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HOUSE BILL NO. 1900

Offered January 10, 2001

Prefiled January 8, 2001

A BILL to amend and reenact § 60 as amended, § 62, and §§ 63 and 114 as amended of Chapter 34 of the Acts of Assembly of 1918, which provided a charter for the City of Norfolk, relating to the police and fire divisions.

Patron—Williams (By Request)

Referred to Committee on Counties, Cities and Towns

Be it enacted by the General Assembly of Virginia:

1. That § 60 as amended, § 62, and §§ 63 and 114 as amended of Chapter 34 of the Acts of Assembly of 1918 are amended and reenacted as follows:

§ 60. Division of Police.

The police force shall be composed of a chief of police and of such officers, patrolmen and other employees as the city manager may determine. The chief of police shall have the immediate direction and control of the said force, subject, however, to the supervision of the director of public safety, and to such rules, regulations and orders as the said director may prescribe, and through the chief of police the director of public safety shall promulgate all orders, rules and regulations for the government of the whole force. In case of the disability of the chief of police to perform his duties by reason of sickness, absence from the city or other cause, the director of public safety shall designate an officer of the police force to act as chief of police during such disability, ~~and the officer so designated shall serve without additional compensation.~~ The members of the police force, other than the chief ~~and any other officers above the rank of captain,~~ shall be selected from the list of eligibles prepared by the civil service commission, and in accordance with such rules as the said commission may prescribe, provided that in case of riot or emergency the director of public safety may appoint additional patrolmen and officers for temporary service, who need not be in the classified service. Each member of the police force, both rank and file, shall have issued to him a warrant of appointment signed by the director of public safety, in which the date of his appointment shall be stated, and such warrant shall be his commission. Each member of the said force shall, before entering upon the duties of his office, take and subscribe an oath that he will faithfully without fear or favor, perform the duties of his office, and such oath shall be filed and preserved with the records of said department. And in addition the several officers of the said force shall, if so required by the council, give bond in such penalty and with such security as the council may by ordinance prescribe.

No person except as otherwise provided by general law or by this charter shall act as special police, special detective or other special police officer for any purpose whatsoever except upon written authority from the director of public safety. Such authority, when conferred, shall be exercised only under the direction and control of the chief of police and for a specified time.

The officers and privates constituting the police force of said city shall be, and they are, hereby invested with all of the power and authority which pertains to the office of constable at common law in taking cognizance of and in enforcing the criminal laws of the ~~State Commonwealth~~ and the ordinances and regulations of said city, and it shall be the duty of each such officer and private to use his best endeavors to prevent the commission within the said city of offenses against the laws of ~~said State~~ ~~the Commonwealth,~~ and against the ordinances and regulations of said city; to observe and enforce all such laws, ordinances and regulations; to detect and arrest offenders against the same; to preserve the good order of said city, and to secure the inhabitants thereof from violence, and the property therein from injury. Such policemen shall have no power or authority in civil matters, but shall execute any criminal warrant or warrant of arrest that may be placed in his hands by any justice of the city, and shall make due return thereof. Such policemen shall not receive any fee or other compensation for any services rendered in the performance of his duty, other than the salary paid him by the city, nor shall he receive a fee as a witness in any case arising under the criminal laws of the ~~said State~~ ~~Commonwealth,~~ or under the ordinances or regulations of the said city.

The director of public safety shall prescribe the uniforms and badges for the members of the police force, and direct the manner in which the members of said force shall be armed. Any person other than a member of said force who shall wear such uniform or badge as may be prescribed as aforesaid, may be subjected to such fine or imprisonment, or both, as may be prescribed by the council by ordinance.

The appointment of officers above the rank of captain shall be made utilizing a selection process approved by the city manager that adheres to merit principles. Such officers shall possess the skills,

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59 *training and experience necessary to perform the job, as published in the qualifications for the job.*

60 § 62. Division of fire.

