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SENATE BILL NO. 345

Senate Amendments in [] — January 25, 2002

A *BILL to provide a charter for the Town of Clifton Forge, in Alleghany County, and to repeal Chapter 217, as amended, of the Acts of Assembly of 1918, which provided a charter for the City of Clifton Forge.*

Patrons prior to Engrossment—Senators Trumbo and Deeds; Delegate: Shuler

Referred to Committee on Local Government

Be it enacted by the General Assembly of Virginia:

1.

CHARTER OF THE TOWN OF CLIFTON FORGE.

Article 1.

Incorporation and Boundaries.

§ 1.1. Incorporation.

The inhabitants of the territory comprised within the limits of the Town of Clifton Forge, as the same are now or may hereafter be established by law, shall constitute and continue to be a body politic and corporate under the name of the Town of Clifton Forge (the town), and as such shall have perpetual succession, may sue and be sued, implead and be impleaded, contract and be contracted with, and may have a corporate seal that it may alter, renew or amend at its pleasure.

§ 1.2. Boundaries.

The corporate limits or boundaries of the town, unless and until changed in the manner prescribed by law, shall be the same as set forth in Chapter 217 of the 1918 Acts of Assembly and as set forth in an annexation order dated December 30, 1961, entered by the Circuit Court of Alleghany County.

Article 2.

Powers.

§ 2.1. General grant of powers.

The town shall have and may exercise all powers that are now or may hereafter be conferred upon or delegated to cities and towns under the Constitution and general laws of the Commonwealth of Virginia. It is intended that the town shall possess all powers which, under the Constitution, it would be competent for this charter to enumerate specifically, and no enumeration of particular powers shall be held to be exclusive but in addition to this general grant.

§ 2.2. Construction.

The powers that are now or may hereafter be conferred upon or delegated to the town under the Constitution and general laws of the Commonwealth and this charter shall be construed liberally when such powers are exercised by the town.

§ 2.3. Adoption of certain sections of the Code of Virginia.

The powers set forth in Chapter 11 (§ 15.2-1100 et seq.) and Chapter 49 (§ 15.2-4900 et seq.) of Title 15.2 of the Code of Virginia (1950), and any acts amendatory thereof or supplemental thereto, are hereby conferred on and vested in the town.

§ 2.4. Eminent domain.

The town is hereby empowered to acquire by condemnation, gift, lease, purchase or bequest, property, real or personal, or any interest or estate therein, either within or without its corporate limits, for any of its proper purposes, and may sell, lease, manage, and control such property as its interests require, and in such manner as the council deems expedient.

The town shall also have all powers of eminent domain that are now or may be granted to a municipal corporation under the laws of the Commonwealth.

Article 3.

The Council.

§ 3.1. Definitions.

As used in this charter, the term "officer" refers to council members and persons appointed by and responsible to the council, such as the town clerk, the town manager, and the town attorney; the term "officials" refers to administrative department heads; and all other persons employed by the town are designated "employees."

§ 3.2. General powers and duties of the council.

The government of the town shall be vested in the council, which shall have the power to enact and enforce ordinances to carry into effect all powers granted by this charter and by law. The council shall be responsible for the determination of all matters of policy for the town and for ensuring the

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59 *implementation thereof by the town administration.*

60 *§ 3.3. Composition and qualifications.*

61 *The council shall be composed of five council members to be elected from the town at large. The*
62 *council members shall be qualified voters of the town.*

63 *§ 3.4. Election and term of office.*

64 *The council shall be elected in the manner provided by Virginia elections laws. Three council*
65 *members shall be elected on the first Tuesday in May of the year 2002 and every four years thereafter.*
66 *Two other council members shall be elected on the first Tuesday in May of the year 2004 and every*
67 *four years thereafter.*

68 *The term of office for all council members shall begin on the first day of July next following their*
69 *election, and they shall serve for a term of four years or until a successor shall have been elected and*
70 *qualified. The council members may succeed themselves as often as the voters may choose.*

