

VIRGINIA ACTS OF ASSEMBLY -- 2004 SESSION

CHAPTER 514

An Act to amend and reenact §§ 3.01, 4.14, 5.03, 6.18, 6.20, and 13.11, as amended, of Chapter 116 of the Acts of Assembly of 1948, which provided a charter for the City of Richmond, relating to elections, appointments, appropriations and stormwater utility.

[S 561]

Approved April 12, 2004

Be it enacted by the General Assembly of Virginia:

1. That §§ 3.01, 4.14, 5.03, 6.18, 6.20, and 13.11, as amended, of Chapter 116 of the Acts of Assembly of 1948 are amended and reenacted as follows:

§ 3.01. Election of councilmen; nomination of candidates.

A. On the first Tuesday in May, 1978 and on the first Tuesday in May in every second year thereafter there shall be held a general city election at which shall be elected by the qualified voters of the city one member of council from each of the nine election districts in the city, the voters residing in each such district to elect one member for said district for terms of two years from the first day of July following their election. *However, beginning with the elections to be held in 2008, and subject to approval by referendum as called for by this act, council members shall be elected for a term of four years.*

B. *No primary election shall be held for the nomination of candidates for the office of councilman, and candidates shall be nominated only by petition.*

§ 4.14. Appointments and removals.

The council in making appointments and removals shall act only by the affirmative votes of at least five members. It may remove any person appointed by it for an indefinite term, provided that the person sought to be removed shall have been served with a written notice of the intention of the council to remove him/her, containing a clear statement of the grounds for such removal ~~and fixing the time and place, not less than ten days after the service of such notice, at which he/she shall be given an opportunity to be heard thereon. After the hearing, which shall be public at the option of the person sought to be removed and at which he/she may be represented by counsel,~~ The decision of the council shall be final.

§ 5.03. Council not to interfere in either appointments, assignment or use of, or removals.

Neither the council nor any of its members shall direct or request the appointment of any person to or his/her removal from any office or employment by the city manager or by any of his/her subordinates or in any way take part in either the appointment of, assignment or use of, or removal of *such* officers and employees of the city except as specifically provided in this charter. Except for the purpose of inquiry, the council and its members shall deal with the administrative services solely through the city manager, and neither the council nor any member thereof shall give orders either publicly or privately to any subordinate of the city manager. Any councilman violating the provisions of this section or voting for a motion, resolution or ordinance in violation of this section shall be guilty of a misdemeanor and upon conviction thereof shall cease to be a councilman.

§ 6.18. Lapsing of appropriations.

Every appropriation, except an appropriation *designated for special revenue or for a capital expenditure*, shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered. *Appropriations designated special revenue (funding provided beyond 12 months or extends beyond the end of the city's fiscal year) shall not lapse at the close of the fiscal year but shall remain in force for the life of the multiyear project, until expended, revised, or repealed. The purpose of any such multiyear appropriation should be restricted based on grant award instructions.*

An appropriation for a capital expenditure shall continue in force until expended, revised or repealed; the purpose of any such appropriation shall be deemed abandoned if three years pass without any disbursement from or encumbrance of the appropriation.

§ 6.20. Certification of funds, penalties for violation.

Except as otherwise provided in § 13.06 of this charter, no payment shall be made and no obligation incurred by or on behalf of the city or the school board except in accordance with an appropriation duly made and no payment shall be made from or obligation incurred against any allotment or appropriation unless the director of finance *or his designee* shall first certify that there is a sufficient unexpended and unencumbered balance in such allotment or appropriation to meet the same; ~~provided that nothing herein shall be taken to prevent the advance authorization of expenditures for small purchases as provided in subsection (e) of § 8.03 of this charter.~~ Every expenditure or obligation authorized or incurred in violation of the provisions of this charter shall be void. Every payment made in violation of the provisions of this charter shall be deemed illegal and every official who shall knowingly authorize or

make such payment or knowingly take part therein and every person who shall knowingly receive such payment or any part thereof shall be jointly and severally liable to the city for the full amount so paid or received. If any officer, member of a board or commission, or employee of the city or of the school board, shall knowingly incur any obligation or shall authorize or make any expenditure in violation of the provisions of this charter or knowingly take part therein such action may be cause for his/her removal. Nothing in this section contained, however, shall prevent the making of contracts of lease or for services providing for the payment of funds at a time beyond the fiscal year in which such contracts are made, provided the nature of such transactions will reasonably require, in the opinion of the council, the making of such contracts.

§ 13.11. Implementation of stormwater utility.

The stormwater utility shall be implemented by ordinance, and shall be effective as of the effective date of that ordinance. *Notwithstanding other provisions of this charter, the stormwater utility program may be administered by either the Department of Public Works or the Department of Public Utilities.* Stormwater utility charges shall be assessed to all property owners and shall be based upon their contributions to stormwater runoff. Procedures and guidelines may be established to provide full or partial credits for effective stormwater management mitigation or remediation actions undertaken for nonresidential properties. Federal and state government agencies shall receive a full waiver of stormwater utility charges when the agency owns and provides for maintenance of storm drainage and stormwater control facilities. If stormwater utility charges are not paid when due, interest thereon shall at that time accrue at the rate determined by council, not to exceed any maximum allowed by law. The city may collect charges and interest by action at law or suit in equity, and such unpaid charges and interest shall constitute a lien against the property, of equal stature with liens for unpaid real estate taxes.

2. That there shall be a referendum question on the issue of council terms placed on the ballot at the November 2, 2004, election. No court order shall be required pursuant to § 24.2-684 of the Code of Virginia. It shall be the duty of the officers conducting such election, at the places appointed for holding the same, to open a poll and take the sense of the qualified voters on such question. The question shall be substantially as follows:

Question: "Beginning with the election to be held on November 4, 2008, shall members of city council be elected to four-year terms?"

The ballot shall be prepared, distributed and voted and the results thereof ascertained and certified, in the manner prescribed by Title 24.2 of the Code of Virginia.