

VIRGINIA ACTS OF ASSEMBLY -- 2005 SESSION

CHAPTER 893

An Act to amend and reenact §§ 8, 12, 18, 19, 22, 24, and 25, as severally amended, of Chapter 34 of the Acts of Assembly of 1918, which provided a charter for the City of Norfolk, to amend Chapter 34 by adding sections numbered 3.2, 5.1, 6.1, 7.1, 10.1, 14.1, and 17.1, and to repeal §§ 3.1, 5, 6, 7, 10, 14, and 17, as severally amended, of Chapter 34, relating to election of council and mayor.

[S 1174]

Approved March 28, 2005

Be it enacted by the General Assembly of Virginia:

1. That §§ 8, 12, 18, 19, 22, 24, and 25, as severally amended, of Chapter 34 of the Acts of Assembly of 1918 are amended and reenacted and Chapter 34 is amended by adding sections numbered 3.2, 5.1, 6.1, 7.1, 10.1, 14.1, and 17.1 as follows:

§ 3.2. Wards.

The City of Norfolk shall be divided into five (5) single-member wards numbered one through five, and the city shall also be divided into two single-member superwards numbered six and seven. The boundaries of such wards and superwards shall be established by ordinance of the city council as provided by law.

§ 5.1. Composition of council.

On and after July 1, 2006, the city council shall consist of seven members, each elected from single-member wards as provided in section 3.2, and a mayor elected at-large. Any member of city council shall be subject to recall in accordance with the provisions of this charter.

The council shall be a continuing body and no measure pending before such body shall abate or be discontinued by reason of the expiration of the term of office or removal of the members of said body or any of them.

§ 6.1. Qualification of members; conduct of candidates.

Beginning with the municipal election in 2006, any person qualified to vote in said city shall be eligible to the office of mayor or for the office of council member for the ward or superward in which such person resides. No person shall serve on council as both mayor and council member from a ward or superward, nor from more than one ward, including superwards. No candidate for the office of council member, including mayor, shall promise any money, office, employment, or other thing of value to secure a nomination or election, or expend in connection with his candidacy any money except as permitted by the general election laws of the state; and any such candidate violating this provision shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding \$500, or imprisonment for a term not exceeding six months, or both, in the discretion of the jury, and shall forfeit his office, if elected; in which event, the person receiving the next highest number of votes from the voters for said office, who has not violated the said provision, shall be entitled to said office. Should there be no such candidate, the council shall fill the office with a person from the vacated ward or superward and, in the case of the office of mayor from the city at-large, in accordance with § 7, until a special election pursuant to general law is held.

§ 7.1. Vacancies.

Any vacancy in the council after July 1, 2006, except as otherwise provided in this Charter, shall be filled by the remaining members. Any person elected to fill an unexpired term for ward representative shall be elected only from among the qualified voters in the ward or superward where such vacancy exists. Any vacancy in the office of mayor shall be filled from among the qualified voters of the city at-large. No candidate shall be elected unless he receives at least five votes in his favor. If by reason of resignation, death, or other circumstances, except in the case of vacancies resulting from a recall election, five or more vacancies exist or occur at the same time in said council, then the members of the civil service commission shall at once convene a majority of said commission and, by a majority vote of the members of said commission present, forthwith make such number of appointments from the wards and superwards where such vacancies exist, or from the city at-large in the case of the mayor, as may be necessary to constitute a council of five qualified members, which five members shall at once proceed to fill the remaining vacancies with qualified members. And in any case the council shall fail to fill a vacancy therein for a period of thirty days after the occurrence of the vacancy, such vacancy shall be filled by said commission as provided herein. The city clerk shall act as the clerk of the commission so constituted, and shall cause his certificate of its action to be entered on the record of the council.

