

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

555D0494

SENATE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **SB103** - 1/24/00

Introduced by: Senators Bogue and Dunn (Rebecca) and Representatives Heineman and Chicoine

1 FOR AN ACT ENTITLED, An Act to revise the process and requirements for changing the
2 form of municipal government.

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

4 Section 1. That § 9-2-3 be amended to read as follows:

5 9-2-3. ~~Third class municipalities~~ Each municipality shall be governed by a board of trustees:
6 ~~— First and second class municipalities shall be governed either by,~~ a mayor and common
7 council, or by a board of commissioners, ~~in each case with or without a,~~ A city manager may
8 serve with any of the forms of government.

9 Section 2. That § 9-11-1 be repealed.

10 ~~— 9-11-1. When by reason of an increase of population a third class municipality shall pass to~~
11 ~~a municipality of the second class, at the next annual municipal election it shall elect a mayor and~~
12 ~~common council, and continue under that form of government until it is changed as provided by~~
13 ~~this title.~~

14 Section 3. That § 9-11-5 be amended to read as follows:

15 9-11-5. The voters of any ~~first or second class~~ municipality may change its form of
16 government ~~from the aldermanic to the commission or from the commission to the aldermanic,~~

1 ~~or may change the number of its commission, or change its form of government from the city~~
2 ~~manager plan to the aldermanic or commission plan, or from any form of the aldermanic or~~
3 ~~aldermanic-manager plan to any form of the commission or commission-manager plan and vice~~
4 ~~versa~~ or change the number of its commissioners, wards, or trustees by a majority vote of all
5 electors voting at an election called and held as hereinafter provided. Municipalities Any
6 municipality under special charter may ~~in like manner~~ adopt any ~~of the forms~~ form of government
7 as hereinabove provided in this title.

8 Section 4. That § 9-11-6 be amended to read as follows:

9 9-11-6. If a petition signed by fifteen percent of the registered voters of any ~~first or second~~
10 ~~class~~ 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 for the
12 purpose of voting upon a question of change of form of government or upon a question of the
13 number of wards, commissioners or trustees, the governing body shall call an election to be held
14 within fifty days from the date of the filing of the petition with the ~~auditor~~ municipal finance
15 officer. At that election the question of the change of form of government or the number of
16 wards, commissioners or trustees, or both, shall be submitted to the voters ~~thereof~~. No signature
17 on the petition is valid if signed more than six months prior to the filing of the petitions. If the
18 petition is filed on or after January first prior to the annual municipal election and within
19 sufficient time to comply with the provisions of § 9-13-14, the question ~~shall~~ may be submitted
20 at that annual municipal election.

21 The election shall be held upon the same notice and conducted in the same manner as other
22 city elections.

23 Section 5. That § 9-11-9 be amended to read as follows:

24 9-11-9. If ~~at such an election a change of~~ changes the form of government or number of
25 commissioners, wards, or trustees is ~~decided upon~~ approved, at the next annual municipal

1 election or at a special election called by the governing board and held pursuant to § 9-13-14,
2 officers shall be chosen under the changed form of government.

3 Section 6. That § 9-11-10 be amended to read as follows:

4 9-11-10. Any ordinance, resolution, contract, obligation, right, or liability of the ~~first or~~
5 ~~second class~~ municipality shall continue in force and effect the same as though no change of
6 government ~~had~~ has occurred.

7 Section 7. That § 9-11-2 be repealed.

8 ~~9-11-2. Whenever the population of a municipality of the second class shall fall below five~~
9 ~~hundred inhabitants, as shown by the last preceding federal census, such municipality may be~~
10 ~~classed as a municipality of the third class and denominated a town.~~

11 Section 8. That § 9-11-3 be repealed.

12 ~~9-11-3. In order so to change its status such first or second class municipality as described~~
13 ~~in § 9-11-2 may through its governing body apply to the circuit court having jurisdiction, for a~~
14 ~~judgment authorizing such change. Upon the presentation of such application the court shall by~~
15 ~~order fix a time and place for hearing such application. Notice thereof shall be given by~~
16 ~~publishing such order once a week for two successive weeks, the last publication to be not less~~
17 ~~than ten days prior to the day fixed for hearing and by posting a copy of the order in three public~~
18 ~~places in such municipality not less than ten days prior to the hearing.~~

19 Section 9. That chapter 9-11 be amended by adding thereto a NEW SECTION to read as
20 follows:

21 If the population of a municipality, as shown by the last preceding federal census, increases
22 or decreases causing the municipality to pass into a different class of municipality pursuant to
23 § 9-2-1, the municipality may, through its governing body, apply to the circuit court having
24 jurisdiction for a judgment authorizing the classification change. Upon the presentation of the
25 application, the court shall establish a time and place for hearing the application. Notice of the

1 hearing shall be given by publishing the order once a week for two successive weeks, the last
2 publication to be not less than ten days prior to the day of the hearing, Not less than ten days
3 prior to the date of the hearing, the notice of hearing shall also be posted in three public places
4 in the municipality.

5 Section 10. That § 9-11-4 be amended to read as follows:

6 9-11-4. Upon such hearing, if the facts warrant the granting of the application, the court shall
7 make and enter its judgment changing the status of ~~such first or second class~~ the municipality to
8 that of a municipality of the ~~third~~ appropriate class, pursuant to § 9-2-1. The court shall establish
9 fixing the time when ~~such~~ the change shall be effective and ~~determining~~ determine the manner
10 in which the change shall be made.

11 A certified copy of ~~such~~ the judgment shall be filed in the office of the register of deeds of
12 the county wherein such municipality is situated, and also in the Office of the Secretary of State.

1 **BILL HISTORY**

2 1/19/00 First read in Senate and referred to Local Government. S.J. 111

3 1/24/00 Scheduled for Committee hearing on this date.

4 1/24/00 Local Government Do Pass Amended, Passed, AYES 6, NAYS 1. S.J. 163