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## HOUSE BILL NO. 556

Offered January 12, 2022

Prefiled January 11, 2022

A BILL to amend and reenact §§ 3.02, 3.03, 4.03, as amended, 4.07, as amended, 5.01, 7.02, as amended, and 16.01 of Chapter 542 of the Acts of Assembly of 1990, which provided a charter for the City of Bristol, relating to election of city councilmembers; election of city manager; chief financial officer monthly statement for presentation.

Patron—O'Quinn

Committee Referral Pending

**Be it enacted by the General Assembly of Virginia:**

1. That §§ 3.02, 3.03, 4.03, as amended, 4.07, as amended, 5.01, 7.02, as amended, and 16.01 of Chapter 542 of the Acts of Assembly of 1990 are amended and reenacted as follows:

§ 3.02. Election of ~~councilmen~~ councilmembers.

A municipal election shall be held on the first Tuesday following the first Monday in ~~May~~ November of every second year ~~after beginning in the year 1988~~ 2022. This election shall be known as the regular municipal ~~councilmanic~~ council election at which shall be elected by the qualified voters of the city, on a general ticket from the city at large, one member of council for each ~~council member~~ councilmember whose term expires on ~~July~~ January 1 following the election.

The number of candidates equal to the positions to be filled who receive the highest number of votes at such election shall be declared elected. ~~Councilmen~~ Councilmembers shall serve for a term of four years from ~~July~~ January 1 following their election.

Each qualified voter shall be entitled to vote for as many candidates as there are vacancies to be filled and no more. No voter shall in such election cast more than one vote for the same person.

In counting the vote, any ballot found to contain a greater number of names for the office of ~~councilman~~ councilmember than the number of vacancies to be filled shall be void, but no ballot shall be void for containing a less number of names than the number of vacancies being filled.

All ~~council members~~ councilmembers holding office at the time of enactment of this charter shall continue in office for the term of office to which they were elected.

§ 3.03. Vacancies in office of ~~councilman~~ councilmembers.

Mid-term vacancies in the office of ~~councilman~~ councilmember, from whatever cause arising, shall be filled within thirty days for the unexpired portion of the term by majority vote of the remaining members of the council.

If the council fails to fill a vacancy in its membership within thirty days of the occurrence of the vacancy, the vacancy shall be filled by the judge of the Circuit Court for the City of Bristol, Virginia. Upon the expiration of thirty days from the occurrence of a vacancy without appointment by council, the city clerk shall certify that fact to the judge of the circuit court. If the clerk fails to do so for ten days, any citizen may file a petition in the court showing the unfilled vacancy.

Upon appointment to fill a vacancy by the circuit court, the clerk of the court shall transmit to the council a copy of the order of appointment, which shall be entered on the minutes of the next meeting of the council.

§ 4.03. Meetings.

At nine o'clock a.m. on ~~July~~ the first business day following January 1 following a regular municipal election, ~~or if that should be Saturday, Sunday or a legal holiday, then on the first business day following~~, the council shall hold an inaugural ~~or~~ organizational meeting at the usual place for holding the meetings of the council.

At that meeting, newly elected ~~councilmen~~ councilmembers shall be sworn and assume the duties of their office; and then shall make such elections and appointments as are otherwise provided for in this charter.

At nine o'clock a.m. on ~~July~~ the first business day following January 1 in each year when no municipal election has been held, ~~or if such day be Saturday, Sunday or a legal holiday, then the first business day following~~, the council shall have an inaugural ~~or~~ organizational meeting for the purpose of making such appointments and transacting such other business as this charter shall provide shall be made or transacted on ~~July~~ January 1 of each year.

~~Each July 1,~~ At the inaugural or organizational meeting, council shall make such appointments of its own members to such boards, authorities, committees or commissions that require a representative from the members of the council. Additionally, at the inaugural or organizational meeting, or as soon as

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HB556

possible thereafter, council shall also make such citizen appointments to the planning commission, board of zoning appeals, economic development committee, social services board, board of building code appeals, BVU Authority, Industrial Development Authority and any other boards to which the council makes appointments of members whose terms have expired as of midnight on ~~the 30th day of June~~ *December 31*. Nothing herein is meant to preclude the filling of any vacancies on such boards, authorities, committees or commissions prior to ~~July~~ *January* 1, if such opening exists prior to midnight on ~~June 30th~~ *December 31*. The length of terms of all appointees to the BVU Authority are governed by the BVU Authority Act and not the Charter.

Council shall thereafter regularly meet at such times as may be prescribed by ordinance, provided that it shall meet not less than once each month.

The mayor, any member of the council, or the city manager may call a special meeting of the council at any time, upon twelve hours written notice stating the purpose of the meeting served upon each member personally, or left at his usual place of business or residence. The called meeting may be held without written notice, provided all members of the council attend. At such special meeting, no business other than that mentioned in the call shall be considered.