If the term of office so filled, either by the council or by said commission, does not expire for two years after the next regular election of council members following such vacancy, and such vacancy occurs more than one hundred twenty (120) days prior to that election, an additional council member shall then be elected at such election only by the qualified voters of the ward or superward where such

vacancy exists, or in the case of the mayor from the city at-large and after the date of his qualification, succeed such appointee, and serve the unexpired term. When any vacancy is so required to be filled by election, the council or commission shall, within fifteen days of the occurrence of the vacancy, petition the circuit court to issue a writ of election to fill the vacancy at the next general election of council members. In the event that more than one vacancy is to be filled by election, the same provision shall apply. The foregoing provisions of this section are subject to the further provision that any vacancy resulting from a recall election shall be filled in the manner provided in such case.

§ 8. Compensation of council members.

Each member of the council shall receive, subject to the provisions of this charter, a salary of ~~forty-eight hundred dollars per year, except the president, whose salary shall be seventy-two hundred dollars per year, such salaries to be payable in equal monthly installments such salary as shall be established by state law.~~

§ 10.1. Officers elected by council; rules.

Effective July 1, 2006, the council shall elect a city manager, a city clerk, a city attorney, a city auditor, and a high constable. The said council shall also appoint the members of such boards and commissions as are hereinafter provided for. All elections by the council shall be viva voce and the vote recorded in the record of the council. The mayor shall serve as chair of the council. The council may determine its own rules of procedure, may punish its members for misconduct, and may compel the attendance of members in such manner and under such penalties as may be prescribed by ordinance. It shall keep a record of its proceedings. A majority of all the members of the council, including the mayor, shall constitute a quorum to do business, but a smaller number may adjourn from time to time.

No member of the council shall be eligible, during the term of office for which he was elected or appointed, to hold any office filled by the council by election or appointment, except that a member of the council may be named a member of such other boards, commissions, and bodies as may be permitted by general law.

§ 12. Meetings of council.

On the first day of July next following the regular municipal election, or if such day be Saturday or Sunday, then on the following Tuesday, the council shall meet at the usual place for holding meetings of the legislative body of the city, at which time the newly elected ~~councilmen~~ council members shall assume the duties of their office. The time for any such meeting shall be set by ordinance adopted by council not less than ~~30~~ thirty nor more than ~~45~~ forty-five days prior to the election. Thereafter the council shall meet at such times as may be prescribed by ordinance or resolution. It shall hold at least one regular meeting each week, provided that it may, by the affirmative vote of a majority of its members, dispense with any ~~12~~ twelve such regular meetings in any calendar year. The ~~president of the council, any member thereof~~ mayor, any member of the council, or the city manager, may call special meetings of the council at any time upon at least 12 hours' written notice to each member, served personally or left at his usual place of business or residence; or such meeting may be held at any time without notice, provided all members of the council attend. All meetings of the council shall be public except where closed pursuant to the provisions of general law, and any citizen may have access to the minutes and records thereof at all reasonable times.

§ 14.1. Legislative procedure.

Except in dealing with questions of parliamentary procedure, the council shall act only by ordinance or resolution, which shall be introduced in writing, and all ordinances except ordinances making appropriations, or authorizing the contracting of indebtedness or issuance of bonds or other evidences of debt, shall be confined to one subject, which shall be clearly expressed in the title.

Ordinances making appropriations or authorizing the contracting of indebtedness or the issuance of bonds or other obligations and appropriating the money to be raised thereby shall be confined to those subjects respectively. Nothing herein shall be construed to prevent the council from authorizing in and by the same ordinance the making of any one public improvement and the issue of bonds therefore.

The enacting clause of all ordinances passed by the council shall be, "Be it ordained by the council of the City of Norfolk"; the enacting clause of all ordinances submitted to popular election by the initiative shall be, "Be it ordained by the people of the City of Norfolk." No ordinance, unless it be an emergency measure, shall be passed until it has been read by its title at two regular meetings not less than one week apart, or the requirements of such reading has been dispensed with by the affirmative vote of five of the members of the council. No ordinance, section, or subsection thereof shall be revised or amended by its title, section number, or subsection number only, but the new ordinance shall contain the entire ordinance, section, or subsection, as revised or amended. The ayes and noes shall be taken upon the passage of all ordinances or resolutions and entered upon the record of the proceedings of the council, and every ordinance or resolution shall require, on final passage, the affirmative vote of at least five of the members. No member shall be excused from voting except on matters involving the consideration of his own official conduct, or where his financial interests are involved.

