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SENATE BILL NO. 1214

Senate Amendments in [] — January 23, 2015

A BILL to amend and reenact §§ 2.02, 3.01, 3.02, 3.04, 3.06:1, and 3.07, as amended, §§ 3.13, 3.16, and 3.17, §§ 5.01 and 6.03, as amended, §§ 7.16, 7.20, and 10.03.1, and §§ 11.01, 13.02, and 13.03, as amended, of Chapter 536 of the Acts of Assembly of 1950, which provided a charter for the City of Alexandria, and to repeal Chapter 14 (§§ 14.01 through 14.05) of Chapter 536 of the Acts of Assembly of 1950, relating to powers, mayor, city council, city collector, and department of finance.

Patron Prior to Engrossment—Senator Ebbin

Referred to Committee on Local Government

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.02, 3.01, 3.02, 3.04, 3.06:1, and 3.07, as amended, §§ 3.13, 3.16, and 3.17, §§ 5.01 and 6.03, as amended, §§ 7.16, 7.20, and 10.03.1, and §§ 11.01, 13.02, and 13.03, as amended, of Chapter 536 of the Acts of Assembly of 1950 are amended and reenacted as follows:

§ 2.02. Financial powers.

In addition to the powers granted by other sections of this charter the city shall have power:

(a) 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 have power:

(1) To levy and collect ad valorem taxes on real estate and personal property and machinery and tools not exempt by law from taxation, or segregated to the State for exclusive taxation, all corporations located in the city or having their principal office therein and not exempt by law from taxation, all money owned by or credits due to any person living in the city and doing business therein and employed in said business though the said business may extend beyond the city; provided, that so much of said capital as is invested in real estate, or employed in the manufacture of articles outside of the city limits, shall not be taxed as capital; all stocks in incorporated joint stock companies doing business in the city and by whomsoever owned and not exempt by law from taxation; income, interest or money, dividends of banks or other corporations, provided that no capital, interest or dividend shall be taxed, when a license or other tax is imposed upon the business in which said capital is employed, or upon the principal, money, credits or stocks from which the interest, income or dividend is derived; nor shall a tax be imposed upon stocks of a corporation and upon the dividends thereon; and provided, further, that such property has not been segregated to the State for exclusive taxation. Assessments upon stocks and bonds shall be according to the market value thereof. The council may by curative ordinances, ratify and confirm assessments and levies of taxes heretofore or hereafter made, and the acts of all ministerial officers in connection therewith, and any such ordinance heretofore passed is hereby ratified and confirmed. The rate of the tax that is levied on real estate shall be fixed once each calendar year and such rate shall not thereafter be changed during the same calendar year.

(2) ~~To levy and collect a capitation tax not exceeding one dollar per annum on each resident of the Commonwealth within the limits of the city.~~

(3) 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.

(4) To levy on and collect taxes from purchasers of any public utility service, which taxes may be added to and collected with the bills rendered purchasers of such service.

(5) Unless prohibited by general law to require licenses for the privilege of engaging in any business, profession, occupation, or trade, prohibit the conduct of any business, profession, occupation, or trade without such a license, require taxes to be paid on such licenses in respect of all businesses, professions, occupations, and trades, and to refuse such license to any person not entitled by law thereto.

(6) To require licenses of owners of vehicles of all kinds for the privilege of using the streets, alleys and other public places in the city, require taxes to be paid on such licenses and prohibit the use of streets, alleys and other public places in the city without such licenses. In any prosecution of a violation of any ordinance requiring such licenses, proof that the motor vehicle, trailer or semitrailer was located in the city and was displaying a current license plate of any state, shall constitute in evidence a prima facie presumption that such motor vehicle, trailer or semitrailer was operated on the public streets of the city.

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60 (7) To impose penalties on persons following any business, profession, or trade in the city without
61 the license prescribed therefor.

62 (b) To borrow money for the purposes and in the manner provided by Chapter 7 of this charter.

63 (c) To make appropriations, subject to the limitations imposed in Chapters 5 and 6 of this charter, for
64 the support of the city government and any other purposes authorized by this charter and not prohibited
65 by the laws of the Commonwealth.

