7 a tie on an ordinance or proposal to expend or appropriate money. The mayor may break
8 a tie on all other ordinances or proposals.

9 A two-thirds vote of the aldermen is required to sell any city property.

10 **Section 27. That a NEW SECTION be added to chapter 9-8:**

11 In the temporary absence or temporary incapacitation of the mayor, the president
12 of the council shall serve as the mayor pro tempore until the temporary absence or
13 temporary incapacitation ends.

14 In the temporary absence or disability of the mayor and president of the council,
15 the vice president of the council shall serve as the mayor pro tempore until the temporary
16 absence or temporary incapacitation ends.

17 The mayor pro tempore shall perform the mayor's duties, except that the mayor
18 pro tempore may not appoint, employ, or remove appointive officers without approval of
19 the council.

20 The mayor pro tempore acts as the presiding officer of the council, but the mayor
21 pro tempore may only vote as an alderman. No alderman acting as mayor may vote as
22 the mayor to break a tie vote.

23 For purposes of this section "appointive officers" are municipal employees or
24 members of a board, commission, committee, or similar body that the mayor has the
25 authority to appoint, with or without the approval of the council.

26 **Section 28. That a NEW SECTION be added to chapter 9-8:**

27 The council has the authority to summon and compel the attendance of witnesses
28 and the production of books and papers, if it is necessary for the effective discharge of
29 the council's duties. Any process necessary to enforce the powers conferred by this section
30 must be signed by the mayor, attested by the finance officer, and served by a municipal
31 law enforcement officer or the sheriff of the county.

32 **Section 29. That § 9-9-2 be AMENDED:**

1 **9-9-2.** ~~A~~In accordance with § 9-14-2, a person may be nominated, elected, or
2 appointed as a mayor or as a commissioner if the person is a citizen of the United States
3 and voter and resident of the municipality.

4 **Section 30. That § 9-9-3 be AMENDED:**

5 **9-9-3.** The term of office of the mayor and commissioners ~~shall be~~ is not less than
6 two or more than five years as determined by ordinance, except that at the first election
7 after the adoption of the commission form of government the mayor's term ~~shall~~ must be
8 for five years and the commissioners ~~shall~~ must be elected for staggered terms. If the
9 number of commissioners is four, one ~~shall~~ must be elected for one year, one for two
10 years, one for three years, and one for four years. If the number of commissioners is two,
11 one ~~shall~~ must be elected for two years and one for four years. At the annual election
12 preceding the expiration of the term of office of the mayor or any commissioner, a
13 successor ~~shall~~ must be elected for a term ~~not to exceed~~ of not less than two or more than
14 five years, as determined by ordinance.

15 **Section 31. That § 9-9-6 be AMENDED:**

16 **9-9-6.** If the mayor or a commissioner resigns, the resignation ~~shall~~ must be
17 submitted in writing to the board of commissioners and must specify the effective date of
18 the resignation.

19 If the mayor or a commissioner moves ~~his or her~~ to a permanent residence outside
20 the corporate limits of the municipality, the office is immediately vacated.

21 If there is a vacancy in the office of mayor, the vacancy ~~shall~~ must be filled by
22 appointment pursuant to § 9-9-8 until the position is filled by election at the next annual
23 municipal election or by special election as provided in § 9-13-14.2. A vacancy on the
24 board ~~shall~~ must be filled as provided in § 9-13-14.1 or 9-13-14.2.

25 A temporary absence or temporary incapacitation of the mayor is not considered a
26 vacancy in the office of the mayor.

27 **Section 32. That § 9-9-8 be AMENDED:**

28 **9-9-8.** If the mayor is unable to perform the duties of office by reason of temporary
29 absence or sickness ~~temporary incapacitation~~, the board ~~shall~~ must, by a majority vote of
30 all the commissioners, appoint ~~by a majority vote~~ one of its members to act as mayor
31 until the temporary absence or temporary incapacitation ends. The appointed

commissioner's official designation ~~shall be acting president of the board of commissioners~~
is mayor pro tempore. The ~~acting president~~ mayor pro tempore is invested with all the
powers and shall perform all the duties of the mayor during the mayor's temporary
~~absence or sickness or temporary incapacitation~~. The ~~acting president~~ mayor pro tempore
has only one vote as a commissioner and is not entitled to vote as ~~acting president~~ mayor
pro tempore. The temporary absence or temporary incapacitation of the mayor is not a
vacancy in the office of the mayor.