71 *§ 3.5. Voters of the town.*

72 *The voters of the town shall be the actual residents of the town who are qualified to vote for*
73 *members of the General Assembly.*

74 *§ 3.6. Compensation; expenses.*

75 *The council may determine the annual salary of its members by ordinance or resolution but no*
76 *ordinance or resolution increasing such salary shall become effective until the date of commencement of*
77 *the terms of council members elected at the next regular election. Council members shall receive their*
78 *actual and necessary expenses incurred in the performance of their duties of the office.*

79 *§ 3.7. Mayor and vice-mayor.*

80 *At the first meeting of the council in July of each even-numbered year, the council shall elect from*
81 *its members a mayor who shall be one of said five council members and who shall serve for a term of*
82 *two years. The mayor as a member of the council shall have the same powers and duties as other*
83 *members of the council, with a vote, but no veto. In addition, the mayor shall preside at meetings of the*
84 *council, shall be recognized as head of the town government for all ceremonial purposes, for purposes*
85 *of military law, and for the service of civil processes but shall have no administrative duties.*

86 *At the first meeting of the council in July of each even-numbered year, the council shall also elect*
87 *from its members a vice-mayor who shall serve for a term of two years. The vice- mayor shall act as*
88 *mayor during the absence or disability of the mayor.*

89 *§ 3.8. Absence or disability of mayor and vice-mayor.*

90 *If both the mayor and vice-mayor are absent or unable to act, the council shall, by a majority vote*
91 *of the members present, elect from its members a person to serve as acting mayor until either the mayor*
92 *or vice-mayor is present and able to act. The person so elected shall possess the powers and discharge*
93 *the duties of the mayor during such period of time. Whenever it is necessary to elect an acting mayor*
94 *pursuant to this section, in the absence of both the mayor and vice-mayor, the town clerk or acting town*
95 *clerk shall call the meeting of the council to order and shall preside during the meeting until council*
96 *elects an acting mayor. This shall not be construed to vest in the clerk any of the powers and duties of*
97 *the mayor, except as expressly stated in this section.*

98 *§ 3.9. Prohibitions.*

99 *Except as otherwise authorized by law, a member of council shall not be eligible as such member*
100 *during his tenure of office, or for one year thereafter, to any compensated town employment. If*
101 *appointed by the council to a board or commission, a member of council may be compensated as a*
102 *member of the board or commission.*

103 *Neither the council nor any of its members shall in any manner dictate the appointment or removal*
104 *of any town administrative officials or employees whom the manager or any of his subordinates are*
105 *empowered to appoint, but the council may express its views and fully and freely discuss with the*
106 *manager anything pertaining to appointment and removal of such officials and employees.*

107 *Except for the purpose of discussions, informal reviews, inquiries and official investigations, the*
108 *council or its members shall communicate with town officials and employees who are subject to the*
109 *direction and supervision of the manager solely through the manager, and neither the council nor its*
110 *members shall give orders to any such official or employee, either publicly or privately.*

111 *§ 3.10. Vacancies.*

112 *The office of a council member shall become vacant upon his death, resignation, or removal from*
113 *office in a manner authorized by law.*

114 *A vacancy on the council shall be filled within forty-five days, for the unexpired term, by a majority*
115 *vote of the remaining members if the vacancy occurs two years or less before the date of expiration of*
116 *such term. If the vacancy occurs more than two years before the expiration of the term, the vacancy*
117 *shall be filled by a majority vote of the remaining members of council only until the next councilmanic*
118 *election, at which election the voters of the town shall elect a person to serve as council member for the*
119 *remaining years of the term.*

120 *If a vacancy is being filled by voters at the next councilmanic election, the candidates receiving the*

highest number of votes will be entitled to full terms and the candidate receiving the next highest number shall be entitled to the unexpired term caused by the vacancy.

§ 3.11. Town clerk.

The council shall appoint a town clerk who shall serve at the pleasure of the council. The clerk shall give notice of council meetings to its members and the public, keep the journal of its proceedings, keep all papers, documents and records pertaining to the town, keep and attest the town seal, and perform such duties as are assigned to the clerk by this charter or by the council.

