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HOUSE BILL NO. 1642

House Amendments in [] — January 26, 1999

A BILL to provide a charter for the Town of Bluefield in Tazewell County and to repeal Chapter 150, as amended, of the Acts of Assembly of 1930, which provided a charter for the Town of Bluefield.

Patrons—Tate and Stump; Senator: Puckett

Referred to Committee on Counties, Cities and Towns

Be it enacted by the General Assembly of Virginia:

1.

CHARTER OF THE TOWN OF BLUEFIELD

§ 1. Incorporation; body politic and corporate; name.

The inhabitants of the Town of Bluefield, Virginia, as its limits are or hereafter may be established, shall continue to be a body, politic and corporate, to be known and designated as the Town of Bluefield, and as such shall have and may exercise all powers which are now or hereinafter may be conferred upon or delegated to towns under the Constitution and laws of the Commonwealth of Virginia as fully and completely as though said powers were specifically enumerated herein, and no enumeration of particular powers by this charter shall be held to be exclusive.

§ 2. Boundaries.

The territory contained within the limits of the town shall be the same as heretofore and hereafter established by the Acts of the General Assembly of Virginia, and as enlarged by an order of the Circuit Court of Tazewell County, entered on February 13, 1926, and is more particularly described in § 2 of Chapter 150 of the Acts of Assembly of 1930; Chapter 32 of the Acts of Assembly of 1962; in a decree of the Circuit Court of Tazewell County, Virginia, dated December 24, 1968, and recorded in the clerk's office of the Circuit Court of Tazewell County, Virginia, in Law Order Book 26 at page 592 et seq.; and in a decree of the Circuit Court of Tazewell County, Virginia, in Law Order Book 43 at page 51 et seq.

§ 3. Powers of town generally.

The Town of Bluefield shall have and may exercise all powers which are now or hereafter may be conferred upon or delegated to towns under the Constitution and laws of the Commonwealth of Virginia, as full and completely as though such powers were specifically enumerated herein, and no enumeration of particular powers by this charter shall be held to be exclusive and the town shall have, exercise and enjoy all the rights, immunities, powers and privileges and be subject to all the duties and obligations now appertaining to and incumbent on the town as a municipal corporation.

§ 4. Council created; powers generally.

There is hereby created a council which shall have full power and authority, except as herein otherwise provided, to exercise all the powers conferred upon the town, and to pass all laws and ordinances relating to its municipal affairs, subject to the Constitution and general laws of the Commonwealth and of this charter.

§ 5. Composition of council and vacancies.

The council shall consist of five members and a mayor. The five council members, who shall be voted for at large, shall have terms of office of four years. At the May election, 1982, and every four years thereafter, three council members shall be elected, being the three candidates who receive the largest number of votes, individually, at such election, who will serve for terms of four years from July 1, 1982, and [~~hereafter~~ thereafter] until their successors have been elected and qualified. At the May election, 1984, and every four years thereafter, two council members shall be elected, being the two candidates who receive the largest number of votes, individually, at such election, who shall serve for terms of four years from July 1, 1984, and thereafter until their successors have been elected and qualified.

All elections for members of council shall be held at the time and in the manner provided for by general law.

Vacancies in the council shall be filled within thirty days, for the unexpired term, by a majority vote of the remaining council members.

§ 6. Council; qualification of members.

Any person qualified to vote in the town in the election in which he offers shall be eligible to the office of council member.

§ 7. Council; limitations on powers; disqualifications.

A. Any member of the council who shall have been convicted of a felony while in office shall thereby forfeit his office.

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60 B. Except for the purpose of inquiry, the council and its members shall deal with the administrative
61 service solely through the town manager, and neither the council nor any member thereof shall give
62 orders to any of the subordinates of the town manager, either publicly or privately. Any such orders or
63 other interferences on the part of the council or any of its members with subordinates or appointees of
64 the town manager, instead of dealing with or communicating directly with the town manager, is
65 prohibited.

66 § 8. Council; organization.

