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SENATE BILL NO. 1040

Senate Amendments in [] — January 25, 2013

A *BILL to provide a charter for the Town of Bedford in Bedford County and to repeal Chapter 6 of the Acts of Assembly of 1969, Extra Session, as amended, which provided a charter for the City of Bedford.*

Patron Prior to Engrossment—Senator Newman

Referred to Committee on Local Government

Be it enacted by the General Assembly of Virginia:

1.

*CHARTER
FOR THE
TOWN OF BEDFORD.*

Incorporation, Boundaries, and Powers Generally

§ 1. *Incorporation.*

The inhabitants of the territory included within the limits of the former City of Bedford, as hereinafter defined, shall continue to be a body politic and corporate under the name of the Town of Bedford, on and after July 1, 2013, and as such shall have perpetual succession, may sue and be sued, contract and be contracted with, and may have a corporate seal that it may alter at its pleasure.

§ 2. *Corporate boundaries.*

The boundaries of the Town of Bedford shall be as set forth (i) by decree of a certain annexation court sitting at Bedford, Virginia, said decree having been entered on the 14th day of October, 1959, recorded in the Bedford County clerk's office in Deed Book 288 beginning at page 545 in a certain annexation proceeding involving the Town of Bedford and the County of Bedford, said boundary encompassing a total area of 6.7675 square miles; (ii) by order of a voluntary settlement court entered on June 22, 1993, recorded in the Bedford County clerk's office in Deed Book 911 beginning at page 846 in a certain voluntary settlement proceeding involving the City of Bedford and the County of Bedford; and (iii) by order of a voluntary settlement court entered on December 18, 2012, recorded in the Bedford County clerk's office [~~in Deed Book~~ beginning at page as instrument number 120013834] , which provided that the City of Bedford would become a town within the County of Bedford as of July 1, 2013, and that additional territory would be incorporated into the Town of Bedford as of that date.

§ 3. *Powers.*

The powers set forth in Article 1 (§ 15.2-1100 et seq.) of Chapter 11 of Title 15.2 of the Code of Virginia as in force on the date that this act takes effect, and all acts amendatory thereof, and all other powers that are now or may be conferred upon or delegated to towns under the Constitution and laws of the Commonwealth and all other powers pertinent to the conduct of a town government the exercise of which is not expressly prohibited by said Constitution and laws and which, in the opinion of the town council are necessary and desirable to promote the general welfare of the town and the safety, health, peace, good order, comfort, convenience, and morals of its inhabitants, are fully and completely conferred upon the Town of Bedford as though such powers specifically were enumerated in this Charter, and no enumeration of particular powers in this Charter shall be held to be exclusive but shall be held to be in addition to this general grant of powers. In addition to other powers conferred by law, the Town of Bedford shall have the power to supply electric public utility service, and to construct, enlarge, or acquire, by lease or otherwise, any electric utility services, outside its political boundaries within the territory now served by the present municipal electric system as determined by § 56-265.4:1 of the Code of Virginia or as hereafter determined by the general laws; and the power to provide cable antennae television service to customers within and without the town as feasible or grant franchises therefor.

In addition to the powers granted by other sections of this Charter, the town shall have the power to raise annually by taxes and assessments, as permitted by general law, in the town, such sums of money as the council shall deem necessary to pay the debts and defray the expenses of the town, in such manner as the council shall deem expedient. In addition to, but not as a limitation upon, this general grant of power the town shall have power to levy and collect ad valorem taxes on real estate and tangible personal property and machinery and tools; to levy and collect taxes for admission to or other charge for any public amusement, entertainment, performance, exhibition, sport, or athletic event in the town, which taxes may be added to and collected with the price of such admission or other charge; to

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60 levy and collect taxes on hotel and motel rooms; to levy and collect privilege taxes, local general retail
61 sales and use tax as provided by law, and capitation taxes; unless prohibited by general law, to require
62 licenses, prohibit the conduct of any business, profession, vocation, or calling without such a license,
63 and require taxes to be paid on such licenses in respect to all businesses, professions, vocations, and
64 callings that cannot, in the opinion of the council, be reached by the ad valorem system; and to require
65 licenses of all owners of vehicles of all kinds for the privilege of using the streets and other public
66 places of the town, require taxes to be paid on such licenses, and prohibit the use of streets, alleys, and
67 other public places in the town without such license, said town to have the power to require as a
68 condition precedent to the issuance of motor vehicle licenses the exhibiting by the motor vehicle license
69 applicant of adequate proof of the payment of all personal property taxes then due and payable to the
70 town by the license applicant.

