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SENATE BILL NO. 1072

Senate Amendments in [] — January 19, 2007

A *BILL to amend and reenact § 2.01, §§ 7.02 and 7.05, as amended, and §§ 7.07, 7.08, 8.06, and 10.10 of Chapter 542 of the Acts of Assembly of 1990, and to repeal § 5.11 of Chapter 542 of the Acts of Assembly of 1990, which provided a charter for the City of Bristol, relating to organizational changes.*

Patron Prior to Engrossment—Senator Wampler

Referred to Committee on Local Government

Be it enacted by the General Assembly of Virginia:

1. That § 2.01, §§ 7.02 and 7.05, as amended, §§ 7.07, 7.08, 8.06, and 10.10 of Chapter 542 of the Acts of Assembly of 1990 are amended and reenacted as follows:

§ 2.01. General grant of powers.

The City of Bristol shall have and may exercise all powers which are now or hereafter may be conferred upon or delegated to municipal corporations under the Constitution and laws of the Commonwealth of Virginia as fully and completely as though such powers were specifically enumerated herein, ~~including specifically those powers set forth in §§ 15.1-837 through 15.1-907 of the Code of Virginia.~~ The city shall have as well any powers expressly set forth herein, ~~nor shall any including the power to provide and operate telecommunication and related services, including without limitation, cable television, Internet, and all other services that might be rendered by use of the city's fiber-optic system; provided further that also the city shall have the power, within and without the city and within or without the Commonwealth of Virginia to provide consulting and management services for the operation of telecommunication services, including without limitation, cable television, Internet, and all other services that might be rendered by use of a fiber-optic system. [Nothing in the foregoing provision shall be deemed to have expanded the powers of the city to provide and operate telecommunication and related services, including without limitation, cable television, Internet and all other services that might be rendered by use of the city's fiber-optic system, beyond those limitations and restrictions set forth in §§ 15.2-2108.2, 15.2-2108.3, 15.2-2108.9 through 15.2-2108.17, 15.2-2160, and 56-265.4:4 of the Code of Virginia, which, as amended from time to time, shall continue to be applicable to the city to the extent provided therein.]~~ The enumeration of powers in this charter *shall not* be exclusive or otherwise be construed to limit the powers of the city.

§ 7.02. Comptroller department.

A. Generally. - There shall be a comptroller's department headed by a department head known as the comptroller, who shall be in charge of the accounting and finances of the city. *The comptroller shall function as budget director, which position shall require skill in public administration and the accepted practices and municipal budgetary procedure and shall compile, in cooperation with the various department heads, the departmental estimates and other data necessary or useful to the city manager in the preparation of the annual budget.*

B. General powers and duties of comptroller. - The comptroller shall have general management and control, subject to the direction and control of the city manager, of the administration of the financial affairs of the city and to that end shall have authority and be required to:

1. Keep books of account of the receipts from all sources and expenditures of all departments, courts, boards, commissions, offices and agencies of the city and prescribe the form of receipts, vouchers, bills or claims to be used and accounts to be kept by all departments, courts, boards, commissions, offices and agencies of the city. The comptroller in so doing shall consult with the retained public auditor for the city so that his books of account and other items mentioned herein produce the requisite information for auditing purposes;

2. Maintain suitable records to keep an accurate account with the city treasurer, making entries therein, where practical, on the same date which they occur, and said records shall be kept so that an examination of them will show the condition of the treasury;

3. Cooperate with the city manager and budget director in compiling estimates for the current expense and capital budgets;

4. Require daily, or at such intervals as he may deem expedient, report of receipts and a remission of the same from each department, court, board, commission, office and agency, and shall on the proper in-paying warrant remit the same to the treasurer;

5. Examine all contracts, purchase orders and other documents which create financial obligations against the city to determine that money has been appropriated and allotted therefor and that an

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59 unexpended and unencumbered balance is available and such appropriation and allotment to meet the
60 same;

61 6. Audit before payment for legality and correctness all accounts, claims and demands against the
62 city and no money shall be drawn from any bank account of the city except by warrant or check signed
63 by the city manager and treasurer, based upon a voucher prepared by him;

