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HOUSE BILL NO. 2738

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the House Committee on Counties, Cities and Towns
on February 4, 2005)

(Patron Prior to Substitute—Delegate Marrs)

A BILL to amend and reenact §§ 3.04, 4.03, 4.04, 4.05, 5.03, 5.05, 5.06, 5B.01, 6.11, 6.14, 7B.06, and 17.02, as severally amended, of Chapter 116 of the Acts of Assembly of 1948, which provided a charter for the City of Richmond, relating to the mayor, city council, chief administrative officer, city clerk, budget, and personnel decisions.

Be it enacted by the General Assembly of Virginia:

1. That §§ 3.04, 4.03, 4.04, 4.05, 5.03, 5.05, 5.06, 5B.01, 6.11, 6.14, 7B.06, and 17.02, as severally amended, of Chapter 116 of the Acts of Assembly of 1948 are amended and reenacted as follows:
§ 3.04. Vacancies in office of councilman or mayor.

A. Vacancies in the office of councilman, from whatever cause arising, shall be filled in accordance with general law applicable to interim appointments and special elections, provided that, any provision in the general law to the contrary notwithstanding, a special election may be called to fill any such vacancy if the vacancy occurs more than one year prior to the expiration of the full term of the office to be filled.

B. A vacancy in the office of mayor shall be filled by special election conducted according to the rules herein provided for the general election and held within 60 days, but no sooner than 30 days, from the date of vacancy. Any runoff, should one be necessary, shall be held on the first Tuesday after the fifth day following the date that voting machines used in the special election may be unsealed pursuant to § 24.2-659 of the Code of Virginia or the third Tuesday following the special election, whichever is later. However, if the date by which either the special election or possible runoff election for the office of mayor must be conducted should fall within 60 days prior to a primary election or general election, then the special or runoff election shall be held on the same day as the primary or general election, if allowed by general law, or, if not allowed by general law, then the special election shall be held on the first Tuesday after the fifth day following the date that voting machines used in the primary or general election may be unsealed pursuant to § 24.2-659 of the Code of Virginia. Any runoff that may be necessary shall be held on the first Tuesday after the fifth day following the date that the voting machines used in the special election may be unsealed pursuant to § 24.2-659 of the Code of Virginia or the third Tuesday following the special election, whichever is later. The ~~vice mayor~~ *president of the council* shall serve as acting mayor until a successor is elected.

§ 4.03. President of the council.

At the time of the council's January organizational meeting, the council shall elect from among its members a ~~vice mayor~~ *president of the council* to preside at council meetings for a one-year term; however, beginning January 1, 2007, the *president of council* shall serve a two-year term. Should a vacancy occur in the office of mayor, the ~~vice mayor~~ *president of the council* will become acting mayor until a successor is elected to fill out the remainder of the unexpired term in accordance with § 3.04. An acting mayor shall have the same powers and responsibilities as the elected mayor. In addition, notwithstanding the provisions of § 3.01.1, any acting mayor shall retain his or her city council position, including the right to vote.

§ 4.04. City clerk.

The council shall appoint a city clerk for an indefinite term. He/she shall be the clerk of the council, shall keep the journal of its proceedings and shall file the original draft of all ordinances and shall maintain an index of all such ordinances. He/she shall be the custodian of the corporate seal of the city and shall be the officer authorized to use and authenticate it. All records in his/her office shall be public records and open to inspection at any time during regular business hours. He/she shall receive compensation to be fixed by the council and all fees received by him/her shall be paid into the city treasury. He/she shall appoint and remove ~~an assistant~~ *a deputy* city clerk, who shall be authorized to act as *acting* city clerk in the absence or disability of the city clerk, and all deputies and other employees in his/her office, and shall have such other powers and duties as may be prescribed by this charter or by ordinance.

§ 4.05. Induction of members.

The first meeting of a newly elected council shall take place in the council chamber in the city hall as provided for by general law. It shall be called to order by the city clerk who shall administer the oaths of office to the newly elected council members and, when applicable, also to the newly elected mayor. In the absence of the city clerk, the meeting may be called to order and the oaths administered by any judicial officer having jurisdiction in the city. The council shall be the judge of the election and

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60 qualifications of its members and the mayor, but the decisions of the council in these matters shall be
 61 subject to review by the Circuit Court of the City of Richmond. The first business of the council shall
 62 be the election of a ~~vice mayor~~ *president of council* and the adoption of rules of procedure. Until this
 63 business has been completed, the council shall not adjourn for a period longer than 48 hours.