71 In addition to the other powers conferred by law, the Town of Bedford shall have the power to
72 impose, levy, and collect, in such manner as its council may deem expedient, a consumer or subscriber
73 tax upon the amount paid for the use of water, gas, electricity, telephone, and any other public utility
74 service within the town or upon the amount paid for any one or more of such public utility services, and
75 may provide that such tax shall be added to and collected with bills rendered consumers and
76 subscribers for such services.

Administration and Government

The Mayor and Council

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79 § 4. Qualifications of council members.

80 Each member of council, including the mayor, shall be a qualified voter and a bona fide resident of
81 the town.

82 § 5. Duties of mayor generally.

83 The mayor shall preside over the meetings of the council, shall have the same right to speak therein
84 as other members of council, and shall have a vote as other members of council, but shall have no
85 power to veto. He shall have authority to appoint such committees of the council as deemed necessary
86 and expedient in the proper administration of the town government.

87 The mayor shall be recognized as the head of town government for all ceremonial purposes, the
88 purpose of military law, and the service of civil process. He shall authenticate, by his signature, such
89 instruments as the council, this Charter, or the laws of the Commonwealth may require.

90 § 6. Selection of mayor and vice mayor.

91 The council of the Town of Bedford, at its first meeting after its election, shall elect from its
92 membership one of its members as mayor of the town. The council at said meeting also shall elect from
93 its membership one of its members as vice mayor, who shall, in the absence or inability of the mayor to
94 act, have all of the powers and duties of the mayor and shall perform all of his functions.

95 At the first meeting of each new and succeeding council elected hereunder, such mayor and vice
96 mayor shall be elected.

97 § 7. Council - Generally; devolution of powers in absence, etc., of mayor and vice mayor;
98 compensation of mayor, vice mayor, and council.

99 The Town of Bedford shall be governed by a town council that shall be composed of seven members
100 elected at large.

101 Vacancies on the council shall be filled [~~within sixty days by a recorded majority vote of council for~~
102 ~~the unexpired term, except where a special election is required by general law.~~ as provided by general
103 law.] In case of the absence or disability of both the mayor and vice mayor, one of the other council
104 members selected by a majority vote of the council shall have all of the powers conferred by this
105 Charter and by general law upon the mayor and vice mayor.

106 The salary of each member of council, including the salary of the mayor and the salary of the vice
107 mayor, shall be as the same may be fixed by council. The salary of the members of council shall be
108 payable out of the treasury of the Town of Bedford in monthly installments. The council may, from time
109 to time, by five-sevenths vote of all members elected to council change the salaries of the members of
110 council, including the salary of the mayor and the salary of the vice mayor.

111 § 8. Same - Election, term, and filling of vacancies.

112 As provided by order of a special court entered on December 18, 2012, pursuant to §§ 15.2-3400
113 and 15.2-4115 of the Code of Virginia, seven members shall be elected for the town council at a special
114 municipal election to be held in May 2013. The four members receiving the highest number of votes
115 shall serve a term that runs from July 1, 2013, through December 31, 2016. The three members
116 receiving the next highest number of votes shall serve a term that run from July 1, 2013, through
117 December 31, 2014. At the general election held in November 2014 and every four years thereafter,
118 three members shall be elected for a term of four years. At the general election held in November 2016,
119 and every four years thereafter, four members shall be elected for a term of four years. The persons so
120 elected shall take office on the first day of January following such election.

121 [~~In the event of a vacancy on council and the casting by the remaining membership of council of a~~

tie vote on the election of a new member of council, or in the event that the remaining members of council otherwise shall be unable to agree, the clerk of council, after the expiration of a sixty-day period from the date of such vacancy, shall certify this fact to the judge of the Circuit Court of Bedford County, who shall enter an order appointing a qualified person to fill such vacancy for the unexpired term, except where a special election is required by general law.]

§ 9. Same - Powers enumerated.

All powers of the Town of Bedford as a body politic and corporate shall be vested in the town council.

