

Cities  
Orr, Chairperson  
Hansen  
Schwengels

*Do pass 3/9/78*

HOUSE FILE 2063

By SPENCER

~~July~~ 1978

*Cities Do Pass 1/25 (p. 234)*

*Sen " " 3/9 (524)*

Passed House, Date 2-14-78 (p. 422) Passed Senate, Date 3-15-78 (p. 580)

Vote: Ayes 81 Nays 7 Vote: Ayes 45 Nays 0

Approved April 12, 1978

## A BILL FOR

1 An Act to change the defined term "councilman" to "council  
2 member" in the city code of Iowa, and to make appropriate  
3 conforming amendments.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section sixty-four point one (64.1), Code 1977,  
2 is amended by striking subsection six (6) and inserting in  
3 lieu thereof the following:

4 6. City council members, including city commissioners and  
5 aldermen, other than mayors.

6 Sec. 2. Section sixty-nine point four (69.4), subsection  
7 five (5), Code 1977, is amended to read as follows:

8 5. By all ~~councilmen~~ council members and officers of cities,  
9 to the clerk or mayor.

10 Sec. 3. Section three hundred sixty-two point two (362.2),  
11 subsection four (4), Code 1977, is amended to read as follows:

12 4. "~~Councilman~~ Council member" means a member of a council,  
13 including an alderman.

14 Sec. 4. Section three hundred seventy-two point four  
15 (372.4), Code 1977, is amended to read as follows:

16 372.4 MAYOR-COUNCIL FORM. A city governed by the mayor-  
17 council form has a mayor and five ~~councilmen~~ council mem-  
18 bers elected at large, unless by ordinance a city so governed  
19 chooses to have a mayor elected at large and an odd number  
20 of ~~councilmen~~ council members but not less than five, in-  
21 cluding at least two ~~councilmen~~ council members elected at  
22 large and one ~~councilman~~ council member elected by and from  
23 each ward. The council may, by ordinance, provide for a city  
24 manager and prescribe ~~his~~ the manager's powers and duties,  
25 and as long as the council contains an odd number of ~~councilmen~~  
26 council members, may change the number of wards, abolish  
27 wards, or increase the number of ~~councilmen~~ council members  
28 at large without changing the form.

29 However, a city governed, on the effective date of this  
30 section, by the mayor-council form composed of a mayor and  
31 a council consisting of two ~~councilmen~~ council members elected  
32 at large, and one ~~councilman~~ council member from each of four  
33 wards, or a special charter city governed, on the effective  
34 date of this section, by the mayor-council form composed  
35 of a mayor and a council consisting of two ~~councilmen~~ council

1 members elected at large and one ~~councilman~~ council member  
2 elected from each of eight wards, may continue until the form  
3 of government is changed as provided in section 372.2 or  
4 section 372.9. While a city is thus operating with an even  
5 number of ~~councilmen~~ council members, the mayor may vote to  
6 break a tie vote on motions not involving ordinances, resolu-  
7 tions or appointments made by the council alone, and in a  
8 special charter city operating with ten ~~councilmen~~ council  
9 members under this section, the mayor may vote to break a  
10 tie vote on all measures.

11 The mayor shall appoint a ~~councilman~~ council member as mayor  
12 pro tem, and shall appoint the marshal or chief of police  
13 except where an intergovernmental agreement makes other  
14 provisions for police protection. Other officers must be  
15 selected as directed by the council. The mayor is not a  
16 member of the council and may not vote as a member of the  
17 council.

18 Sec. 5. Section three hundred seventy-two point five  
19 (372.5), unnumbered paragraphs two (2), three (3), five (5)  
20 and six (6), Code 1977, are amended to read as follows:

21 A city governed by the commission form has a council composed  
22 of a mayor and four ~~councilmen~~ council members elected at  
23 large. The mayor administers the department of public af-  
24 fairs and each other ~~councilman~~ council member is elected  
25 to administer one of the other four departments.

26 However, a city governed, on the effective date of this  
27 section, by the commission form and having a council com-  
28 posed of a mayor and two ~~councilmen~~ council members elected  
29 at large may continue with a council of three until the form  
30 of government is changed as provided in section 372.2 or  
31 section 372.9 or without changing the form, may submit to  
32 the voters the question of increasing the council to five  
33 members assigned to the five departments as set out in this  
34 section.

35 The ~~councilman~~ council member elected to administer the

1 department of accounts and finances is mayor pro tem.

