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HOUSE BILL NO. 621

AMENDMENT IN THE NATURE OF A SUBSTITUTE
 (Proposed by the House Committee on Counties, Cities and Towns
 on February 10, 2006)

(Patron Prior to Substitute—Delegate O'Bannon)

A BILL to amend and reenact §§ 4.10, 4.16, 4.17 and 5.05, as severally amended, § 5.05.1, as amended, §§ 6.02, 6.03, 6.06, 6.07, 6.10, 6.11, 6.12, 6.13, 13.06, 13.07, 13.08 and 13.09, as severally amended, of Chapter 116 of the Acts of Assembly of 1948, which provide a charter for the City of Richmond, relating to ordinances, investigations, city attorney, mayor, chief administrative officer, budget, and utilities.

Be it enacted by the General Assembly of Virginia:

1. That §§ 4.10, 4.16, 4.17 and 5.05, as severally amended, § 5.05.1, as amended, §§ 6.02, 6.03, 6.06, 6.07, 6.10, 6.11, 6.12, 6.13, 13.06, 13.07, 13.08 and 13.09, as severally amended, of Chapter 116 of the Acts of Assembly of 1948 are amended and reenacted as follows:

§ 4.10. Procedure for passing ordinances.

An ordinance may be introduced by any member or committee of the council or by the mayor at any regular meeting of the council or at any special meeting ~~when the subject thereof has been included in the notice for such special meeting or has been approved by the unanimous consent of all the members of the council.~~ Upon introduction a time, not less than seven days after such introduction, and place shall be set at which the council or a committee thereof will hold a public hearing on such ordinance, provided that the council may reject any ordinance on first reading without a hearing thereon by vote of six members. The hearing may be held separately or in connection with a regular or special meeting of the council and may be adjourned from time to time. It shall be the duty of the city clerk to cause to be printed in a newspaper published or in general circulation in the city, not later than the fifth day before the public hearing on the proposed ordinance, a notice containing the time and place of the hearing and the title of the proposed ordinance. It shall also be his/her duty, not later than the fifth day before the public hearing, to cause its full text to be printed or otherwise reproduced, as the council may by resolution direct, in sufficient numbers to supply copies to those who individually request them, or, if the council shall so order, to cause the same to be printed as a paid advertisement in a newspaper published or in general circulation in the city. It shall further be his duty to place a copy of the ordinance in a file provided each member of the council for this purpose. A proposed ordinance, unless it is an emergency ordinance, shall be finally passed at a ~~regular~~ meeting of the council following the introduction of the ordinance and after the conclusion of the public hearing thereon. If an ordinance, other than an emergency ordinance, is amended as to its substance, it shall not be passed until it shall be reprinted, reproduced or published as amended, and a hearing shall be set and advertised and all proceedings had as in the case of a newly introduced ordinance.

§ 4.16. Powers of investigation.

(a) The council, or any committee of members of the council when authorized by the council, shall have power to make such investigations relating to the municipal affairs of the city as it may deem necessary, and shall have power to investigate any or all departments, boards, commissions, offices and agencies of the city government and any officer or employee of the city, concerning the performance of their duties and functions and use of property of the city.

(b) The mayor, ~~the~~ chief administrative officer ~~and~~, the heads of all departments, ~~and~~ all boards and commissions whose members are appointed by the council, and the city auditor, shall have power to make such investigations in connection with the performance of their duties and functions as they may deem necessary, and shall have power to investigate any officer or employee appointed by them or pursuant to their authority concerning the performance of duty and use of property of the city.

(c) The council, or any committee of members of the council when authorized by the council, the mayor, chief administrative officer, the heads of departments, and boards and commissions whose members are appointed by the council and the city auditor, in an investigation held by any of them, may order the attendance of any person as a witness and the production by any person of all relevant books and papers. Any person, having been ordered to attend, or to produce such books and papers, who refuses or fails to obey such order, or who having attended, refuses or fails to answer any question relevant or pertinent to the matter under investigation shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine not exceeding \$100 or imprisonment in jail not exceeding 30 days, either or both. Every such person shall have the right of appeal to the Circuit Court of the City of Richmond, Division I. The investigating authority shall cause every person who violates the provisions of this section to be summoned before the general district court criminal division for trial. Witnesses shall be sworn by the person presiding at such investigation, and they shall be liable to

60 prosecution or suit for damages for perjury for any false testimony given at such investigation.

61 § 4.17. City attorney.