67 A. At nine o'clock a.m. on the first day of July following a regular municipal election, or if such a
68 day be a Sunday, then on the day following, the council shall meet at the usual place for holding the
69 meetings of the legislative board of the town, at which time the newly elected council members and the
70 mayor, after first having taken the oaths prescribed by law, shall assume the duties of their offices.
71 Thereafter the council shall meet at such times as may be prescribed by ordinance or resolution except
72 that they shall regularly meet not less than once each month. The mayor, any member of the council, or
73 the town manager may call special meetings of the council, at any time [~~(after at least twelve hours)~~ at
74 least twelve hours] after written notice, with the purpose of said meeting stated therein, to each
75 member served personally or left at his usual place of business or residence, or such meeting may be
76 held at any time without notice, provided all members of the council attend. No business other than that
77 mentioned in the call shall be considered at such meeting, Notice of any meeting of council shall be in
78 accordance with the provisions of the Freedom of Information Act as contained in the Code of Virginia.

79 B. All meetings of the council shall be public, and any citizens may have access to the minutes and
80 records thereof at all reasonable times; however, by majority vote of the council, it may convene an
81 executive session to consider such matters as may be the appropriate subject of an executive session as
82 provided by the Code of Virginia.

83 C. The council shall appoint a town manager and a town clerk.

84 D. The council may appoint all such other boards and commissions as may be deemed proper, and
85 prescribe the powers and duties thereof. The council may determine its own rules or procedures, may
86 punish its own members for misconduct and may compel attendance of members. It shall keep a journal
87 of its proceedings. A majority of all members of the council shall constitute a quorum to do business,
88 but a smaller number may adjourn from time to time, and may compel the attendance of absentees. All
89 elections by council shall be viva voce and the vote recorded in the journal of the council.

90 E. Council shall fix the compensation of the members of the council, the mayor, and all other
91 officers the compensation of whom is not otherwise provided for herein.

92 § 9. Council; mayor generally.

93 A. At the May election, 1998, and every two years thereafter, the candidate for mayor who receives
94 the largest number of votes at such election shall be elected and shall serve for a term of two years
95 from July 1, 1998, and thereafter until a successor has been elected and qualified.

96 B. The mayor shall preside at meetings of the council and perform such other duties consistent with
97 the office as may be imposed by the council and shall have a vote only for the purpose of breaking a tie
98 among the council members and voice in the proceedings, but no veto. The mayor shall be the official
99 head of the town; however, he shall have no jurisdiction or authority to hear, determine or try any civil
100 or criminal matters. In times of public danger or emergency, the mayor, or during the mayor's absence
101 or disability, the town manager, may take command of the police and maintain order and enforce laws,
102 and for this purpose may deputize such assistant policemen as may be necessary. During the mayor's
103 absence or disability, except as above provided, the mayor's duties shall be performed by another
104 member appointed by the council. The mayor shall authenticate by his signature such instruments as the
105 council, this charter, or the laws of the Commonwealth shall require.

106 C. A vacancy of the office of mayor shall be filled, within thirty days for the unexpired term, by a
107 majority vote of the council.

108 § 10. Ordinances and resolutions.

109 A. Except in dealing with parliamentary procedure, the council shall act only by ordinance or
110 resolution and, with the exception of ordinances making appropriations or authorizing the contracting of
111 indebtedness, shall be confined to one subject.

112 B. Each proposed ordinance or resolution shall be introduced in a written or printed form, and the
113 enacting clause of all ordinances passed by the council shall be, substantially: "Be it ordained by the
114 council of the Town of Bluefield, Virginia."

115 C. No ordinance, resolution having the effect of an ordinance, or resolution suspending an
116 ordinance, unless it is an emergency measure, shall be passed until it has been read at two meetings not
117 less than one week apart, one of which shall be a regular meeting and the other of which may be either
118 an adjourned or called meeting; however, the requirement of a second reading by the affirmative vote of
119 a majority of the members of the council may be confined to the reading of the title only. Any ordinance
120 or resolution read at one such meeting may be amended and passed as amended at the next such
121 meeting, provided that the amendment does not materially change the ordinance. No ordinance shall be

amended unless such section or sections as are intended to be amended shall be reenacted. The ayes and no's shall be taken and recorded upon the passage of all ordinances or resolutions and entered upon the journal of the proceedings of the council. Except as otherwise provided in this charter, an affirmative vote of a majority of the members elected to the council shall be necessary to adopt any ordinance or resolution.

D. An emergency measure is an ordinance for the immediate preservation of the public peace, property, health or safety, or providing for the daily operation of a municipal department. The emergency shall be stated in every such measure. Ordinances appropriating money may be passed as emergency measures; however, no measure selling or conveying any real estate; making a grant, renewal, or extension of a franchise or other special privilege; or regulating the rate to be charged for its service by any public utility, shall ever be so passed.

