

17102728D

HOUSE BILL NO. 1958

Offered January 11, 2017

Prefiled January 10, 2017

A *BILL to amend and reenact §§ 2.2, 2.5, 4.1, and 5.2, § 5.4, as amended, § 5.5, § 6.1, as amended, §§ 6.2, 6.3, and 6.4, § 6.7, as amended, §§ 6.9, 6.10, and 6.12, § 7.4, as amended, § 7.5, and §§ 7.6 and 8.1, as amended, of Chapter 12 of the Acts of Assembly of 1987 and to repeal § 6.6, as amended, and §§ 6.8 and 8.1.a of Chapter 12 of the Acts of Assembly of 1987, which provided a charter for the County of Chesterfield, relating to powers, departments, and the school board.*

Patron—Ingram

Referred to Committee on Counties, Cities and Towns

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2, 2.5, 4.1, and 5.2, § 5.4, as amended, § 5.5, § 6.1, as amended, §§ 6.2, 6.3, and 6.4, § 6.7, as amended, §§ 6.9, 6.10, and 6.12, § 7.4, as amended, § 7.5, and §§ 7.6 and 8.1, as amended, of Chapter 12 of the Acts of Assembly of 1987 are amended and reenacted as follows:

§ 2.2. Additional powers.

In addition to the powers granted by other sections of this charter and general law, the county shall have the power to raise annually by taxes and assessments, as permitted by general law, ~~in the county~~ such sums of money as the board shall deem necessary to pay the debts and defray the expenses of the county, in such manner as the board shall deem expedient. In addition to, but not as a limitation upon this general grant of power, the county 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 on hotel and motel rooms; to levy and collect business taxes, local general retail sales and use tax as provided by law; unless prohibited by general law to require licenses, prohibit the conduct of any business, profession, vocation or calling without such a license, require taxes to be paid on such licenses in respect of all businesses, professions, vocations and callings which cannot, in the opinion of the board be reached by the ad valorem system; to franchise any business or calling so as to protect the public interest; and to require licenses of all owners of vehicles of all kinds.

In addition to the other powers conferred by law, the County of Chesterfield shall have the power to impose, levy and collect, in such manner as its board may deem expedient, a consumer tax upon the amount paid for the use of water, gas, electricity, ~~telephone, cable television~~ *communications services*, and any other public utility service within the county or upon the amount paid for any one or more of such public utility services, subject to provisions of general law and may provide that such tax shall be added to and collected with bills rendered consumers and subscribers for such services. The county may establish and collect such fees as the board of supervisors may deem reasonable for the rendering of special services.

§ 2.5. Abandonment of road.

The governing body of the county on its own motion may cause any section of the secondary system of highways deemed by it to be no longer necessary for the uses of the secondary system of highways to be abandoned altogether as a public road by complying substantially with the procedure provided for in ~~§ 33.1-154~~ *33.2-909* of the Code of Virginia, including notice of intention to abandon any such road by publication in two or more issues of some newspaper having general circulation in the county. Such notice shall specify the time and place of the hearing at which persons affected may appear and present their view, which shall not be less than six days nor more than twenty-one days after the second newspaper advertisement.

A finding by the governing body, after a public hearing, that a section of the secondary system of highways is no longer necessary for the uses of the secondary system may be made if the following conditions exist:

1. The road is located within a residence district as the latter is defined in § 46.2-100 of the Code of Virginia;

2. Continued operation of the section of road in question constitutes a threat to the public safety and welfare; and

3. Alternate routes for use after abandonment of the road are readily available. Any order of abandonment issued in compliance with this section shall give rise in subsequent proceedings, if any, to a presumption of adequate justification for the abandonment.

Appeals from any order of abandonment may be made as provided for in ~~§ 33.1-152 et seq.~~ *33.2-910* of the Code of Virginia.

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HB1958

§ 4.1. Appointment of county administrator.

The board shall appoint a county administrator who shall be the administrative head of the county government responsible for the proper administration of the government as reflected by the legislative and policy directions of the board and by general law. He shall be chosen solely on the basis of his executive and administrative qualifications. He shall serve at the pleasure of the board and shall enforce the laws of the county and, where applicable, the Commonwealth and shall ~~insure~~ ensure the faithful performance of all administrative duties required by the board. The board may enter into an employment agreement with the county administrator defining terms of employment.

§ 5.2. Submission of budget and budget message.

The county administrator shall submit to the board a recommended operating and capital improvement budget and a budget message by March 15th of each year.

