

VIRGINIA ACTS OF ASSEMBLY -- 2006 SESSION

CHAPTER 687

An Act to amend and reenact §§ 15.2-2212, 15.2-4904, and 28.2-1303 of the Code of Virginia, relating to the removal of certain appointed members of local boards and commissions.

[H 1171]

Approved April 5, 2006

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.2-2212, 15.2-4904, and 28.2-1303 of the Code of Virginia are amended and reenacted as follows:

§ 15.2-2212. Qualifications, appointment, removal, terms and compensation of members of local planning commissions.

A local planning commission shall consist of not less than five nor more than fifteen members, appointed by the governing body, all of whom shall be residents of the locality, qualified by knowledge and experience to make decisions on questions of community growth and development; provided, that at least one-half of the members so appointed shall be owners of real property. The local governing body may require each member of the commission to take an oath of office.

One member of the commission may be a member of the governing body of the locality, and one member may be a member of the administrative branch of government of the locality. The term of each of these two members shall be coextensive with the term of office to which he has been elected or appointed, unless the governing body, at the first regular meeting each year, appoints others to serve as their representatives. The remaining members of the commission first appointed shall serve respectively for terms of one year, two years, three years, and four years, divided equally or as nearly equal as possible between the membership. Subsequent appointments shall be for terms of four years each. The local governing bodies may establish different terms of office for initial and subsequent appointments including terms of office that are concurrent with those of the appointing governing body. Vacancies shall be filled by appointment for the unexpired term only.

Members may be removed for malfeasance in office. *Notwithstanding the foregoing provision, a member of a local planning commission may be removed from office by the local governing body without limitation in the event that the commission member is absent from any three consecutive meetings of the commission, or is absent from any four meetings of the commission within any 12-month period. In either such event, a successor shall be appointed by the governing body for the unexpired portion of the term of the member who has been removed.*

The local governing body may provide for compensation to commission members for their services, reimbursement for actual expenses incurred, or both.

§ 15.2-4904. Directors; qualifications; terms; vacancies; compensation and expenses; quorum; records; certification and distribution of report concerning bond issuance.

A. The authority shall be governed by a board of directors in which all powers of the authority shall be vested and which board shall be composed of seven directors, appointed by the governing body of the locality. The seven directors shall be appointed initially for terms of one, two, three and four years; two being appointed for one-year terms; two being appointed for two-year terms; two being appointed for three-year terms and one being appointed for a four-year term. Subsequent appointments shall be for terms of four years, except appointments to fill vacancies which shall be for the unexpired terms. All terms of office shall be deemed to commence upon the date of the initial appointment to the authority, and thereafter, in accordance with the provisions of the immediately preceding sentence. If at the end of any term of office of any director a successor thereto has not been appointed, then the director whose term of office has expired shall continue to hold office until his successor is appointed and qualified.

Notwithstanding the provisions of this subsection, the board of supervisors of Wise County may appoint eight members to serve on the board of the authority, with terms staggered as agreed upon by the board of supervisors, the board of supervisors of Henrico County may appoint 10 members to serve on the board of the authority, two from each magisterial district, with terms staggered as agreed upon by the board of supervisors, the town council of the Town of Saint Paul may appoint 10 members to serve on the board of the authority, with terms staggered as agreed upon by the town council, the board of supervisors of Russell County may appoint nine members, two of whom shall come from a town that has used its borrowing capacity to borrow \$2 million or more for industrial development, with terms staggered as agreed upon by the board of supervisors and the town council of the Town of South Boston shall appoint two at-large members and Halifax County shall appoint five at-large members to serve on the board of the authority jointly created by the Town of South Boston and Halifax County pursuant to § 15.2-4916, with terms staggered as agreed upon by the governing bodies of the Town of South Boston and Halifax County in the concurrent resolutions creating such authority.

A member of the board of directors of the authority may be removed from office by the local governing body without limitation in the event that the board member is absent from any three consecutive meetings of the authority, or is absent from any four meetings of the authority within any 12-month period. In either such event, a successor shall be appointed by the governing body for the unexpired portion of the term of the member who has been removed.

B. Each director shall, upon appointment or reappointment, before entering upon his duties take and subscribe the oath prescribed by § 49-1.