61 The fire force shall be composed of a chief and of such other officers, ~~firemen~~ *personnel engaged in*
62 *the suppression of fire or the rendering of emergency medical services or related duties*, and employees
63 as the city manager may determine. The fire chief shall have immediate direction and control of the said
64 force, subject, however, to the supervision of the director of public safety, and to such rules and
65 regulations and orders as the said director may prescribe, and through the fire chief the director of
66 public safety shall promulgate all orders, rules and regulations for the government of the whole force.

67 The members of the fire force other than the chief *and any other officers above the rank of battalion*
68 *chief*, shall be appointed from the list of eligibles prepared by the civil service commission and in
69 accordance with such rules and regulations as may be prescribed by the said commission; provided,
70 however, that in case of riot, conflagration or emergency, the director of public safety may appoint
71 additional firemen and officers for temporary service who need not be in the classified service.

72 The chief of the fire department and his assistants are authorized to exercise the powers of police
73 officers while going to, attending or returning from any fire or alarm of fire. The fire chief and each of
74 his assistants shall have issued to him a warrant of appointment signed by the director of public safety,
75 in which the date of his appointment shall be stated, and such warrant shall be his commission.

76 The director of public safety shall prescribe the uniform and badges for the members of the fire
77 force.

78 *The appointment of officers above the rank of battalion chief shall be made utilizing a selection*
79 *process approved by the city manager that adheres to merit principles. Such officers shall possess the*
80 *skills, training and experience necessary to perform the job, as published in the qualifications for the*
81 *job.*

82 Whenever any building in said city shall be on fire it shall be lawful for the chief of the fire
83 department to order and direct such building or any other building which he may deem hazardous and
84 likely to communicate fire to other buildings, or any part of such buildings, to be pulled down or
85 destroyed; and no action shall be maintained against said chief or any person acting under his authority
86 or against the city therefor. But any person interested in the property so destroyed may within one year
87 thereafter apply in writing to the council to assess and pay the damages he has sustained. The council
88 may thereupon pay to the claimant such sum as may be agreed upon between him and the council. If no
89 agreement be effected, such claimant may give to the city attorney of said city ten days' written notice
90 of his intention to apply to the ~~corporation~~ *circuit* court of said city for the appointment of
91 commissioners to ascertain and assess his said damage. Upon its appearing that such notice has been
92 given, the ~~corporation~~ *circuit* court of said city shall appoint five disinterested freeholders, residents of
93 said city, any three or more of whom may act, for the purpose of ascertaining and assessing the amount
94 of such damages. Thereupon the said commissioners shall proceed to ascertain and assess the amount of
95 such damages in the same manner as is now or may hereafter be provided by law in the case of taking
96 private property for public use, and the procedure upon the filing of the report of said commissioners
97 shall conform as nearly as may be to the procedure under the statutes of Virginia relating to eminent
98 domain.

99 § 63. Supervision in divisions of fire and police.

100 The chief of police and the fire chief, with the approval of the director of public safety, except as
101 hereinafter provided, shall have the right and power to reprimand, or to suspend, for a given number of
102 days or indefinitely, any of the sworn officers and sworn employees in their respective divisions who
103 *are members of the classified service and may be* under their management and control, for
104 incompetence, neglect of duty, immorality, drunkenness, failure to obey orders given by proper
105 authority, or for any other just and reasonable cause. If any such officer or employee be suspended for
106 more than ten days or be suspended indefinitely, the chief of the division concerned shall forthwith
107 certify in writing the fact, together with the cause for such suspension, to the trial board hereinafter
108 provided for, and a copy of such certificate of suspension, and the cause therefor, shall be promptly
109 served on such officer or employee, which service may be by an officer of his division or in the manner
110 prescribed by law for the service of civil process.