All meetings of the council shall be public as provided for by the Virginia Freedom of Information Act, with executive sessions as permitted therein at the discretion of the majority of council. The council shall keep written minutes of its proceedings but does not have to keep minutes of its executive session. Citizens may have access to the minutes and records of all public meetings at any reasonable time.

#### § 4.07. Appointments and removals.

The council in making appointments and removals shall act only by affirmative vote of at least three members. It may remove any person appointed by it for an indefinite term, provided that the person to be removed shall have been served with written notice of the intention of the council to remove him at least ten days prior to the action becoming final. If two or more members of council shall be disabled to vote pursuant to the provisions of the Virginia State and Local Government Conflict of Interests Act (§ 2.1-639.1 et seq.) or its successors, as the same may be amended from time to time, council may act by an affirmative vote of those members of city council not so disabled to vote. No hearing shall be required.

Any member of the council or any member of a board or commission, and any other person appointed by the council for a specified term may be removed during that term by the council but only for malfeasance or neglect of duty. The person to be removed shall be entitled to notice of the intention of the council to remove him, 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 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 may be represented by counsel, the decision of the council shall be final. It shall be the duty of the council, at the request of the person sought to be removed, to subpoena witnesses whose testimony would be pertinent to the matter in hand. Any officer, elective or appointed, including ~~councilmen~~ *councilmember*, or an employee of the city 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, whether felony or misdemeanor, shall forfeit his office or employment. Council shall also have the power to otherwise punish its own members and to compel their attendance.

#### § 5.01. Appointments and qualifications.

There shall be a city manager who shall be the administrative and executive head of the city and shall be responsible to the council for the proper administration of the city government. He shall be chosen by the council solely on the basis of his executive and administrative qualifications. The choice shall not be limited to inhabitants of the city or the Commonwealth of Virginia. He shall be appointed by council for a term of one year, unless sooner removed by council as herein provided. The city manager's term shall commence immediately upon election by council at ~~a~~ *the inaugural or organizational meeting to be held on July 1* of each year; ~~or if such day be on Saturday, Sunday or a legal holiday, on the first business day following.~~ Such term shall end on ~~June 30~~ *December 31* of the ~~succeeding~~ *succeeding same* calendar year. Vacancies during the term may be filled by the council for the remainder of the term. During the absence or disability of the city manager, the council may, by general ordinance, or specific act, designate some properly qualified person to perform the duties of the office as acting city manager in the absence of an assistant city manager.

#### § 7.02. Finance department.

A. Generally. There shall be a finance department headed by a department head known as the chief financial officer, who shall be in charge of the accounting and finances of the city. The chief financial officer shall function as budget director, which position shall require skill in public administration and the accepted practices and municipal budgetary procedure and shall compile, in cooperation with the various department heads, the departmental estimates and other data necessary or useful to the city manager in the preparation of the annual budget.

B. General powers and duties of chief financial officer. The chief financial officer shall have general management and control, subject to the direction and control of the city manager, of the administration of the financial affairs of the city and to that end shall have authority and be required to:

1. Keep books of account of the receipts from all sources and expenditures of all departments, courts, boards, commissions, offices and agencies of the city and prescribe the form of receipts, vouchers, bills or claims to be used and accounts to be kept by all departments, courts, boards, commissions, offices and agencies of the city. The chief financial officer in so doing shall consult with the retained public auditor for the city so that his books of account and other items mentioned herein produce the requisite information for auditing purposes;

2. Maintain suitable records to keep an accurate account with the city treasurer, making entries therein, where practical, on the same date which they occur, and said records shall be kept so that an examination of them will show the condition of the treasury;

3. Cooperate with the city manager in compiling estimates for the current expense and capital budgets;

4. Require daily, or at such intervals as he may deem expedient, report of receipts and a remission of the same from each department, court, board, commission, office and agency, and shall on the proper in-paying warrant remit the same to the treasurer;

5. Examine all contracts, purchase orders and other documents which create financial obligations against the city to determine that money has been appropriated and allotted therefor and that an unexpended and unencumbered balance is available and such appropriation and allotment to meet the same;

6. Audit before payment for legality and correctness all accounts, claims and demands against the city and no money shall be drawn from any bank account of the city except by warrant or check signed by the city manager and treasurer, based upon a voucher prepared by him;

7. Submit to the city manager for presentation to the council, not later than the 25th day of each month, *or as soon as practicable thereafter*, a statement concerning the financial transactions of the city prepared in accordance with accepted principles in municipal accounting and budgetary procedure and showing:

(a) The amount of each appropriation with transfers to and from the same, the allotment thereof to the end of the preceding month, encumbrances and expenditures charged against such appropriation during the preceding month, the total of such charges for the fiscal year to the end of the preceding month and the unencumbered balance remaining in such appropriation; and

(b) The revenue estimated to be received from each source, the actual receipts from each source for the preceding month, the total receipts from each source for the fiscal year to the end of the preceding month, and the balance remaining to be collected;

8. Furnish the head of each department, court, board, commission, office or agency of the city a copy of such portion of the statement relating to such department, court, board, commission, office or agency;