E. Every ordinance or resolution having the effect of an ordinance when passed shall be recorded and indexed by the town clerk in a book kept for that purpose, and shall be authenticated by the signatures of the presiding officer and the town clerk.

F. All ordinances and resolutions of the council may be read in evidence in all courts and in all other proceedings in which it may be necessary to refer thereto, either from the original record thereof, from a copy thereof certified by the town clerk, or from any volume of ordinances printed by authority of the council.

§ 11. Town manager.

The administrative and executive powers of the town, including the power of appointment of officers and employees, are vested in an official to be known as the town manager, who shall be appointed by the council at its first meeting or as soon thereafter as practicable, shall serve at the will and pleasure of council, and may be dismissed at any time by council. He shall receive such compensation as shall be fixed by the council by ordinance, shall devote his entire time to the business of the town, and need not be a resident or citizen of Virginia. He shall be bonded as the council may deem necessary, which bond shall be with corporate surety approved by the council.

§ 12. Powers and duties of the town manager.

The town manager shall be responsible to the council for the proper administration of all affairs of the town coming within his jurisdiction under this charter, the general law or the ordinances or resolutions of the council. He shall have power and it shall be his duty to:

1. See that all laws and ordinances are enforced.

2. See that such town officers and employees as the council shall determine are necessary for the proper administration of the town be appointed, and they may be removed by the town manager; however, the appointment and removal of the police chief shall be subject to the approval of the council. The town manager shall report each appointment and removal to the council at the next meeting thereof following any such appointment or removal.

3. See that all terms and conditions imposed in favor of the town or its inhabitants in any public utility franchise or any contract are faithfully kept and performed; upon knowledge of any violation thereof to call the attention of the same to the council, whose duty it shall be forthwith to direct such steps as are necessary to protect and enforce the same.

4. Exercise supervision and control over all departments and divisions created herein, or that may be hereafter created by the council, and have general supervision over all public improvements, works and undertakings, except as otherwise provided in this charter.

5. Attend all meetings of the town council with the right to take part in the discussion but having no vote.

6. Recommend to the council for adoption such measures as he may deem necessary or expedient.

7. Prepare the annual budget and keep the town council fully advised as to financial conditions and needs of the town.

8. Make all such contracts in behalf of the town as may be authorized by this charter, or in accordance with the provisions of the appropriation made by the council or under continuing contracts or loans authorized under the provisions of this charter, or pursuant to a resolution or ordinance of the council.

9. Perform such other duties as may be prescribed by this charter or be required of him by ordinance or resolution of the town council.

10. Perform such other duties as may be prescribed by the council not in conflict with the foregoing.

§ 13. Town clerk.

A. The town clerk shall be elected by the council for a term of two years, subject to removal at the pleasure of the council. He shall be the clerk of the council, and shall keep a permanent record of its proceedings. He shall keep all papers, documents and records pertaining to the Town of Bluefield, Virginia, the custody of which is not otherwise provided for.

B. He shall be custodian of the town seal, and shall affix it to all documents and instruments

requiring the seal, and shall attest the same. He shall give to the proper department or officials ample notice of the expiration or termination of any franchise, contract or agreement.

C. He shall, upon final passage, transmit to the proper departments or officials copies of all ordinances or resolutions of the council relating in any way to such departments or to the duties of such officials. He shall perform such other duties as are required by this charter or by the council by ordinance or resolution.

§ 14. Town treasurer.

A. A town treasurer shall be elected from and by the qualified voters of the town at the May councilmanic election, 1980, and each four years thereafter, and shall qualify and assume the duties of his office the following July 1 and serve for four years thereafter, and thereafter until his successor has been elected and qualified, and shall be bonded, by corporate bond, as the council may deem necessary.

B. The town treasurer shall be the disbursing agent of the town and have the custody of all moneys, and all evidence of value belonging to the town or held in trust by the town.

C. He shall receive all moneys belonging to and received by the town and keep a correct account of all receipts from all sources and expenditures of all departments. He shall collect all taxes and assessments, water rents, and other charges [~~belong~~ belonging] to and payable to the town, and for that purpose he is hereby vested with any and all powers which are now or may hereafter be vested in county and city treasurers for the collection of county, city and state taxes under the general law.