In authorizing the making of any public improvements, or the acquisition of real estate or any interest therein; or authorizing the contracting of indebtedness or the issuance of bonds or other evidences of indebtedness (except temporary loans in anticipation of taxes or revenues or of the sale of

bonds lawfully authorized); or authorizing the sale of any property or rights in property of the City of Norfolk, or granting any public utility franchise, privilege, lease, or right of any kind to use any public property or easement of any description or any renewal, amendment or extension thereof, the council shall act only by ordinance; provided, however, that after any such ordinance shall have taken effect, all subsequent proceedings incidental thereof and providing for the carrying out of the purposes of such ordinance may, except as otherwise provided in this Charter, be taken by resolution of the council.

§ 17.1 Mayor.

Effective July 1, 2006, the mayor shall preside at meetings of the council, and perform such other duties consistent with his office as may be imposed by the council. He shall be entitled to a vote, but shall possess no veto power. He shall be recognized as the official head of the city for all ceremonial purposes, by the courts for the purpose of serving civil process, and by the governor for military purposes. He may use said title in any case in which the execution of contracts or other legal instruments in writing, or other necessity arising from the general laws of the state, may so require; but this shall not be construed as conferring upon him the administrative or judicial functions, or other powers or functions, of a mayor, under the general laws of the state. In time of public danger or emergency, he may, with the consent of the council, take command of the police and of the home guards hereinafter provided for and maintain order and enforce laws. During his absence or disability his duties shall be performed by another member appointed by the council.

The powers and duties of the mayor shall be such as are conferred upon him by this Charter, together with such others as may be conferred by the council in pursuance of the provisions of this Charter, and no others.

§ 18. Time of holding municipal elections and conduct of elections.

A municipal election shall be held on the first Tuesday in May of the year 1992, and of every second year thereafter, which shall be known as the regular municipal election for the election of council members. Any matter which, by the terms of this charter, may be submitted to the electors of the city, at any special election, may be submitted at a regular municipal election.

An election to fill each of the ward and superward council seats shall be held at the regular municipal election in 1992. Those candidates elected from wards designated one through five shall serve on city council for a term beginning on the first day of July of the year 1992 and terminating two years hence or upon qualification of their successors. Those candidates elected from superwards designated six and seven shall serve on city council for terms beginning on the first day of July of the year 1992 and terminating four years hence or upon qualification of their successors. Thereafter, elections for council members from wards one through five shall be held every four years beginning on the first Tuesday in May, of the year 1994, and elections for superwards six and seven shall be held every four years beginning on the first Tuesday in May, of the year 1996, with persons so elected to begin their four-year terms on the first day of July following their election. Until July 1, 1992, the city council shall consist of the members of city council serving at the time of adoption of this amendment or their successors as provided in § 7 of this charter.

Beginning in the year 2006, there shall be an election for the office of mayor to be held at the regular municipal election that year. The candidate receiving the most votes from the qualified voters of the city voting at-large for said office shall be elected mayor to serve for a term of four years beginning July 1, 2006, or upon qualification of his or her successor. Thereafter, elections for the office of mayor shall be held every four years beginning on the first Tuesday in May of the year 2010, with persons so elected to begin their four-year terms on the first day of July following their election.

§ 19. Notice of Candidacy and Petition.