9. Prepare and submit to the city manager at the end of each fiscal year, for the preceding year, a complete financial statement and report of the financial transactions of the city;

10. Protect the interest of the city by withholding the payment of any claim or demand by any person, firm or corporation against the city until any indebtedness or other liability due from such person, firm or corporation shall first have been settled and adjusted; and

11. Perform such other duties as may be required of him by this charter, by the city manager or by the city council.

C. Annual audit. The council shall cause to be made annually an independent financial audit of all accounts, books, records and financial transactions of the city by the auditor of public accounts of the Commonwealth or by a firm of independent certified public accountants to be selected by council. The audit shall be of sufficient scope to express an opinion as to whether the books and records and the financial statements prepared therefrom as contained in the annual financial report of the city present fairly the fiscal affairs of the city in accordance with generally accepted accounting principles of municipal accounting and applicable government laws. The report of such audit shall be always available for public inspection in the office of the city clerk and in the office of the city manager during regular business hours and shall be posted on the city's website for public viewing. The chief financial officer shall cooperate with and provide the necessary information to the auditor for the purpose of producing the annual audit.

D. Other audits of accounts. Upon the death, resignation, removal or expiration of the term of any officer of the city, the chief financial officer, under the supervision of the city manager, shall audit the accounts of such officer and report the result of the audit to the council. The chief financial officer shall also audit the accounts of any office or department of the city upon the request of the council, under the supervision of the city manager. Any such audit, at the direction of the council, may be made by an

182 independent certified public accountant rather than by the chief financial officer if they so direct.

183 E. Commissioner of revenue. There shall be elected, pursuant to Chapter 3 of this charter and the  
184 general law of the Commonwealth, a commissioner of revenue as provided for in the Constitution of the  
185 Commonwealth of Virginia who shall perform such duties as are not inconsistent with the laws of the  
186 Commonwealth in relation to the assessment of property and license taxes as may be required by the  
187 council for the purpose of levying city property and license taxes. He shall perform such other duties  
188 within the City of Bristol, Virginia, as are prescribed for him by the general law of the Commonwealth  
189 of Virginia and as may be prescribed for him by this charter or by the city council for the City of  
190 Bristol, Virginia, and are not inconsistent with his office. The commissioner of revenue shall have the  
191 power to administer oaths in the performance of his official duties.

192 F. City treasurer. There shall be elected, pursuant to Chapter 3 of this charter and the general law of  
193 the Commonwealth, a city treasurer, as provided for in the Constitution of Virginia who shall, except as  
194 otherwise provided in this charter, be the custodian of all funds of the city and the city's chief financial  
195 officer's bond, and pursuant thereto shall:

196 1. Deposit all funds coming into the treasurer's hands to the account of the city, in such separate  
197 accounts as may be provided for by council, in such banks as may be designated for that purpose by the  
198 council. However, the city manager may authorize any department or agency of the city to maintain a  
199 petty cash fund not to exceed \$300. Such fund authorized shall be reimbursed by the treasurer only  
200 upon presentation of vouchers approved by the chief financial officer;

201 2. Receive all moneys belonging to and received by the city and keep a correct account of all such  
202 receipts;

203 3. Be subject to the supervision of the council, perform such other duties not inconsistent with the  
204 office as council may from time to time direct, and have such powers and duties as are now or may  
205 hereafter be prescribed by the general law of the Commonwealth or ordinance of this city;

206 4. Make all such reports to the chief financial officer with respect to receipts and expenditures in the  
207 city treasury as may be required by the chief financial officer to properly keep the financial records of  
208 the city up to date;

209 5. Pay out no money from the city treasury except as may have been approved by the city manager  
210 and the chief financial officer on forms prescribed by the chief financial officer, all in accordance with  
211 the provisions of this charter;

212 6. Present annually to council the treasurer's account with the State Auditor;

213 7. Receive no money or permit the payment of the same into the treasury, except upon the  
214 presentation of a proper form authorizing such payment and receipt, which form shall show the source  
215 and amount of such money and shall be signed by the chief financial officer or his designee. No license,  
216 permit or other authorization for which the party receiving same is required to pay money to the city  
217 shall be valid unless and until the treasurer receipts the same giving the amount and date of such  
218 receipt; and

219 8. Report a list of delinquent real and personal property taxes for the next preceding year to the city  
220 manager and to city council no later than July 1 of each year.

221 § 16.01. Present officers to hold over, contracts, etc. to continue.

222 The present mayor, ~~councilmen~~ *councilmembers* and all other officers of the City of Bristol shall  
223 continue to hold office, and to perform the duties of their respective offices for the city for the terms for  
224 which they were elected or appointed and until their successors are elected or appointed to replace them  
225 and such replacements are qualified, as herein or elsewhere provided by law; and all liabilities, actions,  
226 claims, contracts and prosecutions heretofore existing under the Charter of the City of Bristol shall  
227 remain and continue as if this charter had not been passed.