

AN ACT

ENTITLED, An Act to revise certain provisions regarding the commissioner form of municipal government.

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

Section 1. That § 9-9-2 be amended to read:

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

9-9-3. The term of office of the mayor and commissioners shall be 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 shall be for five years and the commissioners shall be elected for staggered terms. If the number of commissioners is four, one shall 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 shall 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 shall be elected for a term not to exceed five years as determined by ordinance.

Section 3. That § 9-9-4 be repealed.

Section 4. That § 9-9-5 be repealed.

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

9-9-6. If the mayor or a commissioner resigns, the resignation shall be submitted in writing to the board.

If the mayor or a commissioner moves his or her 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 shall 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 shall be filled as provided in § 9-13-14.1 or 9-13-14.2.

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

9-9-8. If the mayor is unable to perform the duties of office by reason of absence or sickness, the board shall appoint by a majority vote one of its members to act as mayor. The appointed commissioner's official designation shall be acting president of the board of commissioners. The acting president is invested with all the powers and shall perform all the duties of the mayor during the mayor's absence or sickness. The acting president has only one vote as a commissioner and is not entitled to vote as acting president.

If the office of mayor is vacated, the board of commissioners shall 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.

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

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

9-9-9. The board controls all departments of the municipality and may make and enforce rules and regulations for the organization, management, and operation of the departments of the municipality and any agency that may be created for the administration of the board's affairs.

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

9-9-10. The board has the authority to summon and compel the attendance of witnesses and the production of books and papers if it is necessary for the effective discharge of the board's duties. Any process necessary to enforce the powers conferred by this section and § 9-9-9 shall be signed by the mayor and attested by the finance officer, and shall be served by a municipal law enforcement officer

or by the sheriff of the county.

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

9-9-11. The board shall meet at least once each week, or as otherwise determined by ordinance, in regular meeting at a time and place as fixed by the board, to consider, take under advisement, and act on the business as may come before the board.

Section 10. That § 9-9-12 be amended to read:

9-9-12. A special meeting may be called by the mayor or by any two commissioners at any time to only consider the matter mentioned in the call for the meeting. A notice of a special meeting shall be given pursuant to § 1-25-1.1 and shall be provided to each commissioner.

Section 11. That § 9-9-13 be amended to read:

9-9-13. Each meeting of the board is open to the public and the board shall keep a journal of its proceedings.

Section 12. That § 9-9-14 be amended to read:

9-9-14. A majority of the board 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 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 the board.

Section 13. That chapter 9-9 be amended by adding a NEW SECTION to read:

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.

Section 14. That § 9-9-15 be repealed.

Section 15. That § 9-9-16 be amended to read:

9-9-16. The yeas and nays shall be taken upon the passage of each ordinance and for any proposal to expend or appropriate money and in any other case at the request of any commissioner. Each vote shall be entered on the journal of the board's proceedings. A two-thirds vote of the board is required to sell any municipal real property.

Section 16. That § 9-9-17 be repealed.

Section 17. That § 9-9-18 be amended to read:

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

Section 18. That § 9-9-19 be amended to read:

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 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 19. That § 9-9-20 be amended to read:

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 absence or inability 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.

Section 20. That § 9-9-21 be amended to read:

9-9-21. If any municipality is governed by a board consisting of five commissioners, the commissioner of public safety shall supervise the police and fire departments and the departments' officers and employees. The commissioner of public safety is also in charge of animal control within the municipality, including animal impoundments and shelter.

Section 21. That § 9-9-22 be amended to read:

9-9-22. If a municipality is governed by a board consisting of five commissioners, the commissioner of public works shall supervise the streets, alleys, public grounds, and municipal improvements, and all public property, except as otherwise specially provided. The commissioner shall maintain the property in a clean and sanitary condition and enforce all contracts, rules, and regulations necessary.

Section 22. That § 9-9-23 be amended to read:

9-9-23. If a municipality is governed by a board consisting of five commissioners, the commissioner of utilities shall supervise the construction, maintenance, and operation of the waterworks, sewerage, and any other utility departments of the municipality. The commissioner of

utilities shall enforce all regulations with respect to that department and its revenue.

Section 23. That § 9-9-24 be amended to read:

9-9-24. If a municipality is governed by a board consisting of five commissioners, the commissioner of finance and revenue shall enforce all laws for the assessment and collection of taxes of every kind and collection of all revenues belonging to the municipality from whatever source derived. The finance and revenue commissioner shall examine into and keep the board informed on the finances of the municipality and its assets and property.

Section 24. That § 9-9-25 be amended to read:

9-9-25. If a municipality is governed by a board consisting of three commissioners, the mayor and commissioners have the powers and duties described in §§ 9-9-26 and 9-9-27.

Section 25. That § 9-9-26 be amended to read:

9-9-26. If a municipality is governed by a board consisting of three commissioners, the mayor shall 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 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 absence or inability 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 26. That § 9-9-27 be amended to read:

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

in the month following the election each year.

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I certify that the attached Act
originated in the

HOUSE as Bill No. 1169

Chief Clerk

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Speaker of the House

Attest:

Chief Clerk

President of the Senate

Attest:

Secretary of the Senate

House Bill No. 1169

File No. _____

Chapter No. _____

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Received at this Executive Office
this _____ day of _____ ,

20____ at _____ M.

By _____
for the Governor

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The attached Act is hereby
approved this _____ day of
_____, A.D., 20____

Governor

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STATE OF SOUTH DAKOTA,
ss.

Office of the Secretary of State

Filed _____, 20____
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State