The budget message shall contain the recommendation of the county administrator concerning the fiscal policy of the county, a description of the important features of the budget, a five-year capital budget, a three-year projection for revenues and expenditures and an explanation of all significant changes in the budget as to estimated receipts and recommended expenditures as compared with the current and last preceding fiscal years. No later than March 1st of each year, the superintendent of schools shall submit to the county administrator his estimate of projected revenues and expenditures for the next fiscal year in a form requested by the county administrator as well as a five-year capital improvements program. By January 1st of each year the director of social services, the director of mental health and mental retardation support services, the extension agent, the circuit court and district court and the constitutional officers shall submit to the county administrator their estimates of projected revenues and expenditures for the next fiscal year in a form requested by the county administrator.

§ 5.4. Adoption of budget.

After the public hearing as required by law the board may make such changes in the budget as it may determine, except that no item of expenditure for debt service shall be reduced or omitted *below what the county is obligated to pay*. The operating budget and capital improvements budget shall be adopted by resolution by the vote of at least a majority of all members of the board not later than May 1st of each year. Appropriations in addition to those contained in the general appropriation ordinance may be made by the board only if there is available in the general fund an unencumbered and unappropriated sum sufficient to meet such appropriations.

§ 5.5. Borrowing.

The board of supervisors may incur indebtedness by issuing bonds, notes or other obligations for the purposes, in the manner and to the extent provided for by the Constitution of Virginia and the Code of Virginia. The term indebtedness shall not include contractual obligations of the county, lease/purchase agreements subject to annual appropriations and revenue bonds payable solely from revenue producing properties or activities.

§ 6.1. ~~Creation of departments~~ *Departments and divisions.*

~~The following administrative departments are hereby created:~~

- ~~(1) Department of County Attorney.~~
- ~~(2) Department of Budget and Accounting.~~
- ~~(3) Department of Police.~~
- ~~(4) Department of Fire.~~
- ~~(5) Department of Planning.~~
- ~~(6) Department of Social Services.~~
- ~~(7) Department of Mental Health and Mental Retardation.~~
- ~~(8) Department of Health.~~
- ~~(9) Department of Economic Development.~~

The departments and divisions of the county in existence on July 1, 2017, shall remain in existence unless changed in accordance with this charter.

The board of supervisors, *in consultation with the county administrator*, may create ~~new departments or divisions or~~ combine or abolish existing departments ~~and or divisions~~, distribute the functions thereof ~~or~~, and establish temporary departments or divisions for special work, provided, however, that neither the county administrator nor the board shall have the power to abolish, transfer or combine the functions of the constitutional officers, *or public school functions or the departments created by this section.*

§ 6.2. Responsibilities of division and department heads.

There shall be a director at the head of each department. The director of each administrative department, except the constitutional officers, *the chief of police* and the county attorney, shall be appointed by the county administrator ~~upon advising and informing in consultation with the board in~~ advance of such proposed appointment and such appointment shall be subject to board veto in accordance with this charter. Such directors shall serve in accordance with applicable personnel policies and may be removed by the county administrator upon advising and informing the board in advance of such decisions. The director of each department shall be chosen on the basis of his executive and

administrative ability, experience and education. The ~~superintendent of schools, the director of social services, and the director of mental health and mental retardation, and the director of the health department support services~~ shall be appointed in accordance with this charter.

§ 6.3. Responsibility of division and department directors to the board and county administrator.

The directors of each administrative department, except the constitutional officers and those departments not appointed by the county administrator or board of supervisors, shall be responsible to the county administrator and board for the administration of their respective departments and their advice may be required by the board on all matters affecting their departments. They shall make reports and recommendations concerning their departments, but unless specifically requested, such reports and recommendations shall be made by the county administrator under such rules as the board may prescribe.

§ 6.4. Personnel rules and regulations.

A personnel system shall be established by the board of supervisors for county administrative officials and employees. Such a system shall be based on merit and professional ability without regard to race, national origin, religion, sex or political affiliation. The personnel system shall include a classification plan for service, a staff development plan, a uniform pay plan and a procedure for resolving grievances for employees of the county as provided by general law. Employees of constitutional officers and other agencies may participate in the personnel system at the discretion of the board and upon the concurrence of the constitutional officer.

§ 6.7. Department of police.

