



# 2025 South Dakota Legislature

## Senate Bill 167

### ENROLLED

AN ACT

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

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

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

**9-6-1.** If a municipality has a population of less than two hundred fifty, the owners of a majority of the real property in the municipality, both in area and assessed valuation, may file a petition for the dissolution of the municipality. The petition for dissolution must be filed in the circuit court of the county in which the municipality is situated. If the municipality is located in more than one county, the petition for dissolution may be filed in either county.

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

**9-6-2.** A petition for dissolution must show:

- (1) The name of the municipality;
- (2) The date of its incorporation;
- (3) The fact that it contains a population of less than two hundred fifty persons;
- (4) That the petitioners are the owners of more than one-half of the real property contained within its limits, in area as shown by a recorded deed or other instrument evidencing title to the property; and
- (5) That the petitioners are the owners of more than one-half of the real property contained within the limits of the municipality, in assessed valuation, as shown by the most recent assessed values available from the county or counties in which the municipality is situated at the time of filing the petition for dissolution.

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

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

**9-6-3.** Upon the filing of a petition for dissolution, as provided in §§ 9-6-1 and 9-6-2, the circuit court shall issue an order to the municipality to show cause why the petition should not be granted. The order must be served in the same manner as a summons in a civil action against a municipality.

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

**9-6-4.** Any objections to the petition for dissolution must be filed with the circuit court within thirty days from the date of service on the municipality. Objections may be made by any public officer or employee of the municipality or any property owner or taxpayer of the municipality. An objection must be in writing and verified by an affidavit affirming the statements contained in the objection are true.

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

**9-6-5.** If, after a hearing on the petition for dissolution and any objections, the court determines there are sufficient interests of the municipality and of its property owners and taxpayers to support the dissolution of the municipality, the court must appoint a referee to make an enumeration of its population and to examine the records of the municipality and of the county in which the municipality is situated, to ascertain whether the petition has been executed by persons owning more than one-half of the real property within the municipality, both in area and assessed valuation.

The court may also refer to the referee any other question that may arise regarding the petition and objections.

The referee shall report to the court on all matters referred to the referee within the time designated by the court. Upon the filing of 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.** 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 for dissolution, any objections, the report of the referee, and the judgment of dissolution into the judgment record.

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

**9-6-8.** A copy of the judgment of dissolution, certified by the clerk of courts, must be filed in the office of the register of deeds in the county or counties in which the municipality is situated and in the Office of the Secretary of State. Upon the filing of the copies, the municipality is dissolved and ceases to be a municipality, except as set forth in § 9-6-9.

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

**9-6-9.** After the entry of the judgment of dissolution, the territory formerly comprising the dissolved municipality must revert to the jurisdiction of the local subdivision or organization of which it would have been a part had it never existed.

The municipal governing body and other officers shall remain in office and possess, under the direction of the circuit court, all powers necessary for the winding up of the corporate affairs of the municipality, including the power to levy and collect taxes to pay any indebtedness, and to make all orders necessary for the disposal of municipal property and for the proper distribution of the proceeds. The governing body and other officers shall remain in office for purposes of winding up the corporate affairs of the municipality only for the period of six months after the entry of the judgment of dissolution, unless the court entering the judgment orders an extension for the purpose of permitting the affairs of the municipality to be fully closed.

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

**9-6-10.** If the governing body of a municipality with a population of less than one thousand at the time of filing is presented with a petition for dissolution signed by fifteen

percent of the registered voters of the municipality, based upon the total number of registered voters at the last preceding general election, the governing body shall call a special election by giving fifty days' published notice to determine whether the municipality must be dissolved. A signature on the petition is not valid if signed more than six months prior to the filing of the petition. If any petition is presented 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 of dissolution must be submitted at that annual municipal election.

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

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

**9-6-11.** Where an election is held pursuant to § 9-6-10 and a majority of the votes cast are against dissolution, another election may not be held for the purpose of dissolving the municipality until five years after the date of the first election.

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

**9-6-12.** If a majority of all the votes cast at an election pursuant to § 9-6-10 are for dissolution and the turnout for the election was at least two-fifths of all the legal voters of the municipality, based upon the total number of registered voters at the last preceding general election, then a statement of the vote signed by the mayor or president of the board of trustees and attested by the finance officer must be filed in the office of the register of deeds of the county or counties in which the municipality is situated. The municipality shall, at the expiration of six months from the time of holding the election, cease to be a municipality, and the property belonging to the municipality after the payment of debts and liabilities must be disposed of by transferring the property on an equitable basis to the county or counties in which the municipality is situated.

Dissolution does not affect the rights of any person under any contract with the municipality.