66 (d) To appropriate, without being bound by other provisions of this charter, such sums as the council
67 may deem necessary in any one fiscal year for the purpose of meeting a public emergency threatening
68 the lives, health or property of the inhabitants of the city, provided, that any such appropriation shall
69 require at least a two-thirds affirmative vote of council members present and that the ordinance making
70 such appropriation shall contain a clear statement of the nature and extent of the emergency.

71 (e) To accept or refuse gifts, donations, bequests or grants from any source for any purpose related
72 to the powers and duties of the city government.

73 (f) To provide, or aid in the support of, public libraries and public schools, to appropriate funds for
74 educational purposes which may be expended in furtherance of elementary, secondary, collegiate or
75 graduate education of Virginia students in public and nonsectarian private schools and institutions of
76 learning in addition to those owned or exclusively controlled by the city and to make appropriations to
77 nonsectarian schools of manual, industrial or technical training and also to any school or institution of
78 learning owned or exclusively controlled by the city.

79 (g) To establish a system of pensions for injured, retired or superannuated city officers and
80 employees, subject to the limitations imposed by Chapter 8 of this charter.

81 (h) To provide for the control and management of the fiscal affairs of the city, and prescribe and
82 require the adoption and keeping of such books, records, accounts and systems of accounting by the
83 departments, boards, commissions, courts or other agencies of the city government provided for by this
84 charter or otherwise by law as may be necessary to give full and true accounts of the affairs, resources
85 and revenues of the city and the handling, use and disposal thereof.

86 § 3.01. Composition of the council.

87 The Council shall consist of the mayor and six members at large elected as provided in Chapter 10
88 of this charter, and they shall serve for terms of three years or until their successors shall have been
89 elected and take office; ~~provided, however, that the terms of the members of the council incumbent at~~
90 ~~the effective date of this charter shall continue through the thirtieth day of June 1952, or until their~~
91 ~~successors shall have been elected and shall take office.~~

92 § 3.02. Compensation of the council.

93 Members of the council and the mayor shall receive in full compensation for their services the sum
94 of four hundred dollars per month; ~~provided, however, that the mayor shall receive in full compensation~~
95 ~~for his services the sum of four hundred and fifty dollars per month; provided, further, that the rate of~~
96 ~~compensation for the members of the council and the mayor may be changed set by ordinance, except~~
97 ~~that no such rate of compensation shall be increased to become effective during the term of office of the~~
98 ~~members of council and the mayor in which the vote to increase the compensation is cast.~~

99 § 3.04. Powers.

100 All powers of the city as granted in Chapter 2 of this charter and the determination of all matters of
101 policy shall be vested in the council. Without limitation of the foregoing, the council shall have power
102 to:

103 (a) Appoint and remove the city manager.

104 (b) Adopt the budget of the city.

105 (c) Authorize the issuance of bonds by a bond ordinance.

106 (d) Inquire into the conduct of any office, department or agency of the city and make investigation
107 as to municipal affairs.

108 (e) Establish administrative departments, offices or agencies. There are hereby created the
109 departments of finance, public works, police, fire, public health, social services, and recreation and
110 parks, the heads of which shall be appointed by the city manager. The council by ordinance may create,
111 change, and abolish offices, departments, or agencies. The council may not change or abolish any offices
112 or agencies created by this charter and may not eliminate the function of any department created by this
113 charter. The council by ordinance may assign duties or functions to the offices, departments and
114 agencies created by this charter. When a vacancy occurs in any office to which the incumbent is elected
115 by the council, the council is empowered to fill the vacancy, and when such vacancy occurs otherwise
116 than by the regular expiration of the term of the incumbent, the election shall only be for the unexpired
117 term.

118 (f) Appoint the members of the school board, the planning commission and the board of zoning
119 appeals.

120 (g) Establish advisory boards and commissions and appoint their members.

121 (g-01) Notwithstanding any contrary provisions of law, general or special, establish by ordinance

term limits for the members appointed by the council to any or all governmental or advisory boards or commissions.