64 7. Submit to the city manager for presentation to the council, not later than the 15th day of each
65 month, a statement concerning the financial transactions of the city prepared in accordance with accepted
66 principles in municipal accounting and budgetary procedure and showing:

67 (a) The amount of each appropriation with transfers to and from the same, the allotment thereof to
68 the end of the preceding month, encumbrances and expenditures charged against such appropriation
69 during the preceding month, the total of such charges for the fiscal year to the end of the preceding
70 month and the unencumbered balance remaining in such appropriation; and

71 (b) The revenue estimated to be received from each source, the actual receipts from each source for
72 the preceding month, the total receipts from each source for the fiscal year to the end of the preceding
73 month, and the balance remaining to be collected;

74 8. Furnish the head of each department, court, board, commission, office or agency of the city a
75 copy of such portion of the statement relating to such department, court, board, commission, office or
76 agency;

77 9. Prepare and submit to the city manager at the end of each fiscal year, for the preceding year, a
78 complete financial statement and report of the financial transactions of the city;

79 10. Protect the interest of the city by withholding the payment of any claim or demand by any
80 person, firm or corporation against the city until any indebtedness or other liability due from such
81 person, firm or corporation shall first have been settled and adjusted; and

82 11. Perform such other duties as may be required of him by this charter, by the city manager or by
83 the city council.

84 C. Annual audit. - The council shall cause to be made annually an independent financial audit of all
85 accounts, books, records and financial transactions of the city by the auditor of public accounts of the
86 Commonwealth or by a firm of independent certified public accountants to be selected by council. The
87 audit shall be of sufficient scope to express an opinion as to whether the books and records and the
88 financial statements prepared therefrom as contained in the annual financial report of the city present
89 fairly the fiscal affairs of the city in accordance with generally accepted accounting principles of
90 municipal accounting and applicable government laws. The report of such audit shall be always available
91 for public inspection in the office of the city clerk and in the office of the city manager during regular
92 business hours. The comptroller shall cooperate with and provide the necessary information to the
93 auditor for the purpose of producing the annual audit.

94 D. Other audits of accounts. - Upon the death, resignation, removal or expiration of the term of any
95 officer of the city, the comptroller, under the supervision of the city manager, shall audit the accounts of
96 such officer and report the result of the audit to the council. The comptroller shall also audit the
97 accounts of any office or department of the city upon the request of the council, under the supervision
98 of the city manager. Any such audit, at the direction of the council, may be made by an independent
99 certified public accountant rather than by the comptroller if they so direct.

100 E. Commissioner of revenue. - There shall be elected, pursuant to Chapter 3 of this charter and the
101 general law of the Commonwealth, a commissioner of revenue as provided for in the Constitution of the
102 Commonwealth of Virginia who shall perform such duties as are not inconsistent with the laws of the
103 Commonwealth in relation to the assessment of property and license taxes as may be required by the
104 council for the purpose of levying city property and license taxes. He shall perform such other duties
105 within the City of Bristol, Virginia, as are prescribed for him by the general law of the Commonwealth
106 of Virginia and as may be prescribed for him by this charter or by the city council for the City of
107 Bristol, Virginia, and are not inconsistent with his office. The commissioner of revenue shall have the
108 power to administer oaths in the performance of his official duties.

109 F. City treasurer. - There shall be elected, pursuant to Chapter 3 of this charter and the general law
110 of the Commonwealth, a city treasurer, as provided for in the Constitution of Virginia who shall, except
111 as otherwise provided in this charter, be the custodian of all funds of the city and the city's comptroller's
112 bond, and pursuant thereto shall:

113 1. Deposit all funds coming into the treasurer's hands to the account of the city, in such separate
114 accounts as may be provided for by council, in such banks as may be designated for that purpose by the
115 council. However, the city manager may authorize any department or agency of the city to maintain a
116 petty cash fund not to exceed \$300. Such fund authorized shall be reimbursed by the treasurer only
117 upon presentation of vouchers approved by the comptroller;