111 Any such officer or employee so suspended may, within ten days after he shall have been so served
112 with such certificate of suspension and the cause therefor, file with said trial board a written request for
113 a hearing upon the accusations so made against him, whereupon said trial board shall, after not less than
114 five days' written notice to such officer or employee, and to the chief of the division by whom he has
115 been suspended, hold and conduct a hearing, which shall be open to the public, upon such accusations,
116 at a time and place to be specified in such notice, and may render judgment thereon. Such judgment, in
117 the event said accusations or any of them are, in the opinion of said trial board, sustained, may be a
118 reprimand, extra duty without extra compensation, suspension for a fixed time, reduction in rank, or
119 dismissal, as to said trial board may seem proper, which judgment shall be final.

120 Whenever the judgment of the said trial board is that the accusations were not sustained, it may

order the reinstatement of such officer or employee in the office or position from which he was suspended. Such order of reinstatement may, in the discretion of said trial board, be retroactive and provide that such officer or employee shall be entitled to compensation for all or part of the time he was so suspended.

In the event any such officer or employee who is suspended for more than ten days or suspended indefinitely shall not file with said trial board a written demand for a hearing as hereinabove provided, the suspension of such officer or employee shall become final, and if the suspension be for an indefinite period, such officer or employee may be discharged by the city manager without a hearing.

The trial board above referred to shall be known as the Norfolk Police-Fire Trial Board, and the members thereof shall be appointed by the council. It shall consist of not less than three nor more than five members, in the discretion of the council, who shall be qualified voters residing in the city, none of whom shall be in any way connected with any other city office. The first appointment of the members of the said trial board shall be for a term of one year commencing July 1, 1950, and all subsequent appointments shall be for consecutive terms of one year. Any member may be appointed for a consecutive term or terms, and any vacancy shall be filled by appointment by the council for the remainder of the unexpired term. The judgment of a majority of the members appointed on said trial board shall control. The members shall receive such compensation as may be provided by council. Each member shall, before entering upon the duties of his office, take and subscribe the oaths provided by § 133 of this Charter for city officers.

The council shall designate one member of said trial board as chairman thereof. The chairman shall have the power to subpoena witnesses, administer oaths and compel the production of any books and papers in connection with any hearing held hereunder by said trial board. Any person refusing or failing to appear and testify or to produce such books and papers, or who shall testify falsely under oath at any hearing held by said trial board, may be proceeded against in the same manner and shall be subject to the same penalties as provided by § 51 of this Charter relating to investigations as to city affairs.

The council shall also designate one member of said trial board as vice-chairman thereof to act in the absence, disability or inability to act of the chairman, and when so acting, the said vice-chairman shall have all the powers herein conferred upon the chairman.

Any such officer or employee against whom accusations are so filed shall have the right to be represented by counsel at any hearing before said trial board. All notices required to be given the trial board may be given to the chairman thereof, or in his absence, to the vice-chairman.

§ 114. Officers exempted from classified service.

Officers who are elected by the people or who are elected or confirmed by the council, pursuant to this charter, members of the school board, the teachers in the public schools and all other persons employed by said school board, heads of the administrative departments of the city, assistant city managers, assistant heads of administrative departments ~~except for the departments of fire and police,~~ and heads or chiefs of bureaus and divisions within said departments, members of the law department and civil service examiners, shall not be included in such classified service; provided, however, that the council may by ordinance provide that the health officer of said city and such of his trained medical assistants as may be required to give full time to the duties of their positions shall be included in the classified service.

Members of the police force above the rank of captain as of July 1, 2001, except those holding temporary appointments as acting chiefs, may opt to remain members of the classified service, so long as they remain within the position that they held as of July 1, 2001. Members of the fire force above the rank of battalion chief as of July 1, 2001, except those holding temporary appointments as acting chiefs, may opt to remain members of the classified service, so long as they remain within the position that they held as of July 1, 2001.

The division of police shall have at least two senior officers above the rank of captain who have at least two years of service with the Norfolk division of police, and the division of fire shall have at least two senior officers above the rank of battalion chief who have at least two years of service with the Norfolk division of fire.