D. He shall pay no money out of the treasury except in the manner prescribed in this charter.

E. He shall make all such reports and perform such other duties as may be required by the council [or by this charter] .

F. The treasurer shall not be entitled to any commission whatsoever for handling the funds of the town; he shall be paid for his services such salary as may be provided by the council.

[~~G. He shall perform such other duties as may be required of him by this charter or by the council.~~]

§ 15. License taxes.

A. License taxes may be imposed by ordinance on businesses, trades, professions and callings and upon the persons, firms, associations and corporations engaged therein, and the agents thereof, except in cases where taxation by the localities shall be prohibited by the general law of the state. Nothing herein shall be construed to repeal or amend any general law with respect to taxation.

B. The council may subject any person, who, without having obtained a license therefor, shall do any act or follow any business, occupation, vocation, pursuit, or calling in the town for which a license may be required by ordinance, to such fine or penalty as it is authorized to impose for any violation of its laws.

§ 16. General taxes.

A. The council of the Town of Bluefield is authorized to, and shall annually, order a town levy for so much as, in their opinion, is necessary to be raised in that way, in addition to what may be received for licenses and from other sources, to meet the appropriations made, or to be made, and all sums required by law to be raised for the purposes of the town. The levy so ordered may be upon any property therein subject to local taxation and not expressly segregated to the Commonwealth for purposes of state taxation only.

B. It is hereby expressly provided that the council shall, in its discretion, be authorized to fix such annual levy on property subject to taxation in the Town of Bluefield, for town purposes, without any limit as to the rate thereof, any provisions of the general laws of the Commonwealth to the contrary notwithstanding; however, the council shall not fix such levy on property partially segregated to the Commonwealth for purposes of state taxation at a rate higher than is or may be permitted by the general laws relating thereto.

C. If the treasurer ascertains that any real or personal property, subject to local taxation, has not been assessed for town taxation for any year or that the same has been assessed at less than the law requires for any year or that the taxes thereon for any cause have not been realized, it shall be the duty of the treasurer to list the same, and assess town taxes thereon at the rate prescribed for that year, adding thereto interest at a maximum rate as provided in the Code of Virginia. Where the same was omitted by no fault of the person charged with the taxes, no interest shall be charged.

D. The provisions of this charter, insofar as applicable, with respect to the collection of taxes, shall apply to the assessment and collection, and the administration of the assessment and collection, of taxes on personal property and all classes thereof.

§ 17. Audit of accounts.

Upon the death, resignation, removal or expiration of the term of any officer of the town, the town manager may order an audit and investigation to be made of the accounts of such officer and report to the council.

§ 18. Oath of office and qualifications of officers.

Except as otherwise provided by general law or this charter, all officers elected or appointed under

the provisions of this charter shall, before entering upon the discharge of their duties, take the oath of office and shall execute such bond as may be required by general law, this charter, or ordinance or resolution of the council, and file the bond with the town clerk. If the requirements of this section have not been complied with by any officer within ten days after the term of office shall have begun or after his appointment to fill a vacancy, the office shall be considered vacant.

§ 19. Books and papers to be delivered to successor or town clerk.

Any person holding a municipal office and vacating the same on account of removal or otherwise shall deliver over to his successor in office, or to the town clerk, all property and books and papers belonging to the town, or appertaining to such office which may be in his possession or under his control.

§ 20. Powers of town police.

For the purpose of enabling the town to execute its duties and powers, each member of the police force and each policeman is hereby made and constituted a conservator of the peace and endowed with all the powers of a constable in criminal cases and all other powers which under the ordinances of the town may be necessary to enable him to discharge the duties of his office.

§ 21. Ordinances to continue in force.

All ordinances now in force in the Town of Bluefield, not inconsistent with this charter, shall be and remain in force until altered, amended or repealed by the council of said town.

§ 22. Council to settle controversies between officers.

If the town manager, or other officers appointed by the council, in the administration of their respective duties, disagree or have any controversy with any of the officers of the town elected by the voters, such matter in dispute or controversy shall be referred to the council for review and decision.

§ 23. Severability of provisions.

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

§ 24. General laws to apply.

The enumeration of particular powers and authority in this charter shall not be deemed or held to be exclusive. In addition to the powers enumerated herein, implied thereby, or appropriate to the exercise thereof, the said town shall have and may exercise all other powers which are now or may hereafter be possessed or enjoyed by towns under the Constitution and general laws of this Commonwealth.

2. That Chapter 150, as amended, of the Acts of Assembly of 1930 is repealed.

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