2 The council may appoint a city treasurer or may, by  
3 ordinance, provide for ~~his~~ election of that officer.

4 Sec. 6. Section three hundred seventy-two point six (372.6),  
5 Code 1977, is amended to read as follows:

6 372.6 COUNCIL-MANAGER-AT-LARGE FORM. A city governed by  
7 the council-manager-at-large form has five ~~councilmen~~ council  
8 members elected at large for staggered four-year terms. At  
9 the first meeting of the new term following each city election,  
10 the council shall elect one of the ~~councilmen~~ council members  
11 to serve as mayor, and one to serve as mayor pro tem. The  
12 mayor is a member of the council and may vote on all matters  
13 before the council. As soon as possible after the beginning  
14 of the new term following each city election, the council  
15 shall appoint a manager.

16 The council may by ordinance provide that the city will  
17 be governed by council-manager-ward form. The ordinance must  
18 provide for the election of the mayor and ~~councilmen~~ council  
19 members required under council-manager-ward form at the next  
20 regular city election.

21 Sec. 7. Section three hundred seventy-two point seven  
22 (372.7), Code 1977, is amended to read as follows:

23 372.7 COUNCIL-MANAGER-WARD FORM. A city governed by  
24 council-manager-ward form has a council composed of a mayor  
25 and two ~~councilmen~~ council members elected at large, and one  
26 ~~councilman~~ council member elected from each of four wards.  
27 The mayor and other ~~councilmen~~ council members serve four-  
28 year staggered terms. The mayor is a member of the council  
29 and may vote on all matters before the council.

30 As soon as possible after the beginning of the new term  
31 following each city election, the council shall appoint a  
32 city manager, and a ~~councilman~~ council member to serve as  
33 mayor pro tem.

34 Sec. 8. Section three hundred seventy-two point eight  
35 (372.8), subsection two (2), paragraph d, subsection three

1 (3), paragraphs d and e, and subsection four (4), Code 1977,  
2 are amended to read as follows:

3 d. Supervise the official conduct of all officers of the  
4 city ~~whom-he-has~~ appointed by the manager, and take active  
5 control of the police, fire, and engineering departments  
6 of the city.

7 d. Suspend or discharge summarily any officer, appointee,  
8 or employee ~~that-he~~ whom the manager has power to appoint  
9 or employ, subject to civil service provisions and chapter  
10 70.

11 e. Summarily and without notice investigate the affairs  
12 and conduct of any department, agency, officer, or employee  
13 under ~~his~~ the manager's supervision, and compel the production  
14 of evidence and attendance of witnesses.

15 4. The city manager shall not take part in any election  
16 for ~~councilmen~~ council members, other than by casting ~~his~~  
17 a vote, and shall not appoint a ~~councilman~~ council member  
18 to city office or employment, nor shall a ~~councilman~~ council  
19 member accept such appointment.

20 Sec. 9. Section three hundred seventy-two point thirteen  
21 (372.13), subsections one (1), four (4), eight (8) and nine  
22 (9), Code 1977, are amended to read as follows:

23 1. A majority of all ~~councilmen~~ council members is a quorum.

24 4. Except as otherwise provided by state or city law, the  
25 council may appoint city officers and employees, and prescribe  
26 their powers, duties, compensation, and terms. The appointment  
27 of a city manager must be made on the basis of ~~his~~ that  
28 individual's qualifications and not on the basis of political  
29 affiliation.

30 8. By ordinance, the council shall prescribe the  
31 compensation of the mayor, ~~councilmen~~ council members, and  
32 other elected city officers, but a change in the compensa-  
33 tion of the mayor shall not become effective during the term  
34 in which the change is adopted, and the council shall not  
35 adopt such an ordinance changing the compensation of the mayor

1 or ~~eeunciiimen~~ council members during the months of November  
2 and December immediately following a regular city election.  
3 A change in the compensation of ~~eeunciiimen~~ council members  
4 shall become effective for all ~~eeunciiimen~~ council members  
5 at the beginning of the term of the ~~eeunciiimen~~ council members  
6 elected at the election next following the change in  
7 compensation. No elected city officer shall receive any other  
8 compensation for any other city office or city employment  
9 during ~~his~~ that officer's term of office, but may be re-  
10 imbursed for ~~his~~ actual expenses incurred. However, if the  
11 mayor pro tem performs the duties of the mayor during ~~his~~  
12 the mayor's absence or disability for a continuous period  
13 of fifteen days or more, the mayor pro tem may be paid for  
14 that period such compensation as determined by the council,  
15 based upon ~~his~~ the mayor pro tem's performance of the mayor's  
16 duties and upon the compensation of the mayor.

