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SENATE BILL NO. 749

Offered January 14, 2015

Prefiled December 19, 2014

A BILL to amend and reenact §§ 3.03 and 3.04 of Chapter 640 of the Acts of Assembly of 2011, which provided a charter for the City of Portsmouth, relating to the election of mayor and city council members.

Patron—Lucas

Referred to Committee on Local Government

Be it enacted by the General Assembly of Virginia:

1. That §§ 3.03 and 3.04 of Chapter 640 of the Acts of Assembly of 2011 are amended and reenacted as follows:

§ 3.03. Election of Mayor and City Council members.

a. On the first Tuesday in May in nineteen hundred seventy-four, and on the first Tuesday in May of every fourth year thereafter, there shall be a general election at which time the qualified voters of the city shall elect three City Council members for terms of four years. On the first Tuesday in May nineteen hundred seventy-six, and on the first Tuesday in May of every fourth year thereafter, there shall be a general election at which the qualified voters of the city shall elect a Mayor and three Council members for terms of four years. All terms shall begin on the first day of July next following the date of their election.

However, beginning in 2012, the municipal election shall be held at the time of the November general election with terms to commence on January 1. No term of a Mayor or member of Council elected in 2008 or 2010 shall be shortened in implementing the change to the November election date. The Mayor and members of Council who were elected at a May general election and whose terms are to expire as of June 30 shall continue in office until their successors have been elected at the November general election and have been qualified to serve.

b. The candidates at any municipal election for the election of City Council members, equal in number to the places to be filled, who receive the largest number of votes cast at such election shall be declared elected to the office of City Council. The candidate for Mayor who receives the largest number of votes at any municipal election shall be declared elected to the office of Mayor.

c. In the event any member of City Council during his or her tenure of office shall desire to be a candidate for the office of Mayor, he or she shall be eligible to do so, but shall tender resignation as a member of City Council not fewer than ten days prior to the final date for the filing of petitions and notices of acceptance as specified herein; such resignation to be effective on December 31st of the election year. Such resignation shall state the council member's intention to run for the office of Mayor and shall require no formal acceptance by the remaining members of City Council and shall be final and irrevocable as of the date it is tendered without being required to resign his or her office.

d. The remaining two-year term of office of any City Council member who has resigned for the stated purpose of running for office of Mayor shall be filled at the same succeeding general municipal election at which the office of Mayor is filled. The two-year term shall be filled by the candidate for City Council receiving the next highest vote to those candidates declared elected to the office of City Council member pursuant to subsection b. above. Such two-year term shall begin on the first day of January next following the date of such election.

e. The City Clerk shall notify all successful candidates of the process to qualify for office immediately after their election has been certified by the proper officials.

§ 3.04. City Council vacancies.

If, for any reason, there is an insufficient number of certified elected candidates for the office of City Council after any municipal election, or if a City Council vacancy otherwise occurs, except for resignations to run for the office of Mayor which should be filled as specified in § 3.03 e. above, such vacancies shall be filled for the unexpired portion of the term by majority vote of the remaining members of the City Council, or, if the Council shall fail to fill a vacancy in its membership within sixty days of the occurrence of the vacancy, by appointment by a majority of the judges of the Circuit Court of the City.

If any person duly elected to the City Council shall fail to take the oath of office prior to the first day of January following such election, he or she shall be deemed to have declined the office, and the seat shall be deemed vacant. If any person appointed to the City Council to fill an unexpired term shall fail to take the oath of office within thirty days of such appointment, he or she shall be deemed to have

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