(h) Provide for an independent audit.

(i) Provide for the number, titles, qualifications, powers, duties, and compensation of all officers and employees of the city.

(j) Provide for the form of oaths and the amount and condition of surety bonds to be required of certain officers and employees of the city.

§ 3.06:1. Administrative assistants.

Notwithstanding any other provision of this charter, the ~~city clerk~~ *mayor and each council member* may, ~~upon the direction of the city council,~~ appoint one administrative assistant for each member of council, including the mayor. No member of the immediate family of a member of the council shall be eligible for appointment as an administrative assistant. For the purpose of this section, the spouse, parent, child, brother, sister, father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law or daughter-in-law of a council member shall be considered a member of the member's immediate family.

§ 3.07. Induction of members.

The council members in office at the time this charter takes effect shall continue in office through the thirtieth of June, 1952, or until their successors shall have been elected and take office. The first meeting of a newly elected council shall take place at ~~7:30~~ 7:00 P.M. on the first ~~second~~ day of ~~July~~ January following their election, or if such day shall fall on Saturday, Sunday or a legal holiday, then on the next business day following the ~~fourth~~ second day of ~~July~~ January.

§ 3.13. Submission of ordinances or issues to the qualified voters of the city.

The Council shall have authority to submit by resolution directed to the ~~corporation circuit~~ court of the City of Alexandria or the judge thereof in vacation, any proposed ordinance, question or issue to the qualified voters of the city for an advisory referendum thereon. Upon the receipt of such resolution, the ~~corporation circuit~~ court of the City of Alexandria or the judge thereof in vacation shall order an election to be held thereon not less than thirty nor more than sixty days after the receipt of such resolution. The election shall be conducted and the result thereof ascertained and determined in the manner provided by the general law of the Commonwealth for the conduct of referendum elections, and by the regular election officials of the city.

§ 3.16. Removal of council members.

Any member of the council may be removed by the council but only for malfeasance in office or neglect of duty; provided that the member of the council sought to be removed shall have been served with a written notice of the intention of the council to remove him, which notice shall contain a clear statement of the grounds for such removal and shall fix the time and place, not less than ten days after the service of such notice, at which he shall be given opportunity to be heard thereon. After the hearing which shall be public at the option of the council member sought to be removed and at which he may be represented by counsel, he may be removed by a vote of six members. It shall be the duty of the council, at the request of the council member sought to be removed, to subpoena witnesses whose testimony would be pertinent to the matter in hand. From the decision of the council removing one of its members, an appeal may be had to the ~~corporation circuit~~ court of the City of Alexandria. Any council member who shall be convicted by a final judgment of any court from which no appeal has been taken or which has been affirmed by a court of last resort on a charge involving moral turpitude shall cease to be a member of the council.

§ 3.17. Power of investigation.

The council shall have power to investigate any or all of the departments, boards, commissions, offices and agencies of the city government, and any officer or employee of the city. The council, in an investigation or hearing held by it, may order the attendance of any person as a witness and the production by any person of all relevant books and papers. Council shall have the power to apply to the judge of the ~~corporation circuit~~ court for a subpoena or subpoena duces tecum against any person refusing to appear and testify or who refuses to produce books and papers as ordered by the council, and the judge of said court shall, upon good cause shown, cause said subpoena to be issued. Any person refusing to obey the issuance of said subpoena as directed by the judge of the ~~corporation circuit~~ court, upon failure to give satisfactory excuse to said judge may be fined not exceeding the sum of one hundred dollars or imprisoned not exceeding thirty days or both, such person to have the right of appeal, as in cases of misdemeanor, to the ~~corporation circuit~~ court of Alexandria. Witnesses may be sworn by the officer presiding at investigations conducted by the council and shall be liable to prosecution for perjury for any false testimony given at such investigations.

§ 5.01. Department of finance.

