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HOUSE BILL NO. 399

Offered January 8, 2014

Prefiled January 3, 2014

A BILL to amend and reenact §§ 12, 60, 63, 64, and 114, as amended, of Chapter 34 of the Acts of Assembly of 1918, which provided a charter for the City of Norfolk, relating to council meetings and the division of police.

Patron—Howell, A.T.

Referred to Committee on Counties, Cities and Towns

Be it enacted by the General Assembly of Virginia:

1. That §§ 12, 60, 63, 64, and 114, as amended, of Chapter 34 of the Acts of Assembly of 1918 are amended and reenacted as follows:

§ 12. Meetings of council.

On the first day of July next following the regular municipal election, or if such day be Saturday or Sunday, then on the following Tuesday, the council shall meet at the usual place for holding meetings of the legislative body of the city, at which time the newly elected council members shall assume the duties of their office. The time for any such meeting shall be set by ordinance adopted by council not less than thirty nor more than forty-five days prior to the election. Thereafter the council shall meet at such times as may be prescribed by ordinance or resolution. It shall hold at least one regular meeting each week, provided that it may, by the affirmative vote of a majority of its members, dispense with any such regular meetings in any calendar year month. The mayor, any member of the council, or the city manager, may call special meetings of the council at any time upon at least twelve hours' written notice to each member, served personally or left at his usual place of business or residence; or such meeting may be held at any time without notice, provided all members of the council attend. All meetings of the council shall be public except where closed pursuant to the provisions of general law, and any citizen may have access to the minutes and records thereof at all reasonable times.

§ 60. Division of Police.

The police force shall be composed of a chief of police, a deputy chief, and of such officers, patrolmen and other employees as the city manager may determine. The chief of police shall have the immediate direction and control of the said force, subject, however, to the supervision of the director of public safety, and to such rules, regulations and orders as the said director may prescribe, and through the chief of police the director of public safety shall promulgate all orders, rules and regulations for the government of the whole force. In case of the disability of the chief of police to perform his duties by reason of sickness, absence from the city or other cause, the director of public safety shall designate an officer of the police force to act as chief of police during such disability, and the officer so designated shall serve without additional compensation. The members of the police force other than the chief and deputy chief shall be selected from the list of eligibles prepared by the civil service commission, and in accordance with such rules as the said commission may prescribe, provided that in case of riot or emergency the director of public safety may appoint additional patrolmen and officers for temporary service, who need not be in the classified service. Each member of the police force, both rank and file, shall have issued to him a warrant of appointment signed by the director of public safety, in which the date of his appointment shall be stated, and such warrant shall be his commission. Each member of the said force shall, before entering upon the duties of his office, take and subscribe an oath that he will faithfully without fear or favor, perform the duties of his office, and such oath shall be filed and preserved with the records of said department. And in addition the several officers of the said force shall, if so required by the council, give bond in such penalty and with such security as the council may by ordinance prescribe.

No person except as otherwise provided by general law or by this charter shall act as special police, special detective or other special police officer for any purpose whatsoever except upon written authority from the director of public safety. Such authority, when conferred, shall be exercised only under the direction and control of the chief of police and for a specified time.

The officers and privates constituting the police force of said city shall be, and they are, hereby invested with all of the power and authority which pertains to the office of constable at common law in taking cognizance of and in enforcing the criminal laws of the State and the ordinances and regulations of said city, and it shall be the duty of each such officer and private to use his best endeavors to prevent the commission within the said city of offenses against the laws of said State, and against the ordinances and regulations of said city; to observe and enforce all such laws, ordinances and regulations;

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59 to detect and arrest offenders against the same; to preserve the good order of said city, and to secure the
60 inhabitants thereof from violence, and the property therein from injury. Such policemen shall have no
61 power or authority in civil matters, but shall execute any criminal warrant or warrant of arrest that may
62 be placed in his hands by any justice of the city, and shall make due return thereof. Such policemen
63 shall not receive any fee or other compensation for any services rendered in the performance of his
64 duty, other than the salary paid him by the city, nor shall he receive a fee as a witness in any case
65 arising under the criminal laws of the said State, or under the ordinances or regulations of the said city.

66 The director of public safety shall prescribe the uniforms and badges for the members of the police
67 force, and direct the manner in which the members of said force shall be armed. Any person other than
68 a member of said force who shall wear such uniform or badge as may be prescribed as aforesaid, may
69 be subjected to such fine or imprisonment, or both, as may be prescribed by the council by ordinance.

70 § 63. Supervision in divisions of fire and police.

71 The chief of police and the fire chief, with the approval of the director of public safety, except as
72 hereinafter provided, shall have the right and power to reprimand, or to suspend, for a given number of
73 days or indefinitely, any of the sworn officers and sworn employees in their respective divisions who
74 may be under their management and control, for incompetence, neglect of duty, immorality,
75 drunkenness, failure to obey orders given by proper authority, or for any other just and reasonable
76 cause. *This section does not apply to the deputy chief of police, who, like the chief of police and the fire*
77 *chief, is appointed by and serves at the will of the city manager.* If any such officer or employee be
78 suspended for more than ten days or be suspended indefinitely, the chief of the division concerned shall
79 forthwith certify in writing the fact, together with the cause for such suspension, to the trial board
80 hereinafter provided for, and a copy of such certificate of suspension, and the cause therefor, shall be
81 promptly served on such officer or employee, which service may be by an officer of his division or in
82 the manner prescribed by law for the service of civil process.