118 2. Receive all moneys belonging to and received by the city and keep a correct account of all such
119 receipts;

120 3. Be subject to the supervision of the council, perform such other duties not inconsistent with the

office as council may from time to time direct, and have such powers and duties as are now or may hereafter be prescribed by the general law of the Commonwealth or ordinance of this city;

4. Make all such reports to the comptroller with respect to receipts and expenditures in the city treasury as may be required by the comptroller to properly keep the financial records of the city up to date;

5. Pay out no money from the city treasury except as may have been approved by the city manager and the comptroller on forms prescribed by the comptroller, all in accordance with the provisions of this charter;

6. Present annually to council the treasurer's account with the State Auditor;

7. Receive no money or permit the payment of the same into the treasury, except upon the presentation of a proper form authorizing such payment and receipt, which form shall show the source and amount of such money and shall be signed by the comptroller or his designee. No license, permit or other authorization for which the party receiving same is required to pay money to the city shall be valid unless and until the treasurer receipts the same giving the amount and date of such receipt; and

8. Report a list of real and personal properties delinquent as of June 30, 1989, for taxes to the city manager and to city council no later than July 1 of each year.

§ 7.05. Fire department.

A. Generally. - The fire department shall consist of the fire chief and such other officers and employees of such ranks and grades as may be established by council. The fire department shall be responsible for the protection from fire, of life and property within the city.

The fire department shall also operate and be responsible for the operation of the hazardous material response team which shall implement the hazardous materials response plan developed by the city in accordance with general laws of the Commonwealth and local laws and regulations.

B. Powers and duties of the fire chief. - The head of the fire department shall be the fire chief. Under the supervision of the city manager, he shall be in direct command of the fire department. He shall assign all members of the department to their respective posts, shifts, details and duties. He shall, with the approval of the city manager, make rules and regulations in conformity with this charter and the ordinances of the city concerning the operation of the department, the conduct of officers and employees thereof, their uniforms, equipment and training and the penalties to be imposed for infractions of such rules and regulations. The fire chief shall be responsible for the efficiency, discipline and good conduct of the department. Orders of the city manager relating to the fire department shall be transmitted in all cases to the fire chief or in his absence from the city or incapacity, through an officer of the department designated as acting chief by the city manager. Disobedience of the lawful commands of the fire chief or violation of the rules and regulations made by him with the approval of the director of the Personnel Department shall be grounds for removal or other disciplinary action as provided in such rules and regulations.

C. Fire prevention. - Fire prevention shall be the duty of the fire chief to secure the enforcement of all laws and ordinances relating to fire prevention and fire safety and to issue from time to time regulations having the force of law for the purpose of implementing such laws and ordinances. The penalty for violation of such rules and regulations shall be as provided for by ordinance. The fire chief may assign this duty to a fire inspector.

~~D. Environs control officer. - The council, by ordinance, may provide for a position of environs control officer whose duties shall be to enforce state law and local ordinances pertaining to garbage, trash, weeds, junk and litter and the Statewide Uniform Building Maintenance Code within the City of Bristol, Virginia. The environs control officer shall be supervised by the chief of the fire department.~~

§ 7.07. Building code division.

A. Building Code ~~Department~~ *Division* Generally. - There shall be a building code ~~department~~ *division* which shall consist of the building code official and such other officers and employees as may be provided for by city council ~~and the environs control official. The building code division shall be part of the department of planning and supervised by the planning director.~~ The building code official may be removed from office for cause after full opportunity to be heard on specific and relevant charges in a hearing before city council. The city manager is authorized to designate *an* employee as deputy who shall exercise all the powers of the building code official during the temporary absence or disability of the building code official.

B. Restriction of employees. - Neither any building code official nor any employee connected with the building ~~inspection department~~ *code division*, except members of the board of survey or the board of appeals, shall be engaged in or directly or indirectly connected with the furnishing of labor, materials or appliances for the construction, alteration or maintenance of a building or the preparation of plans or the specifications thereof built or to be built within the city, unless that person is the owner of the building. No officer and employee may engage in any work which conflicts with the official duties or interests of the building code ~~department~~ *division*.