There shall be a Department of Finance, which shall include the functions of ~~budgeting~~, accounting and control, purchasing, and such other functions as may be provided by ordinance. The Department of Finance shall include all the functions of the administration of the financial affairs of the city, including

the powers conferred and duties imposed by § 5.04 (i), (j), (k), and (l) of this charter.

§ 6.03. Preparation of budgets.

It shall be the duty of the head of each department, the judges of all courts, each board or commission, including the school board, and each other office or agency supported in whole or in part by the city, including the Sheriff, the Attorney for the Commonwealth, and clerks of courts to file with the City Manager or with the ~~Director of Finance~~ *another employee of the city* designated by him, at such time as the City Manager may prescribe, estimates of revenue and expenditure for that department, court, board, commission, office or agency for the ensuing fiscal year. Such estimates shall be submitted on the forms furnished by the ~~Director of Finance~~ *City Manager or his designee* and it shall be the duty of the head of each such department, judge, board, commission, office or agency to supply all the information which the City Manager may require to be submitted thereon. The ~~Director of Finance~~ *employee designated by the City Manager* shall assemble and compile these estimates and supply such additional information relating to the financial transactions of the city as may be necessary or valuable to the City Manager in the preparation of the budgets. The City Manager shall hold such hearings as he may deem advisable, and with the assistance of the ~~Director of Finance~~ *city staff* shall review the estimates and other data pertinent to the preparation of the budgets and make such revisions in such estimates as he may deem proper, subject to the laws of the Commonwealth relating to obligatory expenditures for any purpose, except that in the case of the school board he may recommend a revision only in its total estimated expenditure.

§ 7.16. Contents of bond ordinance for revenue producing utilities.

In addition to the requirements of § 7.06 of this chapter, the ordinance authorizing the issuance of any bonds for any revenue producing utility shall state either:

(a) That the bonds shall be payable from the ad valorem taxes without limitation of rate or amount; the full faith and credit of the city is deemed to be pledged for the payment of principal and interest thereof; and the bonds are to be issued pursuant to the provisions of ~~section one hundred twenty-seven~~ *(b)* of the Constitution of Virginia and are not to be included in determining the power of the city to incur indebtedness within the limitation prescribed by ~~section one hundred twenty-seven~~ of the Constitution of Virginia; provided, however, that from and after a period specified in such ordinance not exceeding five years from the date of the election authorizing the bonds, whenever and for so long as such revenue producing utility fails to produce sufficient revenue to pay for the cost of operation and administration, including the interest on such bonds, and the cost of insurance against loss by injury to persons or property, and an annual amount to be covered into a sinking fund sufficient to pay all such bonds outstanding shall be included in determining the limitation of the power of the city to incur indebtedness; or

(b) That the principal and interest of such bonds shall be payable exclusively from the revenue of such revenue producing utility, the faith and credit of the City of Alexandria shall not be deemed to be pledged for the payment of such principal and interest; and the bonds are to be issued pursuant to the provisions of ~~section one hundred and twenty-seven (b)~~ of the Constitution of Virginia and are never to be included in determining the power of the city to incur indebtedness within the limitation prescribed by ~~section one hundred twenty-seven~~ of the Constitution of Virginia.

§ 7.20. Borrowing in anticipation of property taxes.

In any budget year, in anticipation of the collection of the property tax for such year, whether levied or to be levied in such year, the council may by resolution authorize the borrowing of money by the issuance of negotiable notes of the city, each of which shall be designated "tax anticipation note for the year 19 20__" (stating the budget year). Such notes may be issued for periods not exceeding one year and may be renewed from time to time for periods not exceeding one year, but together with renewals shall mature and be paid not later than the end of the third fiscal year after the budget year in which the original notes have been issued. The amount of the tax anticipation notes originally issued in any budget year shall not exceed fifty per centum of the amount of the property tax levied in that year for city purposes. On renewal of tax anticipation notes of any given fiscal year, the amount renewed in the next succeeding fiscal year shall not exceed twenty per centum of the amount originally issued, and the amount renewed in the second fiscal year succeeding the year of levy shall not exceed four per centum of the amount originally issued.

§ 10.03.1. Voter registration offices.