83 Any such officer or employee so suspended may, within ten days after he shall have been so served
84 with such certificate of suspension and the cause therefor, file with said trial board a written request for
85 a hearing upon the accusations so made against him, whereupon said trial board shall, after not less than
86 five days' written notice to such officer or employee, and to the chief of the division by whom he has
87 been suspended, hold and conduct a hearing, which shall be open to the public, upon such accusations,
88 at a time and place to be specified in such notice, and may render judgment thereon. Such judgment, in
89 the event said accusations or any of them are, in the opinion of said trial board, sustained, may be a
90 reprimand, extra duty without extra compensation, suspension for a fixed time, reduction in rank, or
91 dismissal, as to said trial board may seem proper, which judgment shall be final.

92 Whenever the judgment of the said trial board is that the accusations were not sustained, it may
93 order the reinstatement of such officer or employee in the office or position from which he was
94 suspended. Such order of reinstatement may, in the discretion of said trial board, be retroactive and
95 provide that such officer or employee shall be entitled to compensation for all or part of the time he was
96 so suspended.

97 In the event any such officer or employee who is suspended for more than ten days or suspended
98 indefinitely shall not file with said trial board a written demand for a hearing as hereinabove provided,
99 the suspension of such officer or employee shall become final, and if the suspension be for an indefinite
100 period, such officer or employee may be discharged by the city manager without a hearing.

101 The trial board above referred to shall be known as the Norfolk Police-Fire Trial Board, and the
102 members thereof shall be appointed by the council. It shall consist of not less than three nor more than
103 five members, in the discretion of the council, who shall be qualified voters residing in the city, none of
104 whom shall be in any way connected with any other city office. The first appointment of the members
105 of the said trial board shall be for a term of one year commencing July 1, 1950, and all subsequent
106 appointments shall be for consecutive terms of one year. Any member may be appointed for a
107 consecutive term or terms, and any vacancy shall be filled by appointment by the council for the
108 remainder of the unexpired term. The judgment of a majority of the members appointed on said trial
109 board shall control. The members shall receive such compensation as may be provided by council. Each
110 member shall, before entering upon the duties of his office, take and subscribe the oaths provided by
111 § 133 of this Charter for city officers.

112 The council shall designate one member of said trial board as chairman thereof. The chairman shall
113 have the power to subpoena witnesses, administer oaths and compel the production of any books and
114 papers in connection with any hearing held hereunder by said trial board. Any person refusing or failing
115 to appear and testify or to produce such books and papers, or who shall testify falsely under oath at any
116 hearing held by said trial board, may be proceeded against in the same manner and shall be subject to
117 the same penalties as provided by § 51 of this Charter relating to investigations as to city affairs.

118 The council shall also designate one member of said trial board as vice-chairman thereof to act in the
119 absence, disability or inability to act of the chairman, and when so acting, the said vice-chairman shall
120 have all the powers herein conferred upon the chairman.

121 Any such officer or employee against whom accusations are so filed shall have the right to be
122 represented by counsel at any hearing before said trial board. All notices required to be given the trial
123 board may be given to the chairman thereof, or in his absence, to the vice-chairman.

124 § 64. Suspension and dismissal of the chief of police, *deputy chief of police*, and fire chief.

125 The city manager shall have the power to suspend or dismiss the chief of police, *the deputy chief of*
126 *police*, and the fire chief at any time, and his action in every such case shall be final; provided that in
127 the event the chief of police, *the deputy chief of police*, or the fire chief was appointed to such position
128 from the membership of his respective division, he shall, at the time of any such suspension or
129 dismissal, or at any time prior thereto, at his request, be restored to the rank he held in the classified
130 service in such division at the time of his appointment as such chief *or deputy chief*, without being
131 required to take any examination, subject, however, to the provisions of § 63 of this Charter.

132 § 114. Officers exempted from classified service.

133 Officers who are elected by the people or who are elected or confirmed by the council, pursuant to
134 this charter, members of the school board, the teachers in the public schools and all other persons
135 employed by said school board, heads of the administrative departments of the city, *the deputy chief of*
136 *police*, assistant city managers, employees who report directly to and whose positions require the
137 personal trust and confidence of the city manager, employees, regardless of their positions, hired and
138 permanently assigned to work for and under the supervision of the constitutional officers of the city or
139 of the circuit court judges of the city, assistant heads of administrative departments ~~except for the~~
140 ~~departments of fire and police~~, and heads or chiefs of bureaus and divisions within said departments, *but*
141 *not including such positions within the departments of fire and police other than that of the deputy chief*
142 *of police*, members of the law department and civil service examiners, shall not be included in such
143 classified service; provided, however, that the council may by ordinance provide that the health officer
144 of said city and such of his trained medical assistants as may be required to give full time to the duties
145 of their positions shall be included in the classified service.