17 9. A ~~eeunciiimen~~ council member, during the term for which  
18 ~~he~~ that member is elected, is not eligible for appointment  
19 to any city office if the office has been created or the  
20 compensation of the office has been increased during the term  
21 for which ~~he~~ that member is elected. A person who resigns  
22 from an elective office is not eligible for appointment to  
23 the same office during the time for which ~~he~~ that person was  
24 elected if during that time, the compensation of the office  
25 has been increased.

26 Sec. 10. Section three hundred seventy-two point four-  
27 teen (372.14), subsections two (2) and three (3), Code 1977,  
28 are amended to read as follows:

29 2. The mayor may take command of the police and govern  
30 the city by proclamation ~~when-he-determines~~, upon making a  
31 determination that a time of emergency or public danger exists.  
32 Within the city limits, ~~he~~ the mayor has all the powers  
33 conferred upon the sheriff to suppress disorders.

34 3. The mayor pro tem is vice president of the council.  
35 When the mayor is absent or unable to act, the mayor pro tem

1 shall perform the mayor's duties, except that the mayor pro  
2 tem may not appoint, employ, or discharge officers or em-  
3 ployees without the approval of the council. Official actions  
4 of the mayor pro tem when the mayor is absent or unable to  
5 act are legal and binding to the same extent as if done by  
6 the mayor. The mayor pro tem retains all ~~his~~ of the powers  
7 as of a councilman council member.

8 Sec. 11. Section three hundred seventy-six point two  
9 (376.2), unnumbered paragraph three (3), and subsections one  
10 (1), two (2), three (3) and four (4), Code 1977, are amended  
11 to read as follows:

12 At the first regular city election after the terms of  
13 councilmen council members are changed to four years, terms  
14 shall be staggered as follows:

15 1. If an even number of councilmen council members are  
16 elected at large, the half of the elected councilmen coun-  
17 cil members who receive the highest number of votes are elected  
18 for four-year terms. The remainder are elected for two-year  
19 terms.

20 2. If an odd number of councilmen council members are  
21 elected at large, the majority of the elected councilmen  
22 council members who receive the highest number of votes are  
23 elected for four-year terms. The remainder are elected for  
24 two-year terms.

25 3. In case of a tie the mayor and clerk shall determine  
26 by lot which councilmen council members are elected for four-  
27 year terms.

28 4. If the councilmen council members are elected from  
29 wards, the councilmen council members elected from the odd-  
30 numbered wards are elected for four-year terms and the  
31 councilmen council members elected from even-numbered wards  
32 are elected for two-year terms.

33 Sec. 12. Section three hundred eighty point four (380.4),  
34 Code 1977, is amended to read as follows:

35 380.4 MAJORITY REQUIREMENT--TIE VOTE. Passage of an

1 ordinance, amendment, or resolution requires an affirmative  
2 vote of not less than a majority of the council members, ex-  
3 cept when the mayor may vote to break a tie vote in a city  
4 with an even number of ~~councilmen~~ council members, as provided  
5 in section 372.4. A motion to spend public funds in excess  
6 of ten thousand dollars on any one project, or a motion to  
7 accept public improvements and facilities upon their comple-  
8 tion, also requires an affirmative vote of not less than a  
9 majority of the council members. Each ~~councilman's~~ council  
10 member's vote on an ordinance, amendment, or resolution must  
11 be recorded.

12 Sec. 13. This bill is effective January 1, 1979.

13 EXPLANATION

14 This bill changes the references in the City Code of Iowa  
15 (Chapters 364, 368, 372, 376, 380, 384, 388, and 392 of the  
16 Code of Iowa) to members of city councils from "councilmen"  
17 to "council members". Similar changes are made in two other  
18 Code chapters, and a number of other terms in the City Code  
19 are changed from masculine to neuter in form.

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LSB 3234H  
pb/rh/8A

## HOUSE FILE 2063

## AN ACT

TO CHANGE THE DEFINED TERM "COUNCILMAN" TO "COUNCIL MEMBER" IN THE CITY CODE OF IOWA, AND TO MAKE APPROPRIATE CONFORMING AMENDMENTS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section sixty-four point one (64.1), Code 1977, is amended by striking subsection six (6) and inserting in lieu thereof the following:

6. City council members, including city commissioners and aldermen, other than mayors.

Sec. 2. Section sixty-nine point four (69.4), subsection five (5), Code 1977, is amended to read as follows:

5. By all councilmen council members and officers of cities, to the clerk or mayor.

Sec. 3. Section three hundred sixty-two point two (362.2), subsection four (4), Code 1977, is amended to read as follows:

4. "Councilman Council member" means a member of a council, including an alderman.