It shall be the duty of the general registrar of the city to maintain [*and the city to provide and furnish*] in the city hall, or other ~~municipal building, of the city,~~ an office wherein all qualified voters of the city may be registered and, in addition, it shall be his duty to maintain one temporary or permanent office, wherein qualified voters of the city may be registered, for each fifty thousand population of the city and for any remaining portion of fifty thousand population in excess of twenty-five thousand according to the last United States census. It shall also be the duty of the general registrar to maintain as many other temporary or permanent offices, wherein qualified voters of the city may be registered, as city council may, in its sole judgment, deem necessary or desirable; provided,

however, that such offices shall not be established, located or maintained in any private home. The city shall furnish the general registrar of the city a suitable office in the city hall, or other municipal building and, in addition, shall furnish such registrar with one temporary or permanent office for each fifty thousand population of the city and for any remaining portion of fifty thousand population in excess of twenty-five thousand according to the last United States census. The city shall also furnish such registrar with such other temporary or permanent offices as the city council, in its sole judgment, has deemed necessary or desirable, except that such office shall not be established, located or maintained in any private home.

§ 11.01. City attorney.

(a) The city attorney shall be an attorney at law licensed to practice under the laws of the Commonwealth who has actively practiced law for at least five years immediately preceding his appointment. The city manager shall review the applications of all applicants for the office and forward his recommendations to the city council.

(b) The council shall, in September, 1982, or sooner if the office becomes vacant, appoint a the city attorney. The, and the terms and conditions of such appointment shall be set forth in an employment agreement consistent with the provisions of this Charter. Any subsequent vacancy in the office of city attorney shall be filled by appointment by the council. The city attorney holding office on August 31, 1982, shall continue in office until his successor is appointed.

(c) The entire compensation of the city attorney shall be fixed by the council on a salary basis.

§ 13.02. Eminent domain.

The city is hereby authorized to acquire by condemnation proceedings lands, buildings, structures and personal property or any interest, right, easement or estate therein of any person or corporation, whenever in the opinion of the council a public necessity exists therefor, which shall be expressed in the resolution or ordinance directing such acquisition, and whenever the city cannot agree on terms of purchase or settlement with the owners of the subject of such acquisition because of the incapacity of such owner, or because of the inability to agree on the compensation to be paid or other terms of settlement or purchase, or because the owner or some one of the owners is a nonresident of the State or cannot with reasonable diligence be found in the State or is unknown.

Such proceedings may be instituted in the circuit court of the city, if the subject to be acquired is located within the city, or, if it is not located within the city, in the circuit court of the county in which it is located. If the subject is situated partly within the city and partly within any county the circuit court of such county shall have concurrent jurisdiction in such condemnation proceedings with the courts of the city hereinbefore enumerated. The judge or the court exercising such concurrent jurisdiction shall appoint five disinterested freeholders, any or all of whom reside either in the county or city, any three of whom may act as commissioners, as provided by law, provided, however, that the provisions of § 25-233 25.1-102 of the Code of Virginia, 1950, shall apply as to any property owned by a corporation possessing the power of eminent domain that may be sought to be taken by condemnation under the provisions of this act.

§ 13.03. Alternative procedures in condemnation.

The city may, in exercising the right of eminent domain conferred by the preceding section, make use of the procedure prescribed by the general law as modified by said section or may elect to proceed as hereinafter provided. In either event the date of valuation shall be the time of the lawful taking by the petitioner, or the date of the filing of the petition in condemnation, whichever occurs first. The resolution or ordinance directing the acquisition of any property as set forth in the preceding section, shall provide therein in a lump sum the total funds necessary to compensate the owners thereof for such property to be acquired or damaged. Upon the adoption of such resolution or ordinance the city may file a petition in the clerk's office of a court enumerated in the preceding section, having jurisdiction of the subject, which shall be signed by the city manager and set forth the interest or estate to be taken in the property and the uses and purposes for which the property or the interest or estate therein is wanted, or when property is not to be taken but is likely to be damaged, the necessity for the work or improvement which will cause or is likely to cause such damage. There shall also be filed with the petition a plat of a survey of the property with a profile showing cuts and fills, trestles and bridges, or other contemplated structures if any, and a description of the property which, or an interest or estate in which, is sought to be taken or likely to be damaged and a memorandum showing names and residences of the owners of the property, if known, and showing also the quantity or property which, or an interest or estate in which, is sought to be taken or which will be or is likely to be damaged. There shall be filed also with said petition a notice directed to the owners of the property, if known, copies of which shall be served on such owners or tenants of the freehold of such property, if known. If the owner or tenant of the freehold be unknown or a nonresident of the State or cannot with reasonable diligence be found in the State, or if the residence of the owner or tenant be unknown, he may be proceeded against by order of publication which order, however, need not be published more than once a week for two successive