If the office of mayor is vacated, the board of commissioners ~~shall~~ must, by a
majority vote of all commissioners, appoint ~~by a majority vote~~ one of its commissioners
as acting mayor. The acting mayor is invested with all the powers and shall perform all
the duties of the mayor, until the ~~election of a mayor~~ vacancy is filled by election for the
unexpired term at the next annual election or by special election as provided in § 9-13-
14.2.

The acting mayor has only one vote as a commissioner and is not entitled to vote
as acting mayor.

Section 33. That § 9-9-14 be AMENDED:

9-9-14. ~~A majority of the board constitutes a quorum to do business. If~~ Unless a
seat on the board of commissioners is vacant due to removal, resignation, death, or by
operation of law, the quorum consists of the majority of ~~the remaining commissioners~~ all
the members who are qualified to serve by election or appointment pursuant to chapter
9-13. The board may compel the attendance of any absentee under penalties as prescribed
by ordinance.

No action of the board is effective unless upon a vote of a majority of all the
members of the board.

Section 34. That § 9-9-14.1 be AMENDED:

9-9-14.1. ~~The board shall determine the board's rules of procedure, and may~~
~~punish the board's members for disorderly conduct. The board may, by resolution,~~
~~establish requirements for attendance at regular meetings and provide for the expulsion~~
~~of a member in violation of the attendance requirements~~ The board of commissioners is
the judge of the election and qualification of its members. The board may, by ordinance,
determine its rules of procedure and code of conduct, punish its members for disorderly
conduct while performing the duties of office, and, with the concurrence of two-thirds of
the members, expel a member.

1 The board may, by ordinance, establish requirements for attendance at regular
2 meetings and provide for the expulsion of a member in violation of the attendance
3 requirements.

4 **Section 35. That § 9-9-16 be AMENDED:**

5 ~~9-9-16. The yeas and nays shall be taken upon the passage of each ordinance and~~
6 ~~for any proposal to expend or appropriate money and in any other case at the request of~~
7 ~~any commissioner. Each vote shall be entered on the journal of the board's proceedings.~~
8 ~~A two-thirds vote of the board is required to sell any municipal real property~~Each meeting
9 of the board of commissioners is open to the public. All votes must be taken orally or by
10 roll call. No votes may be taken by secret ballot. If any member of the board requests a
11 roll call vote, a roll call vote must be taken. All votes must be entered in the minutes of
12 the council's proceedings.

13 A two-thirds vote of the board is required to sell any municipal real property.

14 **Section 36. That § 9-9-18 be AMENDED:**

15 **9-9-18.** In a municipality governed by a board of five commissioners, the
16 commissioners shall designate, by a majority vote of all the commissioners, one
17 commissioner to be the commissioner of public safety, one commissioner to be the
18 commissioner of public works, one commissioner to be the commissioner of utilities, and
19 one commissioner to be the commissioner of finance and revenue.

20 **Section 37. That § 9-9-19 be AMENDED:**

21 **9-9-19.** In any municipality governed by a board consisting of five commissioners,
22 the mayor and the commissioners have the powers and duties described in §§ 9-9-20 to
23 9-9-24, inclusive. In addition, each commissioner shall supervise any other department
24 assigned or apportioned by resolution of the governing board, adopted by a majority vote
25 of all the commissioners at the first meeting of the board in the month following the
26 election year. Each commissioner is in charge of the apparatus, personnel, and personal
27 property used by departments under that commissioner's supervision.

