

# State of South Dakota

EIGHTIETH SESSION  
LEGISLATIVE ASSEMBLY, 2005

903L0155

## HOUSE BILL NO. 1097

Introduced by: Representatives Hanks, Haverly, Hennies, and McCoy and Senators  
Adelstein, Gray, and Napoli

1 FOR AN ACT ENTITLED, An Act to authorize the use of special elections to fill vacancies in  
2 the office of the mayor and on the governing boards of certain municipalities.

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

4 Section 1. That § 9-8-2 be amended to read as follows:

5 9-8-2. If there is a vacancy from any cause in the office of the mayor, the vacancy shall be  
6 filled by appointment by a majority vote of the members-elect of the common council, as soon  
7 as practicable after the vacancy occurs, to serve until the office is filled by election for the  
8 unexpired term at the next annual municipal election or by special election as provided in  
9 section 6 of this Act. Until the vacancy is filled or during the time of temporary disability of the  
10 mayor, the powers and duties of mayor shall be executed by the president of the city council.

11 Section 2. That § 9-8-4 be amended to read as follows:

12 9-8-4. The common council ~~shall consist~~ consists of the mayor elected at large and two  
13 aldermen elected from and by the voters of each ward of the municipality. The term of office  
14 ~~shall be for~~ is two years, unless a municipality adopts an ordinance establishing the term of  
15 office to be three, four, or five years. The mayor and aldermen shall hold office until successors



1 are elected and qualified. At the first election of aldermen, the council shall stagger the initial  
2 terms of the alderman in each ward to provide that the two aldermen are not up for reelection  
3 in the same year. A person may hold office for more than one term. A vacancy on the common  
4 council shall be filled as provided in § 9-13-14.1 or section 6 of this Act.

5 Section 3. That § 9-9-6 be amended to read as follows:

6 9-9-6. The resignation of the mayor or any commissioner shall be in writing to the board.

7 The permanent removal of the mayor or any commissioner from the territorial limits of the  
8 first or second class municipality ~~shall create~~ creates a vacancy in ~~his~~ the office.

9 In case of any vacancy from any cause in the office of mayor the ~~same~~ vacancy shall be  
10 filled by appointment pursuant to § 9-9-8 until the ~~same shall be~~ position is filled by election  
11 at the next annual municipal election or by special election as provided in section 6 of this Act.  
12 A vacancy on the commission shall be filled as provided in § 9-13-14.1 or as provided in section  
13 6 of this Act.

14 Section 4. That § 9-13-14 be amended to read as follows:

15 9-13-14. Every special election authorized by law, except as provided in § 6-8B-4 and  
16 section 6 of this Act, shall be held upon the same notice, at the same polling places, be  
17 conducted, returned, and canvassed, and the result declared as provided herein for the annual  
18 municipal election.

19 The notice of such special election shall state any question or questions to be voted upon.

20 Section 5. That § 9-13-14.1 be amended to read as follows:

21 9-13-14.1. ~~When~~ If a vacancy exists on a municipal governing body, the remaining members  
22 shall appoint a replacement to serve until the next annual municipal election, or the vacancy  
23 may be filled by special election as provided in section 6 of this Act. In the aldermanic form of  
24 municipal government, the appointment must be a person from the same ward of the first or

1 second class municipality. ~~There shall not be a~~ No special election may be held to fill a vacancy  
2 before the date of the annual municipal election, except as provided in section 6 of this Act.

3 Section 6. That chapter 9-13 be amended by adding thereto a NEW SECTION to read as  
4 follows:

5 The governing body of any municipality may, by ordinance, require that any vacancy on the  
6 governing body or in the office of the mayor is to be filled by a special election called for that  
7 purpose to be conducted as provided in § 9-13-14 and this section. No such special election  
8 may be held less than ninety days before the annual municipal election. The finance officer of  
9 the municipality shall publish a notice in the official newspaper of the municipality stating that  
10 a vacancy exists, that the vacancy will be filled by special election, the date of the election, and  
11 the time and place where nominating petitions may be filed for the office. The notice shall be  
12 published once each week for two consecutive weeks beginning at least sixty days before the  
13 date of the special election. Nominating petitions for the vacancy shall be prepared and filed as  
14 provided in § 9-13-7 and shall be filed at least thirty days before the date of the special election.  
15 A notice of the special election shall be published as provided in §§ 9-13-13 and 9-13-14.