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SENATE BILL NO. 453

Offered January 11, 2012

Prefiled January 11, 2012

A BILL to amend and reenact § 1, § 1.01, as amended, §§ 3 and 8, and §§ 14.01 and 18, as amended, of Chapter 39 of the Acts of Assembly of 1932, which provided a charter for the City of Winchester, and to repeal §§ 22 and 24, as amended, and § 25 of Chapter 39 of the Acts of Assembly of 1932, relating to the appointment of certain officers by the common council.

Patron—Vogel

Referred to Committee on Local Government

Be it enacted by the General Assembly of Virginia:

1. That § 1, § 1.01, as amended, §§ 3 and 8, and §§ 14.01 and 18, as amended, of Chapter 39 of the Acts of Assembly of 1932 are amended and reenacted as follows:

§ 1. The inhabitants of the city of Winchester, within the boundaries as now established or as hereafter established in the manner provided by law, shall continue to be a body politic and corporate by the name of the city of Winchester for all purposes for which cities and towns are incorporated in this Commonwealth; shall continue to be a body politic in fact and in name, under the style and name of the city of Winchester, and as such shall have, exercise and enjoy all of the rights, immunities, powers, and privileges, and be subject to all the duties and obligations incumbent upon and pertaining to said city as a municipal corporation; provided, that:

~~the 1. The said city~~ City of Winchester shall be and continue liable for all the existing indebtedness, whether funded or floating, outstanding in the name of the city; and

~~the 2. The said city~~ City of Winchester may sue in its corporate name on all bonds, notes, accounts or contracts payable to the city; and

~~under the aforesaid name it~~ 3. The said City of Winchester shall have perpetual succession; and

4. The said City of Winchester may use a corporate seal; and

5. The said City of Winchester may sue and be sued; and

6. The said City of Winchester may acquire property within or without its boundaries for any municipal purpose, in fee simple or lesser interest or estate, by purchase, gift, devise, lease or condemnation; and

7. The said City of Winchester may sell, lease, hold, manage and control such property as its interest may require; and,

~~except~~ 8. Except as prohibited by the Constitution of Virginia or restricted by this charter, the ~~city~~ City of Winchester shall have all municipal powers, functions, rights, privileges and immunities of any name or nature whatsoever, and it now appearing that the ~~city~~ City of Winchester, having a population in excess of 10,000, is, under the laws now existing in the Commonwealth of Virginia, a city of the first class, it shall enjoy all of the rights, privileges and immunities of a city of that class now authorized under the Constitution and statutes of the Commonwealth of Virginia or that might hereafter be authorized by any amendment thereto.

§ 1.01. Assessment and Collection of Licenses and Taxes.

In addition to the powers granted by other sections of this charter the city shall have the power to raise annually by taxes and assessments in the city such sums of money as the council shall deem necessary to pay the debts and defray the expenses of the city, in such manner as the council shall deem expedient, provided that such taxes and assessments are not prohibited by the laws of the Commonwealth. In addition to, but not as a limitation upon, this general grant of power the city shall, when not prohibited by the laws of the Commonwealth, have power:

~~to~~ 1. To levy and collect ad valorem taxes on real estate and tangible personal property and machinery and tools, and a capitation tax not exceeding one dollar per annum on each resident of the Commonwealth within the limits of the city;

~~to~~ 2. To levy and collect taxes for admission to or other charge for any public amusement, entertainment, performance, exhibition, sport or athletic event in the city, which taxes may be added to and collected with the price of such admission or other charge;

~~to~~ 3. To levy on and collect taxes from purchasers of any public utility service used within the city, which taxes may be added to and collected with the bills rendered purchasers of such service;

~~to~~ 4. To require licenses, prohibit the conduct of any business or profession without such a license, require taxes to be paid on such licenses in respect of all businesses and professions which cannot, in the opinion of the council, be reached by the ad valorem system; and

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59 to 5. To require licenses of resident owners of vehicles of all kinds for the privilege of using the
60 streets, alleys and other public places in the city, require taxes to be paid on such licenses and prohibit
61 the use of streets, alleys and other public places in the city without such license;

62 provided, however, that ~~nothing~~ *Nothing* herein contained shall be construed as permitting the city to
63 levy and collect directly or indirectly a tax on payrolls.