62 The city attorney shall be the chief legal advisor of the council, the mayor, the chief administrative
63 officer and all departments, boards, commissions and agencies of the city in all matters affecting the
64 interests of the city. The city attorney shall perform particular duties and functions as assigned by the
65 council. The city attorney shall be appointed by the council, shall serve at its pleasure, and shall devote
66 full time and attention to the representation of the city and the protection of its legal interests. The city
67 attorney shall have the power to appoint and remove assistants or any other employees as shall be
68 authorized by the council and to authorize any assistant or special counsel to perform any of the duties
69 imposed upon him in this charter or under general law. *The city attorney may represent personally or*
70 *through one of his assistants any number of city officials, departments, commissions, boards, or agencies*
71 *that are parties to the same transaction or that are parties in the same civil or administrative*
72 *proceeding and may represent multiple interests within the same department, commission, board, or*
73 *agency. In matters where the city attorney determines that he is unable to render legal services to the*
74 *mayor, chief administrative officer, or city departments or agencies under the supervision of the chief*
75 *administrative officer due to a conflict of interests, the mayor, after receiving notice of such conflict,*
76 *may employ special counsel to render such legal services as may be necessary for such matter.*

77 § 5.05. General duties; mayor.

78 It shall be the duty of the mayor to:

79 (a) Attend, or appoint a designee *empowered to answer questions and make recommendations on*
80 *behalf of the mayor* to attend, all meetings of the council with the right to speak but not to vote; *the*
81 *mayor or his designee shall have the right to attend a meeting closed pursuant to § 2.2-3711 of the*
82 *Code of Virginia, unless the council determines that the subject matter of the closed meeting includes*
83 *the office of the mayor and that inclusion of the mayor or his designee shall be detrimental to the*
84 *purpose of the council's deliberations;*

85 (b) Keep the council advised of the financial condition and the future needs of the city and of all
86 matters pertaining to its proper administration, and make such recommendations as may seem to him
87 desirable;

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

90 (d) Perform such other duties as may be prescribed by this charter or which may be required of the
91 chief executive officer of a city by the general laws of the Commonwealth, *or by ordinances adopted by*
92 *the council, provided that the mayor shall have the power to veto any city ordinance imposing such*
93 *duties on him, the chief administrative officer or any department head appointed by the chief*
94 *administrative officer, by written notice of veto delivered to the city clerk within 14 calendar days of*
95 *council's actions, subject to override thereafter by the council with a vote of six or more of the currently*
96 *filled seats on council at any regular or special meeting held within 14 calendar days of the clerk's*
97 *receipt of the notice of veto;* however, the appointment of members of a redevelopment and housing
98 authority in the city shall be made by the council; and

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

100 § 5.05.1. General duties; chief administrative officer.

101 It shall be the duty of the chief administrative officer, acting under the general direction of the
102 mayor, to:

103 (a) Prepare the annual budget for submission to the council by the mayor;

104 (b) Prepare in suitable form for publication and submit to the council a concise report of the
105 financial transactions and administrative activities of the city government during the fiscal year ending
106 on the preceding thirtieth day of June and cause to be printed such number of copies thereof as the
107 council shall direct;

108 (c) Present adequate financial and activity reports as requested by the council;

109 (d) Fulfill the city's responsibilities for maintaining cemeteries as provided for in § 2.05(d) of the
110 charter and § 15.2-1121 of the Code of Virginia; and

111 (e) *Attend, or be represented at, all meetings of the council in order to answer questions and make*
112 *recommendations on behalf of the mayor, provided that prior to any such meetings, council has given*
113 *the mayor at least 72 hours of advance notice of the matters on which it seeks information or a*
114 *recommendation;*

115 ~~(e)~~(f) Perform such other duties as may be prescribed by this charter, *by city ordinance*, or required
116 of him in accordance therewith by the mayor other than the duties conferred on the mayor by this
117 charter.

118 § 6.02. Submission.

119 On a day to be fixed by the council, but in no case *earlier than the second Monday of February or*
120 *later than the seventh day of April* in each year, the mayor shall submit to the council: (a) separate
121 current expense budgets for the general operation of the city government, for the public schools and for

each utility as defined in Chapter 13 of this charter; (b) a budget message; and (c) a capital budget.

§ 6.03. Preparation.

It shall be the duty of the head of each department, the judges of the municipal courts, each board or commission, including the school board, and each other office or agency supported in whole or in part by the city, including the attorney for the Commonwealth, to provide, at such time as the mayor may prescribe, estimates of revenue and expenditure for that department, court, board, commission, office or agency for the ensuing fiscal year. Such estimates shall be submitted in a form as determined by the mayor, and it shall be the duty of the head of each such department, judge, board, commission, office or agency to supply all of the information which the mayor may require to be submitted thereon. The mayor shall hold such hearings as he/she may deem advisable and shall review the estimates and other data pertinent to the preparation of the budgets and make such revisions in such estimates as he/she may deem proper, subject to the laws of the Commonwealth relating to obligatory expenditures for any purpose, except that in the case of the school board, he/she may recommend a revision only ~~in its total estimated expenditure~~ as permitted by § 22.1-94 of the Code of Virginia or any other provision of general law not in conflict with this charter.