182 C. Personal liability. - The building code official, and any officer or employee of the building code
183 ~~department~~ *division*, shall not, while acting for the jurisdiction, thereby be rendered liable personally for
184 any damage accruing to persons or properties as a result of any act required or permitted in the
185 discharge of their official duties, nor shall the building code official or any subordinate of the building
186 code official be liable for costs in any action, suit or proceeding that is instituted pursuant to the
187 provisions of the building and maintenance codes. They shall be free from liability for acts performed
188 under any of the provisions of or by reason of any act or omission in the performance of their official
189 duties in connection with the provisions of the Uniform Statewide Building Code. This limitation of
190 liability shall extend to the environs control division's enforcement of the Uniform Statewide Building
191 Maintenance Code.

192 D. Functions. - The building code ~~department~~ *division* shall:

193 1. Enforce all the provisions of the Uniform Statewide Building Code and act on any question
194 relative to the mode or manner of construction and the materials to be used in the erection, addition to,
195 alteration, repair, removal, demolition, installation of service equipment and the location, use, occupancy
196 and maintenance of all buildings and structures situate in the City of Bristol, Virginia;

197 2. Receive applications and issue permits for the erection and alteration of buildings and structures,
198 including passing on whether a requested building permit may be issued in compliance with the zoning
199 ordinances of the city, inspect the premises for which such permits have been issued and enforce
200 compliance with the provisions of the Uniform Statewide Building Code;

201 3. Issue all necessary notices or orders to remove illegal or unsafe conditions and structures, require
202 the necessary safeguards during construction, require adequate exit facilities in existing buildings and
203 structures and insure compliance with all the code requirements for the health, safety and general
204 welfare of the public;

205 4. Make all the required inspections, or accept reports of inspection by approved agencies on
206 individuals in writing and certified by a responsible officer of such approved agency or by the
207 responsible individual, and engage such expert opinion as deemed necessary to report upon unusual
208 technical issues that arise, if such engagement is approved by council;

209 5. Adopt and promulgate rules and regulations to interpret and implement the provisions of the
210 Uniform Statewide Building Code, to secure the intent thereof and designate requirements applicable
211 because of local climatic or other conditions, but such rules shall not have the effect of waiving
212 structural or fire performance requirements specifically provided by the Uniform Statewide Building
213 Code or violating accepted engineering practices involving public safety;

214 6. Keep official records of applications received, permits and certificates issued, fees collected,
215 reports of inspections, and notices and orders issued so long as the building to which they pertain
216 remains in existence;

217 7. Report in writing annually to the city manager a statement of operations as may be prescribed by
218 the city manager;

219 8. Perform such other duties as from time to time may be required of the building code official by
220 the Uniform Statewide Building Code and the city manager;

221 9. Enforce all local ordinances pertaining to buildings, unsafe structures, the abatement of nuisances
222 created by unsafe structures and such other local ordinances as may from time to time be adopted and
223 passed relative to buildings or structures situate in the city by the council, to the extent that such are not
224 superseded and repealed by an act of the General Assembly; and

225 10. Perform such other duties as may from time to time be assigned to the building code ~~department~~
226 *division* by city council.

227 E. Environs control. - The position of environs control official, whose duties shall be to enforce state
228 law and local ordinances pertaining to garbage, trash, weeds, junk, and litter and the Statewide Uniform
229 Building Maintenance Code within the City of Bristol, Virginia, shall be an employee of the building
230 code division and shall be under the supervision of the building code official. The environs control
231 official shall meet the requirements imposed for the position by state law.

232 § 7.08. Planning department.

233 A. Planning director. - The department of planning shall consist of a planning director and such
234 other officers and employees of the department as provided for by city council *and the building code*
235 *official and the employees of the building code division*.