64 § 5.03. Involvement of mayor and council in appointment and removals.

65 Neither the mayor, council nor any of its members shall direct or request the appointment of any
 66 person to or his/her removal from any office or employment by the chief administrative officer or by
 67 any of his/her subordinates or in any way take part in either the appointment of, assignment or use of,
 68 or removal of such officers and employees of the city except as specifically provided in this charter.
 69 Except for the purpose of inquiry, the mayor, council and its members shall deal with the administrative
 70 services solely through the chief administrative officer, and neither the mayor, council nor any member
 71 thereof shall give orders either publicly or privately to any subordinate of the chief administrative
 72 officer. Any mayor or councilman violating the provisions of this section or voting for a motion,
 73 resolution or ordinance in violation of this section shall be guilty of a misdemeanor and upon conviction
 74 thereof shall cease to be a mayor or councilman.

75 *The mayor may participate in the hiring and removal of heads of city departments. The mayor and*
 76 *members of council may (i) communicate publicly or privately their approval or disapproval of the*
 77 *performance of any particular city employee, (ii) recommend persons to the chief administrative officer*
 78 *for consideration for hiring or promotion, or (iii) request of the chief administrative officer that he*
 79 *remove or take other disciplinary action against any particular city employee, as they may see fit.*
 80 *Ultimate responsibility for hiring, removal and other personnel decisions, and for the directing of city*
 81 *personnel, shall reside in the chief administrative officer, unless expressly provided otherwise in this*
 82 *charter. Except for the purpose of inquiry, the mayor, council and its members shall deal with the*
 83 *administrative services solely through the chief administrative officer, and neither the mayor, council nor*
 84 *any member thereof shall give orders either publicly or privately to any subordinate of the chief*
 85 *administrative officer.*

86 § 5.05. General duties; mayor.

87 It shall be the duty of the mayor to:

88 (a) Attend, *or appoint a designee to attend*, all meetings of the council with the right to speak but
 89 not to vote;

90 (b) Keep the council advised of the financial condition and the future needs of the city and of all
 91 matters pertaining to its proper administration, and make such recommendations as may seem to him/her
 92 desirable;

93 (c) Oversee preparation of and submit the annual budget to the council as provided in Chapter 6 of
 94 this charter;

95 (d) Perform such other duties as may be prescribed by this charter or which may be required of the
 96 chief executive officer of a city by the general laws of the Commonwealth; however, the appointment of
 97 members of a redevelopment and housing authority in the city shall be made by the council; and

98 (e) Issue such regulations as may be necessary in order to implement his/her duties and powers.

99 § 5.06. Relations with boards, commissions and agencies.

100 The mayor, *or the mayor's designee*, shall have the right to attend and participate in the proceedings
 101 of, but not to vote in, the meetings of all boards, commissions or agencies created by this charter or by
 102 ordinance, except the school board and the board of zoning appeals.

103 § 5B.01. Retirement system established.

104 The retirement system for the city employees hitherto established by ordinance shall continue in
 105 force and effect subject to the right of the council to amend or repeal the same as set forth in such
 106 ordinance. From and after July 1, 1978, the Board of Trustees of the Richmond Retirement System
 107 shall consist of seven members ~~appointed by the council~~ for terms of three years. Any vacancy shall be
 108 filled for the unexpired portion of the term. ~~Of the members so appointed, two shall always be~~
 109 ~~members of the classified service.~~ *The mayor shall appoint two members; the council shall appoint five*
 110 *members, at least two of whom shall be members of the classified service.* Such members of the Board
 111 of Trustees of the Richmond Retirement System shall have the responsibility of the supervision of the
 112 administration of the retirement plan, the determination of eligibility for the receipt of retirement
 113 benefits, the award of retirement benefits as authorized by ordinance of the City of Richmond, and such
 114 other duties as have heretofore been exercised by the Board of Trustees of the Richmond Retirement
 115 System other than fiduciary responsibilities concerning the management, control and investment of the
 116 financial resources of the Richmond Retirement System. The council of the City of Richmond may
 117 appoint and employ a corporation, vested with fiduciary powers under either the laws of the United
 118 States or the Commonwealth of Virginia, to be responsible for the investment of the funds of the
 119 Richmond Retirement System, which funds shall include any securities which may now or hereafter be
 120 part of the assets of such Richmond Retirement System. The director of finance shall be the disbursing
 121 officer for the payment of benefits awarded by the trustees of the Richmond Retirement System and as

122 such shall perform such duties as may be required of him/her by ordinance but shall receive no
123 additional compensation on account of such duties.