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

**9-7-1.** The board of trustees of a municipality consists of either three or five members elected at large. Each member must be a legal voter of the municipality in

accordance with § 9-14-2. The number of trustees of a municipality may be increased to five or reduced to three in the manner prescribed by chapter 9-11.

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

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

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

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

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

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

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

Special meetings of the board may be held at any time upon call of the president or finance officer by oral or written notice to the members.

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

**9-7-7.** A majority of the members of the board of trustees constitutes a quorum, but an act of the board is not effective unless assented to by a majority of the members. Unless a vacancy exists due to removal, resignation, death, or by operation of law, the quorum consists of the majority of all the trustees qualified to serve as trustees by election or appointment pursuant to chapter 9-13.

**Section 18. That § 9-8-1.1 be AMENDED:**

**9-8-1.1.** An individual may be nominated, elected, or appointed as a mayor or as an alderman, if the person is a citizen of the United States, a voter of the municipality, and a resident of the municipality in accordance with § 9-14-2. An alderman representing a ward must be a voter of and resident of the ward for which the person is to hold office.

If the mayor or an alderman at large moves to a permanent residence outside the corporate limits of the municipality, the office is immediately vacated. If an alderman representing a ward moves to a permanent residence outside the boundaries of his or her ward, the office is immediately vacated.

**Section 19. That § 9-8-2 be AMENDED:**

**9-8-2.** If there is a vacancy from any cause in the office of the mayor, the vacancy must be filled by appointment by a majority vote of all the aldermen, as soon as practicable after the vacancy occurs, to serve until the office is filled by election for the unexpired term at the next annual municipal election or by special election as provided in § 9-13-14.2. Until the vacancy is filled, the powers and duties of mayor are executed by the mayor pro tempore, as provided in section 27 of this Act.

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

**Section 20. That § 9-8-3 be AMENDED:**

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

**Section 21. 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. 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 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 22. That § 9-8-5 be AMENDED:**

**9-8-5.** The council is the judge of the election and qualification of its members. The council 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.

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 23. 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 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 24. 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 all the aldermen constitutes a quorum to do business. When a seat on a council is vacant due to removal, resignation, death, or by operation of law, the quorum consists of the majority of 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 the penalties as may be prescribed by ordinance.

The meetings of the council are open to the public. The council shall keep minutes of its meetings.

**Section 25. That § 9-8-10 be AMENDED:**

**9-8-10.** All votes must be taken orally or by roll call. A vote may not be taken by secret ballot. If any member of the council requests a roll call vote, a roll call vote must be taken. All votes must be entered in the minutes of the council's proceedings.

The majority vote of all the aldermen is necessary to pass an ordinance or proposal that expends or appropriates money. The mayor may not break a tie on an ordinance or proposal to expend or appropriate money. The mayor may break a tie on all other ordinances or proposals.

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

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

In the temporary absence or temporary incapacitation of the mayor, the president of the council shall serve as the mayor pro tempore, as provided in section 27 of this Act, until the temporary absence or temporary incapacitation ends.

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

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

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

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

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

**Section 28. That § 9-9-2 be AMENDED:**

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

**Section 29. That § 9-9-3 be AMENDED:**

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

**Section 30. That § 9-9-6 be AMENDED:**

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

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

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

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

**Section 31. That § 9-9-8 be AMENDED:**

**9-9-8.** If the mayor is unable to perform the duties of office by reason of temporary absence or temporary incapacitation, the board must, by a majority vote of all the commissioners, appoint one of its members to act as mayor until the temporary absence or temporary incapacitation ends. The appointed commissioner's official designation is mayor pro tempore. The 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 temporary incapacitation. The mayor pro tempore has only one vote as a commissioner and is not entitled to vote as 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 must, by a majority vote of all commissioners, appoint 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 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 32. That § 9-9-14 be AMENDED:**

**9-9-14.** A majority of all the commissioners on the board of commissioners constitutes a quorum to do business. If a seat on the board is vacant due to removal, resignation, death, or by operation of law, the quorum consists of the majority of all the remaining commissioners 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 33. That § 9-9-14.1 be AMENDED:**

**9-9-14.1.** 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.

The board 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 34. That § 9-9-16 be AMENDED:**

**9-9-16.** Each meeting of the board of commissioners is open to the public. All votes must be taken orally or by roll call. No votes may be taken by secret ballot. If any member of the board requests a roll call vote, a roll call vote must be taken. All votes must be entered in the minutes of the council's proceedings.

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

**Section 35. That § 9-9-19 be AMENDED:**

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

**Section 36. That § 9-9-20 be AMENDED:**

**9-9-20.** If any municipality is governed by a board consisting of five 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 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 prudent.