236 B. Department functions. - The department of planning shall have the responsibility for:

237 1. Administration of all programs funded by federal, state or other monies as such be assigned to the
238 department of planning by city council for administration;

239 2. Administration of the zoning ordinance and the subdivision ordinance and as such, the planning
240 director shall serve as staff for the board of zoning appeals, the planning commission and city council
241 on zoning matters that are before each of such entities. Nevertheless, it shall remain the duty of the
242 building code official to determine the proper zoning of all proposed developments for purpose of
243 issuance of requisite building permits, site plan permits and other required permits;

3. Development of the comprehensive city plan and the amendments thereto for approval by city council;

4. Transportation planning of road improvements on major thoroughfares;

5. Serving as staff to the metropolitan planning organization board created by Bristol, Virginia; Bristol, Tennessee; Sullivan County, Tennessee and Washington County, Virginia;

6. Serving as staff to the joint Bristol, Tennessee/Virginia Planning Commission; and

7. *Supervise the operations and performance of the building code division, and*

8. Such other duties as may from time to time be assigned to the planning department by the council or the city manager.

§ 8.06. Bristol Virginia Utilities Board.

There shall be a Bristol Virginia Utilities Board consisting of seven members, six of whom shall be residents of the City of Bristol, Virginia. Two of the members of the board shall be members of the city council selected by the council and four shall be non-council-member citizens of the City of Bristol, Virginia, appointed by the council. The term of office for the council members shall coincide with their terms on council with no other limitation on the number of terms they may serve. The terms of office of the citizen members shall be for three years. No citizen member shall be appointed to more than two successive terms of office. In addition to the six resident members above, there may be a seventh member of the Bristol Virginia Utilities Board appointed for a term of one year at the discretion of the city council, who shall be appointed from among the members of the Board of Supervisors for Washington County, Virginia. That member's role shall be to represent the interests of those citizens of Washington County, Virginia, who purchase electricity from Bristol Virginia Utilities. Therefore, that county member shall have the right to vote only on matters before the Board affecting the operation of the electrical system. Unless invited by a majority of the other members to do so, that member will not be entitled to attend closed meetings (as defined by § 2.2-3711 of the Code of Virginia of 1950, as amended) that are closed for the purpose of discussing matters unrelated to the electrical system.

The members of the Bristol Virginia Utilities Board may be allowed their expenses while engaged in the business of the board in accordance with this charter. Such expense and allowance shall constitute a cost of operation and maintenance of such utility systems and shall be prorated equally among each of the systems it manages.

The Bristol Virginia Utilities Board shall have the power and duty to manage a division of the city to be known as Bristol, Virginia Utilities, or "BVU." BVU shall operate the electric, public lighting, water and sewerage, telecommunications, Internet and other communications and information systems and services of the City directly or it may subcontract such functions. BVU shall construct, maintain and operate all facilities necessary thereto, shall sell and distribute to the public electric power, light, water and sewer services, telecommunications, Internet and communication, information and other services as authorized, and shall collect the rates and charges provided for such services by city council. With respect to any service managed and controlled by the Bristol Virginia Utilities Board, the council may, by contract or otherwise, delegate or abrogate its rate-making power.

The Board may appoint a ~~general manager~~ *president* of BVU and may provide for such other employees and officers as to it may be deemed expedient and proper, and the board shall have sole control and management of such employees and the operations of utilities for which it is responsible, except for rate-making powers which are reserved to city council, notwithstanding the provisions of §§ 5.03, 5.05, 7.01, 7.03 and 7.04, and any other sections of this charter.

§ 10.10. School budget.

It will be the duty of the school board to submit its line-item budget estimates to the city manager ~~at least 150 days before the end of the fiscal year~~ *no later than May 1 of each year*. The estimate shall set forth a detailed line-item estimate of the amount required for the conduct of the public schools for the ensuing fiscal year and an estimate of the amounts which are expected to be received for public education other than from appropriations by the council. It shall contain a detailed estimate of all surplus funds expected to be left over at the end of the current fiscal year. If an appropriation from council is less than the board's original request, it shall amend estimates of expenditures accordingly. Before the beginning of the fiscal year, the school board shall file with the comptroller its budget as finally revised. It shall have the power to order during the course of the fiscal year transfers from one item of appropriation to another, notice of which will be immediately transmitted to the comptroller.

2. That § 5.11 of Chapter 542 of the Acts of Assembly of 1990 is repealed.