Sec. 4. Section three hundred seventy-two point four (372.4), Code 1977, is amended to read as follows:

372.4 MAYOR-COUNCIL FORM. A city governed by the mayor-council form has a mayor and five councilmen council members elected at large, unless by ordinance a city so governed chooses to have a mayor elected at large and an odd number of councilmen council members but not less than five, including at least two councilmen council members elected at large and one councilman council member elected by and from each ward. The council may, by ordinance, provide for a city manager and prescribe ~~his~~ the manager's powers and duties, and as long as the council contains an odd number of councilmen council members, may change the number of wards, abolish wards, or increase the number of councilmen council members at large without changing the form.

However, a city governed, on the effective date of this section, by the mayor-council form composed of a mayor and a council consisting of two councilmen council members elected at large, and one councilman council member from each of four wards, or a special charter city governed, on the effective date of this section, by the mayor-council form composed of a mayor and a council consisting of two councilmen council members elected at large and one councilman council member elected from each of eight wards, may continue until the form of government is changed as provided in section 372.2 or section 372.9. While a city is thus operating with an even number of councilmen council members, the mayor may vote to break a tie vote on motions not involving ordinances, resolutions or appointments made by the council alone, and in a special charter city operating with ten councilmen council members under this section, the mayor may vote to break a tie vote on all measures.

The mayor shall appoint a councilman council member as mayor pro tem, and shall appoint the marshal or chief of police except where an intergovernmental agreement makes other provisions for police protection. Other officers must be selected as directed by the council. The mayor is not a member of the council and may not vote as a member of the council.

Sec. 5. Section three hundred seventy-two point five (372.5), unnumbered paragraphs two (2), three (3), five (5) and six (6), Code 1977, are amended to read as follows:

A city governed by the commission form has a council composed of a mayor and four councilmen council members elected at large. The mayor administers the department of public affairs and each other councilman council member is elected to administer one of the other four departments.

However, a city governed, on the effective date of this section, by the commission form and having a council composed of a mayor and two councilmen council members elected at large may continue with a council of three until the form of government is changed as provided in section 372.2 or

section 372.9 or without changing the form, may submit to the voters the question of increasing the council to five members assigned to the five departments as set out in this section.

The councilman council member elected to administer the department of accounts and finances is mayor pro tem.

The council may appoint a city treasurer or may, by ordinance, provide for his election of that officer.

Sec. 6. Section three hundred seventy-two point six (372.6), Code 1977, is amended to read as follows:

372.6 COUNCIL-MANAGER-AT-LARGE FORM. A city governed by the council-manager-at-large form has five councilmen council members elected at large for staggered four-year terms. At the first meeting of the new term following each city election, the council shall elect one of the councilmen council members to serve as mayor, and one to serve as mayor pro tem. The mayor is a member of the council and may vote on all matters before the council. As soon as possible after the beginning of the new term following each city election, the council shall appoint a manager.

The council may by ordinance provide that the city will be governed by council-manager-ward form. The ordinance must provide for the election of the mayor and councilmen council members required under council-manager-ward form at the next regular city election.

Sec. 7. Section three hundred seventy-two point seven (372.7), Code 1977, is amended to read as follows:

372.7 COUNCIL-MANAGER-WARD FORM. A city governed by council-manager-ward form has a council composed of a mayor and two councilmen council members elected at large, and one councilman council member elected from each of four wards. The mayor and other councilmen council members serve four-year staggered terms. The mayor is a member of the council and may vote on all matters before the council.

As soon as possible after the beginning of the new term following each city election, the council shall appoint a city manager, and a councilman council member to serve as

mayor pro tem.

Sec. 8. Section three hundred seventy-two point eight (372.8), subsection two (2), paragraph d, subsection three (3), paragraphs d and e, and subsection four (4), Code 1977, are amended to read as follows:

d. Supervise the official conduct of all officers of the city ~~whom-he-has~~ appointed by the manager, and take active control of the police, fire, and engineering departments of the city.

d. Suspend or discharge summarily any officer, appointee, or employee ~~that-he~~ whom the manager has power to appoint or employ, subject to civil service provisions and chapter 70.

e. Summarily and without notice investigate the affairs and conduct of any department, agency, officer, or employee under his the manager's supervision, and compel the production of evidence and attendance of witnesses.