C. No director shall be an officer or employee of the locality except in towns under 3,500 people where members of the town governing body may serve as directors provided they do not comprise a majority of the board. Every director shall, at the time of his appointment and thereafter, reside in a locality within which the authority operates or in an adjoining locality. When a director ceases to be a resident of such locality, the director's office shall be vacant and a new director may be appointed for the remainder of the term.

D. The directors shall elect from their membership a chairman, a vice-chairman, and from their membership or not, as they desire, a secretary and a treasurer, or a secretary-treasurer, who shall continue to hold such office until their respective successors are elected. The directors shall receive no salary but may be compensated such amount per regular, special, or committee meeting or per each official representation as may be approved by the appointing authority, not to exceed \$200 per meeting or official representation, and shall be reimbursed for necessary traveling and other expenses incurred in the performance of their duties.

E. Four members of the board of directors shall constitute a quorum of the board for the purposes of conducting its business and exercising its powers and for all other purposes, except that no facilities owned by the authority shall be leased or disposed of in any manner without a majority vote of the members of the board of directors. No vacancy in the membership of the board shall impair the right of a quorum to exercise all the powers and perform all the duties of the board.

F. The board shall keep detailed minutes of its proceedings, which shall be open to public inspection at all times. It shall keep suitable records of its financial transactions and, unless exempted by § 30-140, it shall arrange to have the records audited annually. Copies of each such audit shall be furnished to the governing body of the locality and shall be open to public inspection.

Two copies of the report concerning issuance of bonds required to be filed with the United States Internal Revenue Service shall be certified as true and correct copies by the secretary or assistant secretary of the authority. One copy shall be furnished to the governing body of the locality and the other copy mailed to the Department of Business Assistance.

§ 28.2-1303. Appointment, terms, compensation, etc., of local wetlands boards; jurisdiction of county wetlands board over wetlands in town.

A. Every county, city, or town that enacts a wetlands zoning ordinance pursuant to this chapter shall create a wetlands board, consisting of five or seven residents of that jurisdiction appointed by the local governing body. All board members' terms shall be for five years, except that the term of at least one of the original appointments shall expire during each of the succeeding five years. The chairman of the board shall notify the local governing body at least 30 days prior to the expiration of any member's term and shall promptly notify the local governing body if any vacancy occurs. Vacancies shall be filled by the local governing body without delay upon receipt of such notice. Appointments to fill vacancies shall be for the unexpired portion of the term. Members may serve successive terms. A member whose term expires shall continue to serve until his successor is appointed and qualified. Members of the board shall hold no public office in the county or city other than membership on the local planning or zoning commission, the local erosion commission, the local board of zoning appeals, a board established by a local government to hear cases regarding ordinances adopted pursuant to the Chesapeake Bay Preservation Act and regulations promulgated thereunder, or as director of a soil and water conservation board. When members of these local commissions or boards are appointed to a local wetlands board, their terms of appointment shall be coterminous with their membership on those boards or commissions. The governing body shall also appoint at least one but not more than three alternate members to the board. The qualifications, terms, and compensation of alternate members shall be the same as those of members. Any member who knows that he will not be able to attend a board meeting shall notify the chairman at least 24 hours in advance of such meeting. The chairman shall select an alternate member to serve in place of the absent member at the board meeting, which shall be noted in the records of the board.

B. Upon a hearing with at least 15 days' notice thereof, any board member may be removed for malfeasance, misfeasance, or nonfeasance in office, or for other just cause, by the local governing body. *Notwithstanding the foregoing provisions, a member of a local wetlands board may be removed from office by the local governing body without limitation in the event that the board member is absent from any three consecutive meetings of the board, or is absent from any four meetings of the board within any 12-month period. In either such event, a successor shall be appointed by the governing body for the unexpired portion of the term of the member who has been removed.*

C. If a town does not enact a wetlands zoning ordinance within one year of its enactment by the

surrounding county, application for permits to use and develop wetlands within the town shall be made to the county wetlands board.

D. Any county, city, or town that creates a local wetlands board pursuant to this section may compensate the members of the board in accordance with such terms and conditions as the locality may prescribe.

E. Notwithstanding any other provision of this section, the Town of Dumfries in Prince William County may enact a wetlands zoning ordinance pursuant to the provisions of this chapter.