§ 3.12. Independent audit.

The council shall provide for an independent annual audit of all the town accounts and may provide for such more frequent audits as it deems necessary. Such audits shall be made by a certified public accountant or firm of such accountants who have no personal interest, direct or indirect, in the fiscal affairs of the town government or any of its officers.

§ 3.13. Procedure.

The council shall meet regularly at least once in every month, at such times and places as the council may prescribe by ordinance. Special meetings may be held on the call of the mayor or of any two members upon no less than twenty-four hours' notice to each member, except in cases of extreme emergency when the time limit may be waived. No business shall be transacted by the council in such special meeting that has not been stated in the notice unless all members of the council are present and give their unanimous consent to the consideration of such business, and such business is an emergency or of an unusual nature.

No vote shall be reconsidered or rescinded at any special meeting unless at such special meeting there are present as large a number of members as were present when such vote was taken.

The council shall determine its own rules and order of business and shall provide for keeping a journal of its proceedings. This journal shall be a public record.

Voting, except on procedural motions, shall be by roll call and the ayes and nays shall be recorded in the journal. Each member shall cast either an aye vote or a nay vote, except in those situations in which a member must abstain from voting due to a conflict of interest. Three members of the council shall constitute a quorum, but a smaller number may adjourn from time to time. No action of the council, except as provided in the preceding sentence, shall be valid or binding unless adopted by the affirmative vote of three or more members of the council.

§ 3.14. Town attorney.

An attorney shall be appointed by and serve at the pleasure of the council. He shall be qualified to practice law in the Commonwealth of Virginia. He shall serve as chief legal advisor to the council and to the town administration.

§ 3.15. Committees, boards and commissions.

The council may create committees, boards and commissions to be composed of such numbers of citizens as the council may deem expedient as authorized by law. The council shall appoint the members, prescribe the compensation, if any, and the powers and duties of such committees, boards and commissions consistent with the general law.

All members of committees, boards and commissions appointed by the town council may be removed by the council unless otherwise provided by the general law.

Article 4.

The Town Manager.

§ 4.1. Appointment, qualifications and compensation.

A town manager shall be appointed by and serve at the pleasure of the council. The amount of compensation shall be fixed by the council. The manager shall be appointed solely on the basis of executive and administrative qualifications in the profession of [~~public~~] management and administration. The manager need not be a resident of the town or the Commonwealth at the time of appointment but may reside outside of the town while in office only with the prior approval of the council. Council may enter into a multi-year employment agreement with the manager.

§ 4.2. Powers and duties of the town manager.

The town manager shall be the chief executive officer of the town. The manager shall be responsible to the council for the proper management and administration of all town affairs placed in his charge by or under this charter. The manager shall have the following powers and duties. The manager shall:

1. Appoint and, when deemed necessary for the good of the service, suspend or remove any town employee or appointive administrative official provided for, by or under this charter, except as otherwise provided by law, this charter or personnel rules adopted pursuant to this charter. The manager may authorize any administrative official who is subject to the manager's direction and supervision to exercise these powers with respect to subordinates in that official's department, office or agency.

2. Direct and supervise the administration of all departments, offices and agencies of the town, except as otherwise provided by this charter or by other law.

3. Attend all council meetings and shall have the right to take part in discussion but may not vote.

4. See that all laws, provisions of this charter and acts of the council, subject to enforcement by the manager or by officials subject to the manager's direction and supervision, are faithfully executed.

5. Prepare and submit the annual budget and capital program to the council, and shall be responsible for the execution of the budget.

6. Make such other reports as the council may require concerning the operations of town departments, offices and agencies subject to the manager's direction and supervision.

7. Keep the council fully advised as to the financial condition and future needs of the town and make such recommendations to the council concerning the affairs of the town as the manager deems desirable.

8. Perform such other duties as are specified in this charter or may be prescribed by the council.

§ 4.3. Removal.

The council may remove the manager at any time at the pleasure of the council. The action of the council in suspending or removing the manager shall be final, it being the intention of this charter to vest all authority and fix all responsibility for any such suspension or removal in the council.