**Section 37. That § 9-9-26 be AMENDED:**

**9-9-26.** If a municipality is governed by a board consisting of three commissioners, the mayor 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 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 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 38. 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 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 39. That § 9-10-1 be AMENDED:**

**9-10-1.** If a petition signed by fifteen percent of the registered voters of any 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 on the question of employing a city manager, the governing body must call an election 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 must be held upon the same notice and conducted in the same manner as other municipal elections. The vote must be by ballot, in the form and cast in the manner provided by chapter 9-13.

**Section 40. That § 9-10-3 be AMENDED:**

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

**Section 41. That § 9-10-4 be AMENDED:**

**9-10-4.** In municipalities under the aldermanic form employing a city manager, the mayor and aldermen must be elected in the same manner as municipalities not employing a city manager.

**Section 42. That § 9-10-5 be AMENDED:**

**9-10-5.** In all commission-governed municipalities employing a city manager, the number of at-large commissioners is nine, each with a three-year term of office. At the first election, nine commissioners must be elected, three to serve until the next annual election, three to serve until the second annual election thereafter, and three to serve until the third annual election thereafter. At each annual municipal election thereafter, three at-large commissioners must be elected for a term of three years each.

**Section 43. That § 9-10-6 be AMENDED:**

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

The commissioners shall qualify as provided by law and organize by electing a commissioner to act as mayor until the first regular meeting of the board of commissioners in the month following the first annual election of commissioners. At the first regular

meeting in the month following the annual election, the commissioners shall elect a commissioner to act as mayor for a term of one year.

**Section 44. That § 9-10-7 be AMENDED:**

**9-10-7.** The mayor of any municipality employing a city manager:

- (1) Is the presiding officer of the council or commission, and in municipalities having the aldermanic form of government, has the powers and duties of an alderman at large;
- (2) Is the recognized head of the municipality for service of civil process and for military and ceremonial purposes;
- (3) May take command of the police of the municipality, appoint special police, and govern the municipality by proclamation during times of public danger or emergency, during which times the mayor has the powers and authority to call for assistance as provided in § 9-29-17; and
- (4) Shall have other authority and perform other duties as may be prescribed by ordinance or resolution not inconsistent with the provisions of this chapter, but in no case may the mayor have the right of veto.

**Section 45. That § 9-10-8 be AMENDED:**

**9-10-8.** The governing body of any municipality employing a manager shall hold regular meetings on the day and time adopted by ordinance, with at least one regular meeting per calendar month. The governing body may, by ordinance, determine the manner in which special meetings may be called.

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

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

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

**9-10-9.** The finance officer, attorney, and library board of trustees must be appointed by the governing body and may be removed at any time by the governing body.

The finance officer shall appoint all deputies and employees in the finance office.

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

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

**9-10-10.** The city manager must be chosen by the governing body on the basis of executive and administrative qualifications, with special reference to actual experience in, or knowledge of, accepted practices in respect to the duties of office. The governing body may establish residency requirements for the manager.

A person elected to membership on the governing body may not be eligible for appointment as manager until one year has elapsed following the expiration of the term for which the member was elected.

**Section 48. That § 9-10-11 be AMENDED:**

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

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

**Section 49. That § 9-10-12 be AMENDED:**

**9-10-12.** In case of the absence or disability of the manager or in case of suspension as provided in § 9-10-11, the governing body may designate a qualified administrative officer of the municipality to perform the duties of the manager during the absence, disability, or suspension.

**Section 50. That § 9-10-13 be AMENDED:**

**9-10-13.** The city manager is responsible to the governing body for the proper administration of all affairs of the municipality. Except as otherwise provided by law, 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 the manager to appoint and remove subordinates in the department or office. Appointments made by or under the authority of the manager must be made without definite term, on the basis of executive and administrative ability, and on the basis of the training and experience of the appointees in the assigned work.

**Section 51. That § 9-10-14 be AMENDED:**

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

**Section 52. That § 9-10-15 be AMENDED:**

**9-10-15.** The city manager shall:

- (1) See that municipal laws, ordinances, and resolutions are enforced;
- (2) Supervise the administration of the affairs of the municipality;
- (3) Make recommendations to the governing body concerning the affairs of the municipality as may seem prudent;
- (4) Keep the governing body advised of the financial condition and future needs of the municipality;
- (5) Prepare and submit to the governing body an annual budget on a date determined by the governing body pursuant to §§ 9-21-34 and 9-21-34.1;
- (6) See that all terms and conditions imposed in favor of the municipality or its inhabitants in any contract or franchise to which the municipality is a party are faithfully kept and performed;
- (7) Be entitled to be present and take part in discussions at all meetings of the governing body and its committees, except when the governing body is considering removal of the manager;

- (8) Sign all warrants for the payment of money, which warrants:
  - (a) Must be countersigned by the finance officer; and
  - (b) May not be issued until the claim has been approved by the governing body, except as otherwise provided by ordinance or resolution;
- (9) 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 the manager may not vote; and
- (10) Have other powers and duties as may be prescribed by ordinance or resolution.