28 **Section 38. That § 9-9-20 be AMENDED:**

29 **9-9-20.** If any municipality is governed by a board consisting of five
30 commissioners, the mayor may exercise all the powers and perform all the duties provided

by the laws of this state or the ordinances of the municipality not in conflict with the laws of the state. The mayor is the chief executive officer of the municipality, presides at all meetings of the board, and has general supervision over all departments and officers. In the ~~absence or inability~~ temporary absence or temporary incapacitation of a commissioner, the mayor shall temporarily take charge of the department of that commissioner. The mayor shall enforce all the laws of the municipality and require that the conditions of the grant of any franchise or privilege are faithfully complied with and performed. The mayor shall grant all licenses or permits, except as are required by ordinance to be granted by the board or by some other department or officer. The mayor shall supervise each public building of the municipality and each city park except in any municipality that has a park board, and the lighting of the streets, alleys, and public buildings of the municipality. The mayor shall annually and from time to time give the board information relative to the affairs of the municipality and shall recommend for the board's consideration any measure the mayor deems ~~expedient~~ prudent.

Section 39. That § 9-9-26 be AMENDED:

9-9-26. If a municipality is governed by a board consisting of three commissioners, the mayor ~~shall~~ must exercise all the powers and perform all the duties provided by the laws of this state or the ordinances of the municipality not in conflict with state law. The mayor ~~shall be~~ is the chief executive officer of the municipality, shall preside at all meetings of the board, and has general supervision over all departments and officers. In the ~~temporary absence or inability~~ temporary incapacitation of a commissioner, the mayor shall temporarily take charge of the department of the commissioner. The mayor shall see that all the laws of the municipality are enforced and that the conditions of the grant of any franchise or privilege are faithfully complied with and performed. The mayor shall grant all licenses or permits, except as required by ordinance to be granted by the board or by some other department or officer.

Section 40. That § 9-9-27 be AMENDED:

9-9-27. If a municipality is governed by a board consisting of three commissioners, all matters not designated to the mayor ~~shall~~ must be assigned or apportioned as equally as may be between the commissioners by resolution of the board adopted by a majority vote of all the commissioners at the first meeting of the board in the month following the election each year.

Section 41. That § 9-10-1 be AMENDED:

9-10-1. If a petition signed by fifteen percent of the registered voters of any ~~first or second class~~ municipality, as determined by the total number of registered voters at the last preceding general election, is presented requesting that an election be called to vote ~~upon the proposition on the question~~ of employing a city manager, the governing body ~~shall~~ must call an election ~~for that purpose. Upon receipt of a valid petition, the question shall be presented at the next annual municipal election or the next general election, whichever is earlier. However, the governing body may expedite the date of the election by ordering, within ten days of receiving the petition, a special election to be held on a Tuesday not less than thirty days from the date of the order of the governing body to be held within fifty days from the date of the filing of the petition with the municipal finance officer. At that election, the question must be submitted to the voters. No petition is valid if filed more than six months after the circulation start date declared on the petition forms. If the petition is filed on or after January first prior to the annual municipal election and within sufficient time to comply with the provisions of chapter 9-13, the question may be submitted at that annual municipal election.~~

The election ~~shall~~ must be held upon the same notice and conducted in the same manner as other municipal elections. The vote ~~upon the question of employing a city manager shall~~ must be by ballot ~~which conforms to a ballot for statewide question except that the statement required to be printed on the ballot shall be prepared by the municipal attorney, in the form and cast in the manner provided by chapter 9-13.~~

Section 42. That § 9-10-3 be AMENDED:

9-10-3. When authorized by a majority vote of all voters voting at a special election ~~to be called for that purpose, pursuant to § 9-10-1,~~ the governing body of any ~~first or second class~~ municipality ~~shall~~ must employ a city manager and fix ~~his the~~ the manager's compensation.

Section 43. That § 9-10-4 be AMENDED:

9-10-4. In ~~first or second class~~ municipalities under the aldermanic form employing a city manager, ~~a the~~ mayor, and aldermen ~~shall~~ must be elected ~~as for such in the same manner as~~ municipalities not employing a city manager.

Section 44. That § 9-10-5 be AMENDED:

1 **9-10-5.** In all commission-governed municipalities employing a city manager, the
2 number of at-large commissioners ~~shall be~~ is nine, ~~whose terms each with a three-year~~
3 ~~term of office shall be three years.~~ At the first election ~~thereof there shall be elected,~~ nine
4 commissioners must be elected, three to serve until the next annual election, three to
5 serve until the second annual election thereafter, and three to serve until the third annual
6 election thereafter, ~~and thereafter at.~~ At each annual municipal election ~~there shall be~~
7 ~~elected thereafter,~~ three at-large commissioners must be elected for a term of three years
8 each.