Article 5.

Administrative Departments.

§ 5.1. Creation of departments.

The council may establish all departments, offices and agencies it determines are necessary for the proper administration of the town with such powers and duties and subject to those regulations it deems proper, consistent with the provisions of this charter and the Constitution and general laws of the Commonwealth.

§ 5.2. Direction by manager.

All departments, offices and agencies except as otherwise provided by this charter or by general law shall be under the direction of the town manager and shall be administered by an official appointed by and subject to the direction and supervision of the manager.

Article 6.

Financial Procedures.

§ 6.1. Fiscal year.

The fiscal year of the town shall begin on the first day of July and end on the last day of June.

§ 6.2. Submission of budget and budget message.

On or before the first day of May of each year, the manager shall submit to the council a budget for the ensuing fiscal year and an accompanying message.

§ 6.3. Budget message.

The manager's message shall explain the budget both in fiscal terms and in terms of the work programs. It shall explain the proposed financial policies of the town for the ensuing fiscal year, describe the important features of the budget, indicate any major changes from the current year in financial policies, expenditures, and revenues together with the reasons for such changes, summarize the town's debt position and include such other material as the manager deems desirable.

§ 6.4. Budget.

The budget shall provide a complete financial plan of all town funds and activities for the ensuing fiscal year and, except as required by law or this charter, shall be in such form as the manager deems desirable or the council may require. In organizing the budget the manager shall utilize the most feasible combination of expenditure classification by fund, organization unit, program, purpose or activity, and object. The budget shall begin with a clear, general summary of its contents; shall show in detail all estimated income, indicating the proposed property tax levy, and all proposed expenditures, including debt service, for the ensuing fiscal year; and shall be so arranged as to show comparative figures for actual income and expenditures of the preceding fiscal year. The budget shall indicate in separate sections:

1. Proposed expenditures for current operations during the ensuing fiscal year, detailed by offices, departments and agencies in terms of their respective work programs, and the method of financing such expenditures;

2. Proposed capital expenditures during the ensuing fiscal year, detailed by offices, departments and agencies when practicable, and the proposed method of financing each such capital expenditure; and

3. Anticipated net income or net loss for the ensuing fiscal year of each utility owned or operated by the town and the proposed method of its disposition; subsidiary budgets for each such utility giving detailed income and expenditure information shall be attached as appendices to the budget.

The total of proposed expenditures shall not exceed the total of estimated available funds.

§ 6.5. Council action on budget.

The council shall publish in one or more local newspapers the general summary of the budget and a notice stating:

1. The times and places where copies of the message and budget are available for inspection by the

public; and

2. The time and place, not less than two weeks after such publication, for a public hearing on the budget.

After the public hearing, the council may adopt the budget with or without amendment to expenditures, revenues, programs, tax levies, or any other amendment that council deems necessary. In amending the budget, it may add or increase programs or amounts and may delete or decrease any programs or amounts, except expenditures required by law or for debt service or for estimated cash deficit, provided that no amendment to the budget shall increase the authorized expenditures to any amount greater than the total of estimated available funds.

The council shall adopt the budget before the first day of the fiscal year for which adopted. Adoption of the budget shall constitute appropriations of the amounts specified therein as expenditures from the funds indicated and shall constitute a levy of the property tax therein proposed.

§ 6.6. Public records.

Copies of the budget and the capital program as adopted shall be public records and shall be made available to the public at suitable places in the town.

§ 6.7. Amendments after adoption.

If during the fiscal year the manager certifies that there are available for appropriation funds in excess of those estimated in the budget, the council by ordinance may make supplemental appropriations for the year up to the amount of the excess.

To meet a public emergency affecting life, health, property or the public peace, the council may make emergency appropriations. Such appropriations may be made by emergency ordinance. To the extent that there are no available unappropriated funds to meet such appropriations, the council may by such emergency ordinances authorize the issuance of emergency notes, which may be renewed from time to time, all as may be authorized by the Constitution and general law, but the emergency notes and renewals of any fiscal year shall be paid not later than the last day of the fiscal year next succeeding that in which the emergency appropriation was made.