124 § 6.11. Adoption of budget, appropriation ordinance and ordinances for additional revenue; mayor's
125 veto.

126 Not later than the thirty-first day of May in each year the council shall adopt the budget, the
127 appropriation ordinances and such ordinances providing for additional revenue as may be necessary to
128 put the budget in balance. If for any reason the council fails to adopt the budget on or before such day,
129 the budget as submitted by the mayor shall be the budget for the ensuing year and the appropriation
130 ordinance and the ordinances providing additional revenue, if any, as recommended by the mayor shall
131 have full force and effect to the same extent as if the same had been adopted by the council,
132 notwithstanding anything to the contrary in this charter.

133 *The mayor shall have the power to veto any particular item or items of any city budget ordinance or*
134 *resolution, by written notice of veto delivered to the city clerk within 14 calendar days of council's*
135 *action. Council may thereafter override the mayor's veto with a vote of six or more of the currently*
136 *filled seats on council at any regular or special meeting held within 14 calendar days of the city clerk's*
137 *receipt of the notice of veto. Vetoes of any one or more items shall not affect other items not vetoed.*

138 § 6.14. School budget.

139 It shall be the duty of the school board to submit its budget estimates to the mayor at the same time
140 as other departments and in the form prescribed by the mayor. ~~The action of the mayor and council on~~
141 ~~the school budget shall relate to its total only and the school board shall have authority to expend in its~~
142 ~~discretion the sum appropriated for its use, provided that if it receives an appropriation greater or less~~
143 ~~than its original request, it shall forthwith revise its estimates of expenditure and adopt appropriations in~~
144 ~~accordance therewith. The mayor and council may take any action on the school budget permitted by~~
145 ~~§ 22.1-94 of the Code of Virginia or any other provision of general law not in conflict with this charter.~~

146 The school board shall before the beginning of the fiscal year file with the director of finance its budget
147 as finally revised and its appropriations based thereon. It shall have power to order during the course of
148 the fiscal year transfers from one item of appropriation to another, notice of which shall be immediately
149 transmitted to the director of finance. The director of finance shall have the same authority to require
150 expenditures to be made by school officers in accordance with the school budget as he/she is given by
151 this charter to require expenditures by other city officers to be made in accordance with the general fund
152 or utility budgets.

153 § 7B.06. Procedures for sale and terms of bonds and notes.

154 All bonds and notes shall be sold in such manner, either at public or private sale, for such price and
155 upon such terms, including without limitation amounts, principal maturities, sinking fund requirements,
156 maturity dates, interest rates and redemption features, as the council may determine by ordinance or
157 resolution, or as the director of finance, with the approval of the ~~city manager~~ *chief administrative*
158 *officer*, may determine, when authorized to do so by ordinance or resolution. Furthermore, interest rates
159 may be determined by reference to indices or formulas or agents designated by the council under
160 guidelines established by it, or, when authorized to do so by ordinance or resolution, such determination
161 and designation may be made by the director of finance, with the approval of the ~~city manager~~ *chief*
162 *administrative officer*.

163 § 17.02. City planning commission, generally.

164 There shall be a city planning commission which shall consist of nine members. One member shall
165 be a member of the council who shall be appointed by the council for a term coincident with his/her
166 term in the council; one member shall be a member of the board of zoning appeals appointed by the
167 board of zoning appeals for a term coincident with his/her term on such board; one member shall be the
168 chief administrative officer or an officer or employee of the city designated from time to time by
169 him/her; six citizen members shall be qualified voters of the city who hold no office of profit under the
170 city government, appointed ~~by the council~~ *for terms of three years, one of whom shall be appointed by*
171 *the mayor, and five of whom shall be appointed by the council.* Vacancies shall be filled by the
172 authority making the appointment, for the unexpired portion of the term. Members of the city planning
173 commission, other than the member of council appointed to the commission and the chief administrative
174 officer, or such officer or employee of the city as the chief administrative officer may designate to serve
175 on the commission, shall be entitled to receive such compensation as may be fixed from time to time by
176 ordinance adopted by the council.