9 **Section 45. That § 9-10-6 be AMENDED:**

10 **9-10-6.** Within sixty days after an election directing the employment of a city
11 manager in any commission-governed municipality, a special election ~~shall~~ must be called
12 and held to elect the nine at-large commissioners. A plurality vote in the election of
13 commissioners is sufficient to elect the commissioners.

14 The commissioners shall qualify as provided by law and organize by electing a
15 commissioner to act as mayor until the first regular meeting of the board of commissioners
16 in the month following the first annual election of commissioners. At the first regular
17 meeting in the month following the annual election, the commissioners shall elect a
18 commissioner to act as mayor for a term of one year.

19 ~~The board has the same powers conferred upon the board of commissioners in a~~
20 ~~commission-governed municipality pursuant to chapter 9-9. Except as otherwise provided~~
21 ~~in this chapter, the board shall be governed by the provisions of the law relating to a~~
22 ~~commission-governed municipality.~~

23 **Section 46. That § 9-10-7 be AMENDED:**

24 **9-10-7.** ~~The duties and power of the mayor of any first or second class municipality~~
25 ~~employing a city manager shall be as follows:~~

- 26 (1) ~~He shall be~~ Is the presiding officer of the council or commission, and in
27 municipalities having the aldermanic form of government ~~he shall have,~~ has the
28 powers and duties of an alderman at large;
29 (2) ~~He shall be~~ Is the recognized head of the municipality for service of civil process
30 and for military and ceremonial purposes;
31 (3) ~~He may~~ May take command of the police of the municipality, appoint special police,
32 and govern the municipality by proclamation during times of public danger or
33 emergency, ~~and during such~~ during which times ~~he shall have such~~ the mayor has

1 ~~the~~ powers and authority to call for assistance,~~as are given to the mayor by as~~
2 ~~provided in § 9-29-17; and~~
3 (4) ~~He shall~~Shall have ~~such further other~~ authority and perform ~~such further other~~
4 duties as may be prescribed by ordinance or resolution not inconsistent with the
5 provisions of this chapter, but in no case ~~shall he~~ may the mayor have the right of
6 veto.

7 **Section 47. That § 9-10-8 be AMENDED:**

8 **9-10-8.** The governing body of any ~~first or second class~~ municipality employing a
9 manager shall hold ~~its regular meetings on the first Monday of each month at such hour~~
10 ~~as may be fixed by it. It may prescribe by ordinance the manner in which special meetings~~
11 ~~may be called and may also so change the date of its regular monthly meetings and so~~
12 ~~provide for regular meetings oftener than once a month~~ day and time adopted by
13 ordinance, with at least one regular meeting per calendar month. The governing body
14 may, by ordinance, determine the manner in which special meetings may be called.

15 Unless a seat on the governing body is vacant due to removal, resignation, death,
16 or by operation of law, a quorum consists of the majority of all the members who are
17 qualified to serve by election or appointment pursuant to chapter 9-13. The council may
18 compel the attendance of absentees under such penalties as may be prescribed by
19 ordinance.

20 The meetings of the governing body are open to the public. The governing body
21 shall keep minutes of its meetings.

22 **Section 48. That § 9-10-9 be AMENDED:**

23 **9-10-9.** ~~The auditor~~ finance officer, attorney, ~~and~~ library board of trustees, ~~and~~
24 ~~the treasurer shall~~ must be appointed by the governing body and may be removed at any
25 time by ~~such~~ the governing body.

26 ~~The auditor and the treasurer~~ finance officer shall ~~each~~ appoint all deputies and
27 employees in ~~his~~ the finance office.

28 All other officers and employees, including all members of boards and commissions,
29 except as otherwise provided by law, ~~shall~~ must be appointed ~~by the manager,~~ and may
30 be removed, ~~by him~~ the city manager.