Candidates for the city council shall be qualified voters of the ward or superward from which they seek election, or in the case of the election of the mayor, qualified voters of the city at-large. Such candidates, subject to the provisions of § 21 of this charter, shall file their notices of candidacy and their petitions in the manner provided by law. No candidate may seek election for more than one seat in an election. A sitting member of council who files his or her candidacy for mayor or for election to a council seat other than reelection to his or her own seat and so appears on the ballot shall be deemed to have resigned his or her seat effective July 4 June 30 of the year in which the election is held whether or not he or she is elected to the new seat sought.

§ 22. Method of conducting municipal elections.

The candidate at any regular municipal election who receives the highest number of votes from the ward or superward to which election to city council is sought shall be elected the council member for that ward or superward. Beginning with the municipal election in the year 2006, the candidate for mayor who receives the highest number of votes city-wide shall be elected mayor. Each qualified voter shall be entitled to vote for no more than two council members in any election; one member from the ward or superward, numbered one through five, in which the voter is qualified to vote and one member from the superward, numbered six or seven, in which the voter is qualified to vote and the mayor.

§ 24. Recall procedure.

Any member of city council may be recalled and removed from office only by the qualified voters of the ward or superward from which such member serves, or in the case of the mayor from the qualified

voters of the city at-large, and in accordance with the procedure described in this section. A petition for the recall of the council member designated, signed by at least three hundred qualified voters of the council member's ward or superward, *or on or after July 1, 2006, at least one thousand qualified voters city-wide in the case of the mayor*, and containing a statement in not more than two hundred words of the grounds of the recall, shall be filed with the city clerk, who shall immediately transmit a copy thereof to the city general registrar who shall examine the same, and ascertain and certify to the city clerk whether at least three hundred persons whose names are signed thereto are qualified voters of the said ward or superward *or on or after July 1, 2006, one thousand qualified voters city-wide in the case of the mayor*. Upon receipt of said certification, the city clerk shall forthwith notify such council member. Such council member may, within five days after such notice, file with such clerk a defensive statement not exceeding two hundred words. The city clerk shall, immediately upon the expiration of said five days, cause sufficient printed or typewritten copies of such petition, without the signatures, to be made, and to each copy he shall attach a printed or typewritten copy of such defensive statement or statements, if any such shall have been furnished him within the time provided. He shall preserve the original petition and shall cause one copy of such petition with a copy of the defensive statement, if any, attached to be conveniently placed in his office, and provide facilities for there signing the same, and shall also cause one copy, with a copy of the defensive statement, if any, attached to be placed in at least two public buildings designated by council and located within the council member's ward or superward, *or on or after July 1, 2006, in the case of the mayor, in each superward*, and provide facilities for there signing the same, and for the proper custody thereof. The city clerk shall immediately cause notice to be published in some newspaper of general circulation published in the city, of the places where the said copies may be found, and of the time within which the same may be signed.

The said copies of such petition shall remain on file in the several places designated for a period of thirty days, during which time any one of them may be signed by any qualified voter of the designated council member's ward or superward, *or any qualified voter in the city in the case of the mayor*, including those who signed the original petition.

§ 25. Notice.

At the expiration of said thirty days, the city clerk shall assemble all of said copies, and shall file the same as one instrument with the clerk of the circuit court of said city, who shall immediately transmit a copy thereof to the city general registrar who shall examine the same, and ascertain and certify to the clerk of the circuit court whether the persons whose names are signed thereto are qualified voters of the said ward or superward, equal in number to fifteen percent of the number of voters in said ward or superward who cast their votes at the last preceding regular municipal election in which such council member was elected, *or on or after July 1, 2006, in the case of the mayor, fifteen percent of the number of voters city-wide who cast their votes at the last preceding regular municipal election in which the mayor was elected*. If such signatures do amount to fifteen percent, the clerk of the circuit court of said city shall at once serve notice of that fact upon the council member designated in the petition.

2. That sections 3.1, 5, 6, 7, 10, 14, and 17, as severally amended, of Chapter 34 of the Acts of Assembly of 1918 are repealed, effective July 1, 2006.

3. That the provisions of this act shall not become effective until approved under § 5 of the Voting Rights Act.