The council shall be the policy-determining body of the town and shall be vested with all of the rights and powers conferred on councils in towns, not inconsistent with this Charter. In addition to the foregoing, the council shall have the following powers:

(1) To have full power to inquire into the official conduct of any office or officer under its control and to investigate the accounts, receipts, disbursements, and expenses of such town employees; for these purposes it may subpoena witnesses, administer oaths, and require the production of books, papers, and other evidence; and in case any witness fails or refuses to obey any such lawful order of the council, he shall be deemed guilty of a misdemeanor.

(2) To provide for the performance of all the governmental functions of the town and to that end to provide for and set up all departments and agencies of government that shall be necessary. Whenever it is not designated in this Charter what office or employee of the town shall exercise any power or perform any duty conferred upon or required of the town or any officer thereof, by general law, then any such power shall be exercised or duty performed by that officer or employee of the town so designated by ordinance or resolution of council. Any activity that is not assigned by the provisions of this Charter to specific departments or agencies of the town government shall be assigned by the council to the appropriate department or agency. The council may further create, abolish, reassign, transfer, or combine any town functions, activities, or departments. The council, in its discretion, may appoint the same person to more than one appointive office.

(3) To fix a schedule of compensation for all town officers and employees. The council may by ordinance define certain classes of town employees whose salaries shall be set by the town manager.

(4) To prescribe the amount and condition of surety bonds to be required of such officers and employees of the town as the council may designate.

(5) The town manager, the clerk of the council, the town attorney, and all employees who report directly to the town manager as department heads shall serve at the pleasure and will of their appointing authority. Where the selection and tenure in office of officers and employees are otherwise specified in this Charter, the Constitution of Virginia, or state statute, those provisions shall govern.

§ 10. Oath of office.

The mayor and other municipal officers of the town, before entering upon the duties of their respective offices, shall be sworn in according to the laws of the Commonwealth by any one authorized to administer oaths, which said oaths shall be subscribed in writing and filed with the clerk of the council.

The failure of any person elected or appointed to an office under this Charter to qualify within thirty days after the commencement of the term for which he was elected or appointed, or if elected or appointed to fill a vacancy, for thirty days after such election or appointment, shall vacate his office.

Council Procedures

§ 11. Meetings generally.

The council shall, by ordinance, fix the time and place of its meeting. It shall have authority to adopt such rules as it may deem proper for the regulation of its proceedings and may compel the attendance of its members, punish its members for disorderly behavior, and by a vote of two-thirds of its members expel a member for malfeasance or misfeasance in office. All elections and appropriations of money shall be by roll call vote and the vote shall be recorded in the minutes of the council.

§ 12. Quorum.

Four members of the council shall constitute a quorum for the transaction of business, but no ordinance or resolution having for its object the levying of taxes or the appropriating of money shall be adopted except by an affirmative vote of five of the members of council.

§ 13. Forfeiture of office upon conviction of felony.

Any member of the council or other officer of the town who shall have been convicted of a felony while in office shall thereby forfeit his office.

§ 14. Organization meeting.

On the first business day of January following each regular municipal councilmanic election, the council shall meet for its organization meeting, at which time the newly elected council members shall be sworn in and shall assume the duties of their office. At the same meeting, council shall elect a mayor and vice mayor. Thereafter the council shall meet regularly at such time as may be prescribed by

183 ordinance or resolution, such regular meetings to be held not less than once each month.

184 § 15. Special meetings.

185 The mayor or any three members of the council may call special meetings of the council, at any
186 time, after a written notice of at least six hours, with the purpose of the meeting stated therein, served
187 personally on each member of the council and the mayor, or left at his usual place of business or
188 residence if he be not found with due diligence, or such meeting may be held at any time, without any
189 service of notice, provided all members of the council attend. No business other than that mentioned in
190 the call shall be considered at such meeting unless all members of council are present.

191 § 16. Clerk to the council.

192 The council shall appoint a clerk to the council to serve at the pleasure of the council. He shall keep
193 the journal of the council's proceedings and shall record all ordinances in a book kept for the purpose.
194 He shall be the custodian of the corporate seal of the town and shall be the officer authorized to use
195 and authenticate it. He shall receive such compensation as clerk to the council as may be determined by
196 the council.

197 Enactments

198 § 17. Ordinances and resolutions.

199 Except as otherwise provided in this Charter, an affirmative vote of a majority of the members of
200 council present shall be necessary to adopt any ordinance or resolution. An ordinance or resolution may
201 be presented and enacted at the same meeting.

202 § 18. Recordation and authentication of ordinances.