31 **Section 49. That § 9-10-10 be AMENDED:**

1 **9-10-10.** The city manager ~~shall~~ must be chosen by the governing body on the
2 basis of ~~his~~ executive and administrative qualifications, with special reference to ~~his~~ actual
3 experience in, or ~~his~~ knowledge of, accepted practices in respect to the duties of ~~his~~ office.
4 ~~At the time of his appointment he need not be a resident of the city or state, but during~~
5 ~~his tenure of office he shall reside within the city.~~ The governing body may establish
6 residency requirements for the manager.

7 ~~No~~ A person elected to membership on the governing body ~~shall~~ may not be eligible
8 for appointment as manager until one year has elapsed following the expiration of the
9 term for which ~~he~~ the member was elected.

10 **Section 50. That § 9-10-11 be AMENDED:**

11 **9-10-11.** The governing body shall appoint the city manager for an indefinite term,
12 but may suspend the manager by resolution of intent to remove the manager approved
13 by a majority vote of all the members of the governing body. The resolution of intent to
14 remove the manager must set forth the reasons for the suspension and proposed removal,
15 and a copy of the resolution must be served immediately upon the manager. The manager
16 may reply in writing to the resolution and may request a public hearing within fifteen days
17 of being served the resolution. If a public hearing is requested by the manager, the
18 governing body ~~must set a time for the,~~ within fifteen days, hold a public hearing upon
19 the question of the manager's removal, and the final resolution removing the manager
20 may not be adopted until the public hearing has occurred.

21 The manager's pay must continue until the manager's removal is effective as
22 provided by this section. The action of the governing body in removing the manager is
23 final.

24 **Section 51. That § 9-10-12 be AMENDED:**

25 **9-10-12.** In case of the absence or disability of the manager or in case of ~~his~~
26 suspension as provided in § 9-10-11, the governing body may designate a qualified
27 administrative officer of the ~~first or second class~~ municipality to perform the duties of the
28 manager during ~~such~~ the absence, disability, or suspension.

29 **Section 52. That § 9-10-13 be AMENDED:**

30 **9-10-13.** The city manager ~~shall be~~ is responsible to the governing body for the
31 proper administration of all affairs of the ~~first or second class~~ municipality ~~placed in his~~

charge. ~~To that end, except.~~ Except as otherwise provided by law, ~~he shall have the~~
manager has power to appoint and remove all officers and employees in the administrative
service of the municipality and may authorize the head of any department or office
responsible ~~to him~~ to the manager to appoint and remove subordinates in ~~such the~~
department or office. Appointments made by or under the authority of the manager ~~shall~~
must be made without definite term, on the basis of executive and administrative ability,
and on the basis of the training and experience of such the appointees in the ~~work which~~
they are to perform assigned work.

Section 53. That § 9-10-14 be AMENDED:

9-10-14. ~~The~~ Except as otherwise provided in this section, the city manager and
every officer of the ~~first or second class~~ municipality, whether appointed by the manager
or the governing body, shall furnish a bond to the municipality in ~~such the~~ form and in
~~such~~ amount as may be required by the governing body. ~~Such The~~ bond ~~shall must~~ be
approved by the governing body and ~~be~~ filed with the ~~auditor~~ finance officer. An individual
bond is not required, provided the municipality has blanket coverage pursuant to § 3-5-
14.

Section 54. That § 9-10-15 be AMENDED:

9-10-15. The city manager shall ~~have the following further powers and duties:~~
(1) ~~He shall see~~ See that the municipal laws ~~and,~~ ordinances, and resolutions are
enforced;
(2) ~~He shall supervise~~ Supervise the administration of the affairs of the ~~first or second~~
class municipality;
(3) ~~He shall make such~~ Make recommendations to the governing body concerning the
affairs of the ~~first or second class~~ municipality as may seem ~~to him~~ desirable
prudent;
(4) ~~He shall keep~~ Keep the governing body advised of the financial condition and future
needs of the ~~first or second class~~ municipality;
(5) ~~He shall prepare~~ Prepare and submit to the governing body an annual budget ~~not~~
later than August first of each year on a date determined by the governing body
pursuant to §§ 9-21-34 and 9-21-34.1;
(6) ~~He shall see~~ See that all terms and conditions imposed in favor of the ~~first or second~~
class municipality or its inhabitants in any contract or franchise to which the
municipality is a party are faithfully kept and performed;