§ 6.06. The budget message.

The budget message shall contain the recommendations of the mayor concerning the fiscal policy of the city, a description of the important features of the budget plan, an explanation of all salient changes in each budget submitted, as to estimated receipts and recommended expenditures as compared with the current fiscal year and the last preceding fiscal year, and a summary of the proposed budgets showing comparisons similar to those required by § 6.04 above.

§ 6.07. Appropriation and additional tax ordinances.

At the same time that he/she submits the budget, the mayor shall introduce in the council any appropriation ordinance required. The appropriation ordinance shall be based on the budget but need not be itemized further than by departments *unless required by the council*. At the same time, the mayor shall also introduce any ordinance or ordinances altering the tax rate on real estate and tangible personal property or levying a new tax or altering the rate of any other tax necessary to balance the budget as hereinbefore provided. The hearing on the budget plan as a whole, as provided in § 6.09, shall constitute the hearing on all ordinances referred to in this section, and the appropriation ordinances for each utility.

§ 6.10. Action by council on budget generally.

After the conclusion of the public hearing, the council may insert new items of expenditure or may increase, decrease or strike out items of expenditure in the budget, except that no item of expenditure for debt service or required to be included by this charter or other provision of law shall be reduced or stricken out. The council shall not alter the estimates of receipts contained in the said budget except to correct omissions or mathematical errors, and it shall not cause the total of expenditures as recommended by the ~~manager~~ mayor to be increased without a public hearing on such increase, which shall be held not less than five days after notice thereof has been printed in a newspaper published or in general circulation in the city. The council shall in no event adopt a budget in which the total of expenditures exceeds the receipts, estimated as provided in § 6.04, unless at the same time it adopts measures for providing additional revenue in the ensuing fiscal year sufficient to make up this difference.

§ 6.11. Adoption of budget, appropriation ordinance and ordinances for additional revenue.

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

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

§ 6.12. Effective date of budget; certification and availability of copies thereof.

Upon final adoption, the budget shall be in effect for the ensuing fiscal year. A copy of such budget as finally adopted shall be certified by the ~~city manager~~ and city clerk. Copies of the budget, capital program and appropriation and revenue ordinances shall be public records and shall be made available to the public at suitable places in the city.

§ 6.13. Utility budgets and related ordinances.

183 Separate budget estimates for each of the utilities as defined in Chapter 13 of this charter shall be
184 submitted to the mayor at the same time as the budgets of other departments and in the form prescribed
185 by the mayor, subject, however, to the provisions of Chapter 13 which shall also control the action of
186 the mayor and council thereon. The mayor shall submit with the budget of each utility an ordinance
187 making appropriations for the operation of such utility during the ensuing fiscal year. He shall also at
188 the same time submit any ordinance changing the rates to be charged by the utility, used in estimating
189 receipts. The council shall have the same powers and be subject to the same limitations with regard to
190 the adoption of such utility budgets and accompanying appropriation and rate ordinances, subject to the
191 provisions of the said Chapter 13, as are conferred or imposed on it by § 6.10 with regard to the budget
192 and its accompanying appropriation and revenue ordinances. If for any reason the council fails to adopt
193 the utility budgets or any of them before the expiration of the time set for the adoption of the budget,
194 such budget or budgets and the accompanying appropriation ordinance or ordinances and the ordinances
195 changing rates, if any, shall have full force and effect to the same extent as if the same had been
196 adopted by the council, notwithstanding anything to the contrary in this charter. ~~When such utility~~
197 ~~budgets and accompanying appropriation ordinances are adopted or become effective because of the~~
198 ~~council's failure to act thereon, they shall be certified to the director of finance with like effect as in the~~
199 ~~case of the budget and its appropriation ordinance.~~

200 § 13.06. Each utility a separate enterprise.

201 The water, wastewater, stormwater, gas and electric utilities shall each be conducted as a separate
202 enterprise, provided that nothing herein shall prevent the transfer of employees from one utility to
203 another or the division of the time of any officer or employee between two or more of such utilities. To
204 facilitate accurate analysis of the financial results of the operation of each utility:

205 (a) The customer service division shall, as directed by ordinance, bill for and collect on behalf of
206 each utility not only the charges due from domestic, commercial and industrial users of its services but
207 similar charges against the city and each department, board, commission, office and agency thereof,
208 including the school board and each other utility. The rates to be charged for street lighting and for
209 electric current furnished to the city and its departments, boards, commissions, offices and agencies, as
210 well as any political subdivision, shall be fixed by the director of public utilities to generate such
211 revenue as shall enable the utility to make a reasonable return on investment and meet retirement
212 schedules and other debt service requirements in accordance with the provisions of any bond ordinance
213 pursuant to which bonds have been issued to finance capital improvements of such utility and to comply
214 with the terms and conditions of any documents securing any such bonds.