203 Every ordinance or resolution having the effect of an ordinance when enacted by the council shall be
204 recorded and indexed by the clerk of the council in a book kept for that purpose and shall be
205 authenticated by the signature of the presiding officer and the clerk of the council.

206 § 19. Publication of ordinances.

207 Every ordinance involving a penalty for its violation shall be published one time, immediately
208 following its passage, in some newspaper having general distribution in the town, or posted at three or
209 more public places in the town for one week, and no such ordinance shall be effective until the same
210 has been so published.

211 This section shall not be construed to require the publication or posting of any revision or
212 codification of the ordinances of the town. It shall be sufficient, in the case of any such revision or
213 codification of the town ordinances and any new material or ordinances included therein, to publish or
214 post the adopting ordinance as required herein.

215 § 20. Final passage of ordinance on day of presentation and first reading.

216 When it is proposed to place an ordinance on its final passage on the same day on which it was first
217 presented and read, and objection is made to so doing, the ayes and noes shall be ordered on the
218 question of so doing. In such case the ordinance shall not be placed upon its final passage at that
219 meeting except by the concurrence of two-thirds of the members present.

220 Town Manager

221 § 21. Appointment, qualifications, and term of office.

222 There shall be a town manager who shall be responsible to the council for the proper administration
223 of the town government. He shall be chosen by the council without regard to his political beliefs and
224 solely upon the basis of his executive and administrative qualifications. He shall be appointed for an
225 indefinite period and shall hold office at the pleasure of the council. At the time of his appointment he
226 need not be a resident of the town or the Commonwealth, but during his tenure of office he shall reside
227 within the town.

228 § 22. Duties enumerated.

229 (1) To see that all laws and ordinances of the town are enforced.

230 (2) To exercise supervision and control over all administrative departments and divisions, unless
231 otherwise provided by resolution or ordinance of the council.

232 (3) To attend all regular meetings of council with the right to take part in the discussion but having
233 no vote.

234 (4) To recommend to the council for adoption such measures as he may deem necessary or
235 desirable.

236 (5) To execute all contracts on behalf of the town.

237 (6) To prepare and submit to the council the annual budget.

238 (7) To keep the council advised as to the present and future needs of the town and as to all
239 operations of its government.

240 (8) To perform all such duties as may be prescribed by the Charter or be required of him by the
241 council.

242 § 23. Absence or disability.

243 During the absence or disability of the town manager or in case of a vacancy, the council shall
244 designate some properly qualified person to perform the duties of the office during such absence,

disability or vacancy.

§ 24. Council-manager relationship.

Except for the purpose of conducting administrative inquiries and hearings by the council or a committee thereof, the mayor and members of the council shall deal with the administrative service solely through the town manager, and neither the council nor any member thereof shall give orders to any subordinates of the town manager, either publicly or privately.

§ 25. Council members not to succeed to office of town manager.

No council member shall be appointed as town manager during the term for which he has been elected nor within one year after the expiration of his term.

Financial Administration

§ 26. Fiscal year.

The fiscal year of the town shall be from July 1 through June 30 inclusive.

§ 27. Submission and adoption of budget; hearings and tax levy.

No later than the first day of May annually the town manager shall prepare and submit to the council a budget presenting the financial plan for conducting the affairs of the town for the ensuing fiscal year. Such budget shall be set up in the manner provided by law and shall include such information as council, by ordinance or resolution, may require.

Hearings on the budget shall be held and notice thereof given and the budget adopted in accordance with general laws of the Commonwealth.

The tax levy for each fiscal year shall be made and a budget for the fiscal year shall be adopted prior to the first day of the fiscal year for which they were made or adopted.

§ 28. Borrowing powers.

The council may, in the name of and for the use of the town, incur indebtedness by issuing its bonds or notes for the purposes, in the manner, and to the extent provided for in this Charter and by the general law of Virginia.

§ 29. Purpose for which bonds or notes may be issued; manner of issuance.

Bonds and notes in anticipation of bonds when the issuance of bonds has been authorized as hereinafter provided may be issued for any purpose for which towns are authorized to issue bonds by the Constitution or general laws of the Commonwealth.

Notes in anticipation of collection of revenue may be issued when authorized by the council at any time during the fiscal year. Bonds and notes of the town may be issued in any manner provided by general law.

§ 30. Audits generally.