The police department shall be composed of a chief of police and such officers, patrolmen and other employees as the board of supervisors may determine. The powers and duties set forth in §§ 15.2-1704 and ~~15.2-1710~~ of the Code of Virginia shall apply to the police force. The chief of police shall be responsible for the immediate direction and control of the department. The chief shall solely, within his discretion and subject to the other provisions herein, select, employ, promote, and terminate such officers, patrolmen and employees. He shall also select, employ, promote, and terminate the animal warden and his deputies; provided that all other provisions of § ~~3.1-796.104~~ 3.2-6555 of the Code of Virginia shall remain in effect. The chief may adopt rules and regulations for the police department in the same manner as rules and regulations are adopted for other departments.

The chief shall be appointed by the board of supervisors on recommendation of a committee of not more than five persons. The committee shall consist of the county administrator and at least one, but not more than one, of the following: (a) one member of the board of supervisors, (b) one citizen from the community, who is not at the time he serves on the committee an employee of the Chesterfield County department of police, appointed by the chief circuit court judge and (c) one member with police experience appointed by the board. The remaining member, if any, shall be appointed by the board and shall be neither an elected nor an appointed county official. The chief of police can only be dismissed by the board of supervisors for cause.

§ 6.9. Department of social services.

The department of social services shall consist of the director of social services, a social services board, and such officers and employees organized in such manner as may be provided by the director. The department shall be responsible for the duties imposed by the laws of the Commonwealth of Virginia relating to public assistance and relief of the poor and such other powers and duties as may be assigned by the board of supervisors or the social services board. The director of social services shall be appointed by the social services board and he shall have general management and control of the department. The director shall in all ways cooperate with the county administrator so that the provision of social services is fairly coordinated with the provision of other governmental services. The social services board shall consist of members appointed in the same fashion as existed prior to the adoption of a charter *or modified in accordance with general law*. The social services board shall have such authority as is vested in it by general law and may adopt necessary rules and regulations not in conflict with this charter or general law concerning such department. The social services board and the board of supervisors shall meet jointly at least annually for the purpose of discussing common issues and methods of providing the most efficient services to the public. In addition, at least annually prior to January 1st, the director shall meet with the county administrator to discuss program plans and budgetary needs for the next fiscal year.

§ 6.10. Department of mental health and ~~mental retardation support services~~.

The department of mental health and ~~mental retardation support services~~ shall consist of the director of mental health and ~~mental retardation support services~~, a community services board, and such officers and employees organized in such manner as may be provided by the director. The department shall be responsible for the duties imposed by the laws of the Commonwealth of Virginia relating to mental health and ~~mental retardation support services~~ and such other powers and duties as may be assigned by the board of supervisors or the community services board. The director of mental health and ~~mental~~

182 ~~retardation~~ support services shall be appointed by the community services board, and he shall have
183 general management and control of the department. The director shall in all ways cooperate with the
184 county administrator so that the provision of mental health and ~~mental retardation~~ support services is
185 fairly coordinated with the provision of other governmental services. The community services board
186 shall consist of members appointed in the same fashion as existed prior to the adoption of a charter. The
187 community services board shall have such authority as is vested in it by general law and may adopt
188 necessary rules and regulations not in conflict with this charter or general law concerning such
189 department. The community services board and the board of supervisors shall meet jointly at least
190 annually for the purpose of discussing common issues and methods of providing the most efficient
191 services to the public. In addition, at least annually prior to January 1st, the director shall meet with the
192 county administrator to discuss program plans and budgetary needs for the next fiscal year.

193 § 6.12. Internal auditor.

194 The internal auditor shall be responsible for providing internal accounting and auditing controls to
195 assure compliance with applicable laws, contractual obligations and accepted accounting practices to
196 safeguard against loss or inefficiency. Such internal auditor shall have access to all ~~county~~ records or
197 documents of the county and the school board of the county subject to applicable law.

198 § 7.4. ~~Planning department~~ Director of planning.

199 The ~~planning department~~ shall be composed of a director of planning and such employees as the
200 board of supervisors may determine. The ~~director of planning department~~ shall perform such
201 responsibilities as are imposed by general law and as may be assigned by the planning commission and
202 board of supervisors. The director of planning shall have immediate direction and control of the
203 ~~planning~~ department, shall be appointed by the county administrator and shall serve subject to the same
204 terms and conditions as are applicable to other department heads. In addition to the authority granted to
205 the board of zoning appeals pursuant to § 15.2-2309 of the Code of Virginia, the board of supervisors
206 by ordinance may authorize the director of planning to grant a variance of not more than two feet from
207 any building setback requirement contained in the county's zoning or subdivision ordinance if he finds in
208 writing: (i) that the strict application of the ordinance would produce undue hardship; (ii) that such
209 hardship is not shared generally by other properties in the same zoning district and the same vicinity;
210 and (iii) that the authorization of such variance will not be of substantial detriment to adjacent property
211 and that the character of the zoning district will not be changed by the granting of the variance.