215 (b) Separate budgets shall be prepared for each utility annually at the time and in the manner
216 prescribed in Chapter 6 of this charter, which shall include estimates of revenue and expense for the
217 ensuing fiscal year. After the budget of a utility has been adopted, should it appear that substantial sales
218 of the unit product of the utility can be made in excess of the sales of the unit product contemplated by
219 the budget which were not reasonably foreseen at the time the estimates of revenue and expense were
220 made, additional expenditures may be authorized by the ~~city manager~~ *chief administrative officer* from
221 the funds of the utility in an amount not exceeding the estimated cost of producing or purchasing
222 additional units of the product of the utility to be sold upon the justification of such expenditure by and
223 recommendation of the director of public utilities. The ~~city manager~~ *chief administrative officer* shall
224 report to the council as soon as practicable any such additional expenditures authorized by him and shall
225 also report any such additional expenditures to the director of finance, who shall adjust the appropriation
226 accounts accordingly. The expenditure of any other funds of any utility shall be authorized only when
227 an additional appropriation thereof is made in accordance with § 6.16 of this charter. The budget
228 estimates of each department of the city shall include items for gas, water, wastewater, stormwater, and
229 electric current to be used by them. An item for street lighting shall be included in the general fund
230 budget and shall be disbursed by the director of finance on the basis of bills rendered by the customer
231 service division.

232 (c) The accounting system of each utility shall conform to generally accepted principles of public
233 utility accounting and shall be kept on an accrual basis. Expenditures shall be authorized and made in
234 accordance with appropriations made by the council and in accordance with the provisions of Chapters
235 6, 8 and 13 of this charter. The records of revenues of each utility shall be kept so that the services
236 rendered to each class of customer according to the rate schedules adopted by the council for each
237 utility can be obtained. After the close of each fiscal year there shall be submitted to the ~~city manager~~
238 *chief administrative officer* and the council a report as to the operation of each utility containing at least
239 the following financial statements: (1) a comparative balance sheet showing the financial condition of
240 the utility as of the beginning and close of the fiscal year and an analysis of the surplus account
241 showing the factors of change in the account as reflected by the comparative balance sheet; and (2) a
242 comparative profit and loss statement of the last two fiscal years; and a comparative detailed analysis of
243 operating expense for the last two fiscal years according to functional grouping. The expense of
244 operating each utility shall include: (1) taxes, if any, lawfully accruing during the fiscal year; and (2)

except for the stormwater utility, taxes not actually accruing but which would have accrued had the utility not been municipally owned, and such taxes shall be paid annually into the general fund. For the purposes of this chapter, all indebtedness of the city incurred on account of each utility shall be considered as the indebtedness of such utility.

§ 13.07. Utility renewal funds.

A renewal fund for each utility shall be established to be known as the "water utility renewal fund," the "wastewater utility renewal fund," the "stormwater utility renewal fund," the "gas utility renewal fund" and the "electric utility renewal fund," respectively. Simultaneously with the introduction of budgets for each city owned and operated utility there shall be introduced renewal fund budgets for each of the utilities utilizing operating cash of the respective utilities for appropriations to finance such budgets. Funds received from the federal and state governments, representing grants in aid of construction, shall be deposited into the respective utility renewal funds. Appropriations may be made by the council from the renewal fund of any utility, on the recommendation of the ~~city manager~~ mayor, only for renewing, rebuilding or extending the plant and distribution system of such utility.

§ 13.08. Valuation of utilities.

At such times as it shall determine, the council shall cause to be made a valuation of each of the utilities, in accordance with accepted valuation principles, by a competent firm of engineers to be selected by the council on the recommendation of the ~~city manager~~ *chief administrative officer*, showing in the case of the water utility the proportion of its valuation properly allocable to fire protection.

§ 13.09. Changes in rates.

The rates to be charged for the respective services of the water, wastewater, stormwater, and gas utilities and for the sale of any excess of electric current beyond the needs of the city and its departments, boards, commissions and agencies, as well as any political subdivisions, shall be fixed from time to time by the council on the recommendation of the director of public utilities and the ~~city manager~~ mayor. If for any fiscal year any utility other than the stormwater utility shall operate at a net loss as shown by its annual statement of profit and loss, it shall be the duty of the director of public utilities and the ~~city manager~~ mayor to recommend and the council to adopt for that utility a schedule of rates which in its judgment will produce revenue at least equal to expense.