306 weeks and shall be posted at a main entrance to the courthouse. The publication shall in all other
307 respects conform to §§ ~~8-71, 8-72, and 8-76 of the Code of 1950~~ 8.01-316, 8.01-317, and 8.01-319 of
308 *the Code of Virginia*.

309 Upon the filing of said petition and the deposit of the funds provided by the council for the purpose
310 in a bank to the credit of the court in such proceedings and the filing of a certificate of deposit therefor
311 the interest or estate of the owner of such property shall terminate and the title to such property or the
312 interest or estate to be taken in such property shall be vested absolutely in the city and such owner shall
313 have such interest or estate in the funds so deposited as he had in the property taken or damaged and all
314 liens by deed of trust, judgment or otherwise upon said property or estate shall be transferred to such
315 funds and the city shall have the right to enter upon and take possession of such property for its uses
316 and purposes and to construct its works or improvements. The clerk of the court in which such
317 proceedings are instituted shall make and certify a copy of the petition, exhibits filed therewith, and
318 orders, and deliver or transmit the same to the clerk of the court in which deeds are admitted to record,
319 who shall record the same in his deed book and index them in the name of the person or persons who
320 had the property before and in the name of the city, for which he shall receive the same fees prescribed
321 for recording a deed, which shall be paid by the city.

322 If the city and the owner of the property so taken or damaged agreed upon compensation therefor,
323 upon filing such agreement in writing in the clerk's office of such court the court or judge thereof in
324 vacation shall make such distribution of such funds as to it may seem right, having due regard to the
325 interest of all persons therein whether such interest be vested, contingent or otherwise, and to enable the
326 court or judge to make a proper distribution of such money it may in its discretion direct inquiries to be
327 taken by a special commissioner in order to ascertain what persons are entitled to such funds and in
328 what proportions and may direct what notice shall be given of the making of such inquiries by such
329 special commissioner.

330 If the city and the owner cannot agree upon the compensation for the property taken or damaged, if
331 any, upon the filing of a memorandum in the clerk's office of said court to that effect, signed by either
332 the city or the owner, the court shall appoint commissioners provided for in § ~~25-46.20~~ 25.1-227.2 of
333 the Code of ~~1950~~ *Virginia*, as amended, or as provided for in § 13.02, and all proceedings thereafter
334 shall be had as provided in §§ ~~25-46.4:2 and 25-46.17 to 25-46.36, inclusive~~, Article 6 (§ 25.1-230 *et*
335 *seq.*) of Chapter 2 of Title 25.1 of the Code of ~~1950~~ *Virginia*, as amended, insofar as they are then
336 applicable and are not inconsistent with the provisions of this and the preceding section, and the court
337 shall order the deposit in bank to the credit of the court of such additional funds as appear to be
338 necessary to cover the award of the commissioners or shall order the return to the city of such funds
339 deposited that are not necessary to compensate such owners for property taken or damaged. The
340 commissioners so appointed shall not consider improvements placed upon the property by the city
341 subsequent to its taking nor the value thereof nor the enhancement of the value of said property by said
342 improvements in making their award.

343 **2. That Chapter 14 (§§ 14.01 through 14.05) of Chapter 536 of the Acts of Assembly of 1950 are**
344 **repealed.**