If at any time during the fiscal year it appears probable to the manager that the funds available will be insufficient to meet the amount appropriated, the manager shall report to the council without delay, indicating the estimated amount of the deficit, any remedial action taken and recommendations as to any other steps to be taken. The council shall then take such further action as it deems necessary to prevent or minimize any deficit and for that purpose it may by ordinance reduce one or more appropriations.

At any time during the fiscal year the manager may transfer part or all of any unencumbered appropriation balance among programs, departments, office, or agency.

§ 6.8. Lapse of Appropriations.

Every appropriation, except an appropriation for a capital expenditure, shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered by the manager. An appropriation for a capital expenditure shall continue in force until the purpose for which it was made has been accomplished or abandoned.

§ 6.9. Debts and Bonds.

The council of the town shall be empowered to borrow such sum or sums of money as may be necessary or convenient, subject to such limitations that are now or may be imposed by the Constitution and the laws of the Commonwealth of Virginia. The council of the town shall be empowered to issue revenue bonds as may be necessary or convenient in the manner prescribed by law.

§ 6.10. Assessments of local improvements.

The council may impose special assessments for local improvements and force payment thereof, subject to such limitations prescribed by the laws of the Commonwealth as may be in force at the time of the imposition of such special assessments.

The council may provide that the persons, firms, and corporations against whom the special assessments have been made may pay such assessments in equal installments over a period not exceeding ten years, together with interest on the unpaid balances as allowed by the Constitution and the general laws of the Commonwealth.

Article 7. General Provisions.

§ 7.1. Charter amendment.

Amendments to this charter may be made only in accordance with the procedure specified in the general laws of the Commonwealth.

§ 7.2. Severability.

If any provision of this charter is held invalid, the other provisions of the charter shall not be affected thereby. If the application of the charter or any of its provisions to any person or circumstances is held invalid, the application of the charter and its provisions to other persons shall not be affected thereby.

§ 7.3. Oaths of office and official bonds.

All elected officers and officials of the town shall take the oath of office and execute such bonds as may be required by general law, by this charter, or by ordinance or resolution of the town council and file duplicate certificates with the town clerk and the Clerk of the Circuit Court of Alleghany County before entering upon the discharge of their duties. If the requirements of this section have not been complied with by any officer or official within thirty days after the term of office shall have begun or after his appointment to fill a vacancy, then such office shall be considered vacant unless general law otherwise provides, in which event general law shall prevail.

§ 7.4. Books, records, et cetera.

All books, records and documents used by any elected or appointed town officer, official or employee in his office or pertaining to his duties shall be deemed to be the property of the town. Any person designated by this charter, the general laws of the Commonwealth or the Clifton Forge Town Code as responsible for the keeping of such books, records and documents shall, within ten days after the end of his term of office, or within ten days after the date of his resignation or removal from office, deliver to the town clerk all such books, records, documents and town property. Any person failing to deliver such books, records, documents and property shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined no less than one hundred dollars and not more than five hundred dollars, or imprisoned not exceeding six months, or both, at the direction of the court or jury before whom the case is tried.

Article 8.

Transitional Provisions.

§ 8.1. Ordinances.

All ordinances, resolutions, orders and regulations of the town not inconsistent with this charter shall remain in full force and effect until amended or repealed by the town council. Ordinances, resolutions, orders and regulations that are in force when this charter becomes effective and that are inconsistent with this charter are repealed.

§ 8.2. Continuity of terms of officers.

The officers of the town who were in office immediately prior to the effective date of this charter shall remain in office until the expiration of their several terms, or until their successors have been duly elected and qualified.

§ 8.3. Citation of act.

This act may for all purposes be referred to or cited as the charter for the Town of Clifton Forge, Virginia, of the year 2002.

2. That Chapter 217, as amended, of the Acts of Assembly of 1918 is repealed.

3. That an emergency exists and this act is in force from its passage.