- (7) ~~Except when the governing body may be considering his removal the manager shall~~
~~be~~Be entitled to be present and take part in discussions at all meetings of ~~such the~~
governing body and its committees, ~~and to take part in their discussions except~~
~~when the governing body is considering removal of the manager;~~
- (8) ~~He shall sign~~Sign all warrants for the payment of money, ~~and the same shall which~~
~~warrants:~~
- (a) Must be countersigned by the ~~auditor~~ finance officer, ~~but no warrant shall;~~
and
- (b) May not be issued until the claim ~~therefor~~ has been approved by the
governing body, except as ~~may be~~ otherwise provided by ordinance or
resolution;
- (9) ~~He shall have~~Have the right to prepare and introduce ordinances and resolutions
and take part in the discussions on all matters coming before the governing body,
~~but shall have no~~ the manager may not vote; and
- (10) ~~The manager shall have such further~~Have other powers and duties as may be
prescribed by ordinance or resolution.
- ~~No contract of the manager for the payment of money in excess of two hundred~~
~~dollars, except for current necessities, shall be binding upon the first or second class~~
~~municipality unless the payment shall be approved by the governing body.~~

Section 55. That § 9-10-17 be AMENDED:

9-10-17. It is a Class 2 misdemeanor for the city manager, or an officer or
employee appointed by him the manager, to solicit any person to vote for or against any
candidate for alderman or commissioner of the ~~first or second class~~ municipality by which
he the manager is employed at any municipal election.

Section 56. That § 9-10-18 be AMENDED:

9-10-18. Provisions of the statutes governing ~~first or second class~~ municipalities
inconsistent with this chapter ~~shall be~~ are inapplicable to municipalities employing a city
manager.

Section 57. That a NEW SECTION be added to chapter 9-10:

Except as otherwise provided in this section, a contract of the municipality is not
valid unless the contract has been authorized by a vote of the governing body at an official

1 meeting, is executed in the name of the municipality by the mayor, is countersigned by
2 the finance officer, and has the corporate seal attached.

3 Pursuant to § 9-1-5, the governing body of a municipality may, by ordinance or
4 resolution, delegate to the manager the authority to enter into a contract on behalf of the
5 municipality and to execute the contract and any other instrument necessary or
6 convenient for the performance of the contract, subject to the limitations established by
7 the governing body.

8 **Section 58. That § 9-11-6 be AMENDED:**

9 **9-11-6.** If a petition signed by fifteen percent of the registered voters of any
10 municipality, as determined by the total number of registered voters at the last preceding
11 general election, is presented to the governing body, requesting that an election be called
12 for the purpose of voting upon a question of change of form of government or upon a
13 question of the number of wards, commissioners, or trustees, the governing body must
14 call an election that must be held within fifty days from the date of the filing of the petition
15 with the municipal finance officer. At that election, the question of the change of form of
16 government or the number of wards, commissioners, or trustees, or both, must be
17 submitted to the voters. No petition is valid if filed more than six months after the
18 circulation start date declared on the petition forms. If the petition is filed on or after
19 January first prior to the annual municipal election and within sufficient time to comply
20 with the provisions of ~~§ 9-13-14~~ chapter 9-13, the question may be submitted at that
21 annual municipal election.

22 The election must be held upon the same notice and conducted in the same manner
23 as other municipal elections.

24 **Section 59. That § 9-11-9 be AMENDED:**

25 **9-11-9.** ~~If an election changes the question of whether to change~~ the form of
26 government or number of commissioners, wards, or trustees is approved in an election
27 pursuant to § 9-11-6, at the next annual municipal election or at a special election called
28 by the governing board and held pursuant to § 9-13-14, ~~officers shall~~ elected officials
29 must be chosen under the changed form of government.

30 **Section 60. That § 9-11-11 be AMENDED:**

1 **9-11-11.** Each first or second class municipality must be governed by a mayor and
2 common council, a mayor and a common council with a city manager, a board of
3 commissioners, or a board of commissioners with a city manager. Each third class
4 municipality must be governed by a board of trustees, with or without a city manager.