At the close of each fiscal year the council may cause to be made an independent audit of the accounts, books, records, and financial transactions of the town by the auditor of public accounts of the Commonwealth or by a firm of independent certified public accountants to be selected by the council. The report of such audit shall be filed within such time as the council shall specify, and one copy thereof shall be available for public inspection in the office of the clerk of the council at any time during regular business hours. Upon the death, resignation, or termination of employment of any town officer or employee, council may order an audit of the accounts, books, records, and financial transactions of that office.

§ 31. Town attorney.

There shall be a town attorney appointed by council, and he shall hold office at the pleasure of the council and shall receive such compensation as council may determine. He shall be an attorney at law licensed to practice under the laws of the Commonwealth. The town attorney shall be the chief legal adviser of the council, the town manager, and all departments, boards, commissions, and agencies of the town in all matters affecting the interest of the town. He shall represent the town in all civil proceedings. It shall be his duty to perform all services as may be required by the laws of the Commonwealth, this Charter, or by ordinance.

General Provisions

§ 32. Contractual relationships.

The Town of Bedford may, at the option of the town council, enter into contractual relationships with the Commonwealth; the Commonwealth's departments, bureaus, boards, and agencies; neighboring political subdivisions; or private agencies for the performance of all or any part of the functions or purposes of the town, on such terms and for such periods as the council may determine to be in the public interest, where such contractual relations are not specifically prohibited by the Constitution and general laws of the Commonwealth.

§ 33. Residence of officers and employees.

Except as otherwise provided in this Charter, the council shall have the power to provide by resolution or ordinance the length of prior residence in the town, if any, which shall be required as a qualification for employment of officers and employees of the town, or any of them, and whether such

306 officers and employees, or any of them, shall be required to reside within the town during their tenure
307 in such office or employment.

308 § 34. *Present ordinances and rules and regulations continued in effect.*

309 All ordinances and resolutions of the former city and all rules, regulations, and orders legally made
310 by any department, board, commission, or officer of the former city, in force at the effective date of this
311 Charter, insofar as they or any portion thereof are not inconsistent herewith, shall remain in force until
312 amended or repealed.

313 § 35. *Continuance of officials and officers.*

314 Except as to council members of the former city or where this Charter may otherwise provide, all
315 officers of the former city holding office immediately prior to the effective date of this Charter, whether
316 such office be elective or appointive, may continue in such office until the expiration of their respective
317 current term of office or until their successors shall have been elected or appointed and qualified or
318 until such office may be lawfully terminated.

319 § 36. *Continuance of internal organization of town.*

320 Except where this Charter may otherwise provide, the several departments, commissions, boards, and
321 other administrative units of the town functioning at the effective date of this Charter are hereby
322 continued until otherwise provided by ordinance.

323 § 37. *Continuance of contracts.*

324 All contracts entered into by the former city or for its benefit prior to the taking effect of this
325 Charter shall continue in full force and effect [, except such contracts as are terminated or modified
326 pursuant to the order of a voluntary settlement court entered on December 18, 2012, which affirmed
327 and validated a Voluntary Settlement of Transition to Town Status and Other Related Issues between the
328 City of Bedford and the County of Bedford] . All public works begun prior to the taking effect of this
329 Charter may be continued and completed hereunder. Public improvements for which legislative steps
330 shall have been taken under laws in force at the time this Charter takes effect may be carried to
331 completion in accordance with the provisions of such laws.

332 § 38. *Applicability of state law; conflicts with jurisdiction of State Corporation Commission.*

333 If there is omitted from this Charter any provision essential to the valid sale or granting, renewing,
334 extending, or amending of any franchise, privilege, lease, or right of any kind to use any public
335 property in the town, the provisions of the general law with reference to this subject shall supply such
336 omissions, provided that nothing contained in this Charter shall affect any franchise heretofore granted
337 or any contract heretofore made with a public utility corporation, nor shall anything contained in this
338 Charter be construed to conflict with the jurisdiction of the State Corporation Commission.

339 § 39. *Severability; short title.*

340 If any clause, sentence, paragraph, or part of this Charter shall for any reason be adjudged by any
341 court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the
342 remainder of said Charter, but shall be confined in its operations to the clause, sentence, paragraph, or
343 part thereof directly involved in the controversy in which such judgment shall have been rendered.

344 This act may for all purposes be referred to or cited as the Town of Bedford Charter of 2013 and
345 shall be effective on July 1, 2013.

346 **2. That Chapter 6 of the Acts of Assembly of 1969, Extra Session, as amended, is repealed.**