

# State of South Dakota

NINETY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2016

784X0149

## SENATE BILL NO. 64

Introduced by: Senators Fiegen, Ewing, Omdahl, Otten (Ernie), Peters, Soholt, and Tieszen  
and Representatives Hawks, Campbell, Heinemann (Leslie), Stalzer, and  
Steinhauer

1 FOR AN ACT ENTITLED, An Act to revise the voting authority of an alderman.

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

3 Section 1. That § 9-8-1 be amended to read:

4 9-8-1. The chief executive officer of a municipality under the aldermanic form ~~shall be a~~ is  
5 the mayor. The mayor ~~shall hold~~ holds office for a term of not less than two nor more than five  
6 years as determined by ordinance. A ~~person~~ mayor may hold office for more than one term.

7 Section 2. That § 9-8-1.1 be amended to read:

8 9-8-1.1. ~~No person is eligible to~~ A person may be nominated, elected, or appointed as a  
9 mayor or as an alderman ~~unless such~~ if the person is a citizen of the United States, a voter of and  
10 resident of the municipality, and, if an alderman, a voter of and resident of the ward for which  
11 ~~such~~ the person is to hold office.

12 Section 3. That § 9-8-2 be amended to read:

13 9-8-2. If there is a vacancy from any cause in the office of the mayor, the vacancy ~~shall be~~  
14 is filled by appointment by a majority vote of the members-elect of the common council, as soon



1 as practicable after the vacancy occurs, to serve until the office is filled by election for the  
 2 unexpired term at the next annual municipal election or by special election as provided in § 9-  
 3 13-14.2. Until the vacancy is filled or during the time of temporary disability of the mayor, the  
 4 powers and duties of mayor ~~shall be~~ are executed by the president of the ~~city~~ council.

5 Section 4. That § 9-8-3 be amended to read:

6 9-8-3. The mayor ~~shall preside~~ presides at all meetings of the council but ~~shall have no vote~~  
 7 ~~except only votes~~ in case of a tie. He shall perform such The mayor performs the other duties  
 8 as may be prescribed by the laws and ordinances, and ~~take~~ takes care that ~~such the~~ laws and  
 9 ordinances are faithfully executed. ~~He shall~~ The mayor shall annually ~~and from time to time, or~~  
 10 as may be necessary, give the council information relative to the affairs of the ~~first or second~~  
 11 ~~class~~ municipality, and ~~shall~~ recommend for ~~their~~ the council's consideration ~~such the~~ measures  
 12 ~~as he may deem~~ the mayor deems expedient. ~~He shall have the power to sign or veto~~ The mayor  
 13 may sign or veto any ordinance or resolution passed by the common council, and ~~the power to~~  
 14 may veto any part or item of an ordinance or resolution appropriating money.

15 Section 5. That § 9-8-4 be amended to read:

16 9-8-4. The common council consists of the mayor elected at large and two aldermen elected  
 17 from and by the voters of each ward of the municipality. The term of office is two years, unless  
 18 a municipality adopts an ordinance establishing the term of office to be three, four, or five years.  
 19 The mayor and aldermen ~~shall~~ hold office until their successors are elected and qualified. At the  
 20 first election of aldermen, the council shall stagger the initial terms of the alderman in each ward  
 21 to provide that the two aldermen are not up for reelection in the same year. A person may hold  
 22 office for more than one term. A vacancy on the common council ~~shall be~~ is filled as provided  
 23 in § 9-13-14.1 or 9-13-14.2

24 Section 6. That § 9-8-5 be amended to read:

1 9-8-5. The council ~~shall be~~ is the judge of the election and qualification of its ~~own~~ members.  
2 ~~It shall determine~~ The council determines its ~~own~~ rules of procedure, and may punish its  
3 members for disorderly conduct, and, with the concurrence of two-thirds of the aldermen ~~elected~~  
4 ~~thereto~~ elect, may expel a member.

5 Any alderman who ~~shall have been~~ is convicted of bribery shall ~~thereby~~ vacate ~~his office~~ the  
6 position.

7 Section 7. That § 9-8-7 be amended to read:

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

12 The president of the council in the absence of the mayor ~~shall be~~ acts as the presiding officer  
13 of the council, ~~and during~~. During the absence of the mayor from the ~~first or second class~~  
14 municipality or ~~his~~ the mayor's temporary disability ~~shall be~~ the president of the council is acting  
15 mayor and ~~possess~~ has all the powers of the mayor.

16 In the absence or disability of the mayor and president of the council the vice president of  
17 the council shall perform the duties of the mayor and president of the council.

18 However, the president of the council or vice president of the council shall only vote as an  
19 alderman in the absence of the mayor. No alderman may vote as the mayor to break a tie vote.

20 Section 8. That § 9-8-8 be amended to read:

21 9-8-8. The council ~~shall hold~~ holds its regular meetings on the first Monday of each month.  
22 ~~It~~ The council may prescribe by ordinance the manner in which special meetings may be called  
23 and may ~~so~~ by ordinance change the day of its regular monthly meetings.

24 A majority of the aldermen elected ~~shall constitute~~ to the council constitutes a quorum to

1 do business, ~~but a smaller number may adjourn from time to time and.~~ However, a majority of  
2 the quorum may act only on non-ordinance items before the council. The council may compel  
3 the attendance of absentees under ~~such~~ the penalties as may be prescribed by ordinance.

4 ~~It shall sit with open doors and~~ The meetings of the council are open to the public and it  
5 shall keep a journal of its proceedings.

6 Section 9. That § 9-8-10 be amended to read:

7 9-8-10. The yeas and nays shall be taken upon the passage of all ordinances and upon any  
8 proposal to create a liability against the ~~first or second class~~ municipality or for the expenditure  
9 or appropriation of its money, ~~and in all other cases at the request of any member, which.~~ At the  
10 request of any member the vote on any item shall be entered on the journal of its proceedings.

11 ~~The concurrence of a majority~~ vote of ~~all the aldermen shall be~~ the common council is  
12 necessary to ~~the passage of any such~~ pass an ordinance or proposal.

13 ~~It shall require a~~ A two-thirds vote of ~~all the aldermen~~ elect is required to sell any city  
14 property.

15 Section 10. That § 9-8-11 be amended to read:

16 9-8-11. ~~No~~ A vote of the council shall may be reconsidered or rescinded at a special meeting  
17 ~~unless at such special meeting there be present as large a number of aldermen as were present~~  
18 ~~when such vote was taken~~ if a quorum of the council is present and a majority of the member's  
19 elect of the council vote to reconsider or rescind the action.