5 The present form of government of existing municipalities must continue until
6 changed as provided by this title.

7 **Section 61. That § 9-12-1 be AMENDED:**

8 **9-12-1.** Every municipality ~~shall have~~ has the power:

- 9 (1) To sue and be sued and to contract in its corporate name;
10 (2) To acquire by lease, purchase, gift, condemnation, or other lawful means and hold
11 in its corporate name, or use and control as provided by law, both real and personal
12 property and easements and rights of way within or without the corporate limits
13 for all purposes authorized by law or necessary to the exercise of any power
14 granted;
15 (3) To provide that supplies needed for the use of the municipality ~~shall be~~ are
16 furnished by contract let to the lowest responsible bidder, except as otherwise
17 provided by law;
18 (4) To construct, operate, and maintain an auditorium and all public buildings
19 necessary for the use of the municipality;
20 (5) To insure the public property of the municipality;
21 (6) To convey, sell, give, dispose of, or lease ~~both~~ the personal and real property of
22 the municipality as provided by ~~this title~~ the laws of this state; and
23 (7) To perform all administrative and financial functions for all purposes authorized by
24 law or necessary to the exercise of any power granted.

25 **Section 62. That § 9-12-3 be AMENDED:**

26 **9-12-3.** Every municipality may appropriate funds to pay the necessary expenses
27 of its officers or employees in conducting ~~such~~ business or attending ~~such~~ meetings within
28 or without the state as the governing body ~~shall determine~~ determines necessary to carry
29 out ~~its~~ authorized municipal activities.

30 **Section 63. That § 9-12-5.1 be AMENDED:**

1 **9-12-5.1.** Every municipality may lease its ~~municipally-owned~~ municipally owned
2 property. ~~Any such~~ The lease shall must be for a term and upon the conditions provided
3 by ~~resolution~~ of the governing body.

4 **Section 64. That § 9-12-5.2 be AMENDED:**

5 **9-12-5.2.** If the governing body decides to lease any municipally owned property
6 to any private person for a term exceeding one hundred twenty days and for an amount
7 exceeding two thousand five hundred dollars annual value ~~it shall,~~ the municipality must
8 adopt a resolution of intent to enter into ~~such~~ the lease, and the resolution must fix a time
9 and place for public hearing on the adoption of the lease resolution. Notice of the hearing
10 ~~shall on the adoption of the lease resolution must~~ be published in the official newspaper
11 once, at least ten days prior to the hearing. Following the hearing, the governing body
12 may proceed to authorize the lease upon the terms and conditions it determines.

13 **Section 65. That § 9-12-10 be AMENDED:**

14 **9-12-10.** Every ~~first or second class~~ municipality ~~shall have~~ has power to provide
15 for the taking of the census of the municipality ~~not oftener than once in three years.~~

16 **Section 66. That § 9-12-14.1 be AMENDED:**

17 **9-12-14.1.** A municipality may pay compensation to a regularly scheduled
18 commercial air carrier to provide basic or enhanced air service ~~as provided in the Airport~~
19 ~~and Airway Safety and Capacity Expansion Act of 1987 and may provide compensation to~~
20 ~~a regularly scheduled air carrier under contract with the South Dakota Airline Authority.~~
21 ~~Funds provided by a municipality to pay compensation for such air service shall be~~
22 ~~budgeted pursuant to chapter 9-21.~~

23 **Section 67. That § 9-9-13 be REPEALED.**

24 ~~Each meeting of the board is open to the public and the board shall keep a journal~~
25 ~~of its proceedings.~~

26 **Section 68. That § 9-10-2 be REPEALED.**

27 ~~When there has been an election as provided in § 9-10-1 and when the proposition~~
28 ~~to employ a city manager has failed to receive a majority vote, such proposition shall not~~
29 ~~be again submitted for the period of one year.~~

1 **Section 69. That § 9-12-9 be REPEALED.**

2 ~~Every municipality shall have power to appropriate funds for the proper observance~~
3 ~~of Memorial Day and Veterans' Day.~~