212 § 7.5. ~~Committee~~ Committees on the future of the county.

213 The board of supervisors may appoint a committee on the future of the county consisting of equal
214 representation from each magisterial district. ~~The committee shall meet periodically and shall prepare~~
215 ~~reports and make recommendations concerning changes in governmental structure, revisions to fiscal and~~
216 ~~land use planning, and any other matters concerning approaches to meeting the governmental needs of~~
217 ~~the people of Chesterfield in the future. The committee shall meet at least annually with the board of~~
218 ~~supervisors and shall prepare a written report detailing its forecast of the condition of the county in the~~
219 ~~future and means by which the county can cope with future needs or problems that are likely to occur in~~
220 ~~the future. The committee shall seek to anticipate long-range problems and changes within the county~~
221 ~~and develop solutions that can be considered by elected officials to lessen any adverse effect on the~~
222 ~~county of future changes. The scope of the committee's responsibilities shall not be limited by any~~
223 ~~current categories of perceived long-range issues facing the county. Staff support shall be provided by~~
224 ~~the planning department and such other county departments as are deemed necessary by the committee.~~
225 The board of supervisors shall be required to respond in writing to all issues, concerns, or solutions
226 raised in the committee's annual report. ~~The board of supervisors may appoint other committees as the~~
227 ~~board deems advisable.~~

228 § 7.6. Substantial accord review of county facilities.

229 Any public area, facility or use as defined by § 15.2-2232 of the Code of Virginia, which has been
230 approved by the board of supervisors following a public hearing held pursuant to the county's zoning
231 ordinance shall be exempt from the requirement for submittal to and approval by the county's planning
232 commission or governing body under § 15.2-2232 of the Code of Virginia, so long as such public area,
233 facility or use remains subject to the requirements of the zoning ordinance. *Once a public facility has*
234 *been determined to be in substantial accord with the county's comprehensive plan or is shown on the*
235 *public facilities plan, then additional property for such facility may be added without submittal and*
236 *approval under § 15.2-2232 of the Code of Virginia. In addition, all telecommunications facilities of the*
237 *nature defined in the county's zoning ordinance as "communication small cell" shall be exempt from the*
238 *requirements for submittal and approval under § 15.2-2232 if the facilities are located within a zoning*
239 *district where such use is either permitted by right or permitted with restrictions, provided that all such*
240 *restrictions are satisfied.*

241 § 8.1. ~~Appointment~~ Election of school board members.

242 Beginning January 1, 1988, and continuing until December 31, 1995, the school board of the county
243 shall consist of five members to be appointed by a majority vote of the full board of supervisors; one

member from each magisterial district. Prior to the appointment of any school board member the board of supervisors shall hold a public hearing in the magisterial district for which the appointment shall be made. At such public hearing, any person interested in such appointment shall identify himself. The supervisor from such magisterial district shall, and other members may, nominate an applicant for the appointment who identified himself at the prior public hearing. The members of the school board in office on the effective date of this section shall continue in office for the terms for which they were selected. Thereafter, selection of school board members shall be for four-year terms. The terms of office of all school board members appointed pursuant to this section, regardless of the date of selection, shall expire on December 31, 1995. If the size of the board of supervisors is revised, the size and composition of the school board shall be changed so that the number of its members shall be consistent with the new size of the board of supervisors. Except as provided for herein, in all other applicable respects the provisions of the Constitution and general laws of the Commonwealth shall apply with respect to the appointment of school board members. Notwithstanding the provisions set forth herein, all terms and conditions of § 22.1-60 of the Code of Virginia shall be complied with by the county. *The school board of the county shall consist of five members and shall be elected one from each magisterial district. The terms of the members of the school board shall be the same as the members of the board of supervisors, and elections of school board members shall be held simultaneously with the election of board of supervisors. If the size of the board of supervisors is revised, the size and composition of the school board shall be changed so that the number of its members shall be consistent with the new size of the board of supervisors.*

2. That § 6.6, as amended, and §§ 6.8 and 8.1.a of Chapter 12 of the Acts of Assembly of 1987 are repealed.