**Section 53. 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 the manager, to solicit any person to vote for or against any candidate for alderman or commissioner of the municipality by which the manager is employed at any municipal election.

**Section 54. That § 9-10-18 be AMENDED:**

**9-10-18.** Provisions of the statutes governing municipalities inconsistent with this chapter are inapplicable to municipalities employing a city manager.

**Section 55. 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 meeting, is executed in the name of the municipality by the mayor, is countersigned by the finance officer, and has the corporate seal attached.

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

**Section 56. That § 9-11-6 be AMENDED:**

**9-11-6.** If a petition signed by fifteen percent of the registered voters of any municipality, as determined by the total number of registered voters at the last preceding general election, is presented to the governing body, requesting that an election be called

for the purpose of voting upon a question of change of form of government or upon a question of the number of wards, commissioners, or trustees, the governing body must call an election that must be held within fifty days from the date of the filing of the petition with the municipal finance officer. At that election, the question of the change of form of government or the number of wards, commissioners, or trustees, or both, 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 must be held upon the same notice and conducted in the same manner as other municipal elections.

**Section 57. That § 9-11-9 be AMENDED:**

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

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

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

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

**Section 59. That § 9-12-1 be AMENDED:**

**9-12-1.** Every municipality has the power:

- (1) To sue and be sued and to contract in its corporate name;
- (2) To acquire by lease, purchase, gift, condemnation, or other lawful means and hold in its corporate name, or use and control as provided by law, both real and personal property and easements and rights of way within or without the corporate limits

- for all purposes authorized by law or necessary to the exercise of any power granted;
- (3) To provide that supplies needed for the use of the municipality are furnished by contract let to the lowest responsible bidder, except as otherwise provided by law;
  - (4) To construct, operate, and maintain an auditorium and all public buildings necessary for the use of the municipality;
  - (5) To insure the public property of the municipality;
  - (6) To convey, sell, give, dispose of, or lease the personal and real property of the municipality as provided by the laws of this state; and
  - (7) To perform all administrative and financial functions for all purposes authorized by law or necessary to the exercise of any power granted.

**Section 60. That § 9-12-3 be AMENDED:**

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

**Section 61. That § 9-12-5.1 be AMENDED:**

**9-12-5.1.** Every municipality may lease its municipally owned property. The lease must be for a term and upon the conditions provided by the governing body.

**Section 62. That § 9-12-5.2 be AMENDED:**

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

**Section 63. That § 9-12-10 be AMENDED:**

**9-12-10.** Every municipality has power to provide for the taking of the census of the municipality.

**Section 64. That § 9-12-14.1 be AMENDED:**

**9-12-14.1.** A municipality may pay compensation to a regularly scheduled commercial air carrier to provide basic or enhanced air service.

**Section 65. That § 9-9-13 be REPEALED.**

**Section 66. That § 9-10-2 be REPEALED.**

**Section 67. That § 9-12-9 be REPEALED.**

An Act to revise certain provisions pertaining to municipal government.

\_\_\_\_\_

I certify that the attached Act originated in the:

Senate as Bill No. 167

\_\_\_\_\_  
Secretary of the Senate

\_\_\_\_\_  
President of the Senate

Attest:

\_\_\_\_\_  
Secretary of the Senate

\_\_\_\_\_  
Speaker of the House

Attest:

\_\_\_\_\_  
Chief Clerk

Senate Bill No. 167  
File No. \_\_\_\_\_  
Chapter No. \_\_\_\_\_

\_\_\_\_\_

Received at this Executive Office  
this \_\_\_\_\_ day of \_\_\_\_\_,

2025 at \_\_\_\_\_ M.

By \_\_\_\_\_  
\_\_\_\_\_ for the Governor

The attached Act is hereby  
approved this \_\_\_\_\_ day of  
\_\_\_\_\_, A.D., 2025

\_\_\_\_\_  
Governor

**STATE OF SOUTH DAKOTA,**

ss.

Office of the Secretary of State

Filed \_\_\_\_\_, 2025  
at \_\_\_\_\_ o'clock \_\_\_\_ M.

\_\_\_\_\_  
Secretary of State

By \_\_\_\_\_  
Asst. Secretary of State