4. The city manager shall not take part in any election for councilmen council members, other than by casting his a vote, and shall not appoint a councilman council member to city office or employment, nor shall a councilman council member accept such appointment.

Sec. 9. Section three hundred seventy-two point thirteen (372.13), subsections one (1), four (4), eight (8) and nine (9), Code 1977, are amended to read as follows:

1. A majority of all councilmen council members is a quorum.

4. Except as otherwise provided by state or city law, the council may appoint city officers and employees, and prescribe their powers, duties, compensation, and terms. The appointment of a city manager must be made on the basis of his that individual's qualifications and not on the basis of political affiliation.

8. By ordinance, the council shall prescribe the compensation of the mayor, councilmen council members, and other elected city officers, but a change in the compensation of the mayor shall not become effective during the term

in which the change is adopted, and the council shall not adopt such an ordinance changing the compensation of the mayor or councilmen council members during the months of November and December immediately following a regular city election. A change in the compensation of councilmen council members shall become effective for all councilmen council members at the beginning of the term of the councilmen council members elected at the election next following the change in compensation. No elected city officer shall receive any other compensation for any other city office or city employment during his that officer's term of office, but may be reimbursed for his actual expenses incurred. However, if the mayor pro tem performs the duties of the mayor during his the mayor's absence or disability for a continuous period of fifteen days or more, the mayor pro tem may be paid for that period such compensation as determined by the council, based upon his the mayor pro tem's performance of the mayor's duties and upon the compensation of the mayor.

9. A councilman council member, during the term for which he that member is elected, is not eligible for appointment to any city office if the office has been created or the compensation of the office has been increased during the term for which he that member is elected. A person who resigns from an elective office is not eligible for appointment to the same office during the time for which he that person was elected if during that time, the compensation of the office has been increased.

Sec. 10. Section three hundred seventy-two point fourteen (372.14), subsections two (2) and three (3), Code 1977, are amended to read as follows:

2. The mayor may take command of the police and govern the city by proclamation when-he-determines, upon making a determination that a time of emergency or public danger exists. Within the city limits, he the mayor has all the powers conferred upon the sheriff to suppress disorders.

3. The mayor pro tem is vice president of the council. When the mayor is absent or unable to act, the mayor pro tem

shall perform the mayor's duties, except that the mayor pro tem may not appoint, employ, or discharge officers or employees without the approval of the council. Official actions of the mayor pro tem when the mayor is absent or unable to act are legal and binding to the same extent as if done by the mayor. The mayor pro tem retains all his of the powers as of a councilman council member.

Sec. 11. Section three hundred seventy-six point two (376.2), unnumbered paragraph three (3), and subsections one (1), two (2), three (3) and four (4), Code 1977, are amended to read as follows:

At the first regular city election after the terms of councilmen council members are changed to four years, terms shall be staggered as follows:

1. If an even number of councilmen council members are elected at large, the half of the elected councilmen council members who receive the highest number of votes are elected for four-year terms. The remainder are elected for two-year terms.

2. If an odd number of councilmen council members are elected at large, the majority of the elected councilmen council members who receive the highest number of votes are elected for four-year terms. The remainder are elected for two-year terms.

3. In case of a tie the mayor and clerk shall determine by lot which councilmen council members are elected for four-year terms.

4. If the councilmen council members are elected from wards, the councilmen council members elected from the odd-numbered wards are elected for four-year terms and the councilmen council members elected from even-numbered wards are elected for two-year terms.

Sec. 12. Section three hundred eighty point four (380.4), Code 1977, is amended to read as follows:

380.4 MAJORITY REQUIREMENT--TIE VOTE. Passage of an ordinance, amendment, or resolution requires an affirmative vote of not less than a majority of the council members, ex-

cept when the mayor may vote to break a tie vote in a city with an even number of ~~councilmen~~ council members, as provided in section 372.4. A motion to spend public funds in excess of ten thousand dollars on any one project, or a motion to accept public improvements and facilities upon their completion, also requires an affirmative vote of not less than a majority of the council members. Each ~~councilman's~~ council member's vote on an ordinance, amendment, or resolution must be recorded.

Sec. 13. This bill is effective January 1, 1979.

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DALE M. COCHRAN  
Speaker of the House

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ARTHUR A. NEU  
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2063, Sixty-seventh General Assembly.

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DAVID L. WRAY  
Chief Clerk of the House

Approved April 13, 1978

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ROBERT D. RAY  
Governor