64 § 3. The administration and government of said city shall be vested in a mayor and a board called
65 the ~~common council~~ *Common Council* of Winchester, and such other boards and offices as are now, or
66 hereafter may be provided for. ~~The Council may appoint:~~ *(1) a City Manager to whom shall be*
67 *delegated the responsibility for administration of the City's affairs including management, appointment,*
68 *and supervision of officers, directors, and department heads; (2) a City Attorney who shall be*
69 *responsible for handling all legal matters on behalf of the City of Winchester; (3) a City Clerk who*
70 *shall be responsible for creating and maintaining all official records of acts of Council; and (4) such*
71 *other offices as prescribed by this Charter, general ordinances of the City of Winchester, and other*
72 *applicable law. In addition to the foregoing, the offices of said corporation shall be include a mayor,*
73 *judge of the corporation court, clerk of the corporation court, treasurer, commissioner of the revenue,*
74 *attorney for the Commonwealth, city sergeant, a justice of the peace at large, a police justice, twelve*
75 *eight councilmen, and such other offices as are now provided by general ordinances of the city City of*
76 Winchester and as hereafter may be provided for and elected by the ~~common council~~ *Common Council*.

77 § 8. This charter may be changed by a special act of the General Assembly of Virginia, by the
78 presentation to the General Assembly of an ordinance, regularly passed by the city council by the vote
79 of at least ~~nine~~ *three fourths* of the members elected to the council.

80 § 14.01. Appointment and Term of School Board Members.

81 A. The School Board of the City of Winchester shall consist of nine members, who shall be
82 appointed by the Common Council *to serve four-year terms*. One member shall be appointed for each of
83 the four districts (wards) in the City, and five members shall be appointed at-large; however, no more
84 than three members shall be residents of the same district. Notwithstanding the residency requirement of
85 this provision, any school board member in office on July 1, 2007, who is otherwise eligible for
86 reappointment, shall be eligible for reappointment upon expiration of his or her term in order to
87 facilitate the transition to the four district or ward system initiated in 2005.

88 B. At the vacancy of the terms of school board members in office on July 1, 2007, any new term
89 shall be filled consistent with the provisions of this section.

90 C. In the event any vacancy occurs on the School Board, the Council shall fill the vacancy for the
91 unexpired term.

92 D. The School Board shall be a continuing body and no measure pending before the School Board
93 shall abate or be discontinued by reason of the change in terms of the School Board members or change
94 in membership of the School Board as provided herein.

95 § 18. Certificates of debt and bonds.

96 (a) The ~~council~~ *Council* may, in the name and for the use of the city, cause to be issued certificates
97 of debt or bonds for any purpose or project set forth in the Public Finance Act, ~~Title 15.1, Chapter 5~~
98 ~~(§ 15.1-170 (§ 15.2-2600 et seq.) of the Code of Virginia, as amended from time to time,)~~ and in
99 compliance with the provisions thereof. All bonds issued pursuant to this section shall be signed by the
100 president of council and the treasurer of the city, and the seal of the city shall be affixed and attested by
101 the clerk of council. Such bonds shall be sold in the manner provided for in the Public Finance Act and
102 the proceeds used for purposes for which issued, under the direction of council. Every such bond or
103 other obligation issued by the council hereunder shall state on its face for what purpose or purposes it is
104 issued, and the proceeds shall be applied exclusively to the purpose or purposes for which the same are
105 issued. In the issuance of bonds and other interest bearing obligations the city shall be subject to the
106 limitations as to amount and the manner of ascertaining such amount limitations as provided in the
107 applicable provisions of Article VII, Section 10 of the Constitution of the Commonwealth of Virginia.

108 (b) Council may provide by resolution adopted upon the affirmative vote of at least ~~nine~~
109 *three-fourths of the elected* members of council for the submission of the question of the issuance of any
110 such debt to the vote of the qualified voters of the city. The vote of council on a resolution providing
111 for such referendum shall be held, if at all, prior to the adoption by council of the ordinance providing
112 for the issuance of such debt, and no such resolution shall be considered after the adoption of such
113 ordinance. At such election the ordinance of council providing for the issuance of such debt shall be
114 submitted to such voters at an election for such purpose to be called and held and conducted in
115 accordance with the general laws of the Commonwealth of Virginia. If approved by the voters, the
116 issuance of such debt shall be done in accordance with subsection (a) of this section.

117 2. That §§ 22 and 24, as amended, and § 25 of Chapter 39 of the Acts of Assembly of 1932 are
118 repealed.