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H.59

Introduced by Representative Hooper of Burlington

Referred to Committee on

Date:

Subject: Municipal and county government; municipal charters; City of
Burlington; amendments

Statement of purpose of bill as introduced: This bill proposes to approve the
amendments to the charter of the City of Burlington to authorize:

(1) the Board of Police Commissioners and the Chief of Police to jointly
propose rules and regulations governing the City Police Department;

(2) the Board of Police Commissioners to receive and review all
allegations of misconduct by members of the City Police Department and to
establish procedures for the Board's review, independent investigation, and
recommendations concerning alleged misconduct; and

(3) the Board of Police Commissioners to request the formation of an
independent panel to resolve disagreements between the Chief of Police and
the Board of Police Commissioners concerning the Board's recommendations
after an investigation of alleged misconduct.

An act relating to approval of amendments to the charter of the City of
Burlington

1 It is hereby enacted by the General Assembly of the State of Vermont:

2 Sec. 1. CHARTER AMENDMENT APPROVAL

3 The General Assembly approves the amendments to the charter of the City
4 of Burlington as set forth in this act. The voters approved the proposals of
5 amendment on November 5, 2024.

6 Sec. 2. 24 App. V.S.A. chapter 3 is amended to read:

7 CHAPTER 3. CITY OF BURLINGTON

8 * * *

9 § 183. BOARD OF POLICE COMMISSIONERS; COMPOSITION; TERMS

10 The Board of Police Commissioners shall consist of seven legal voters of
11 ~~said~~ the City and should represent the diverse nature of the City's constituents,
12 including those from historically marginalized communities, to be appointed
13 by the City Council with Mayor presiding to serve for three years and until
14 their successors are appointed and qualified.

15 § 184. SAME—POWERS AND DUTIES

16 (a) The City Council shall make rules and regulations for the government
17 of the entire ~~police force~~ Police Department and shall fix the qualifications of
18 applicants for positions and service on ~~said force~~ the Department and, to the
19 extent permitted by applicable law, the Chief of Police shall furnish the City
20 Council with any information they may require concerning the finances of the
21 Police Department. The Chief of Police shall be responsible for all

1 expenditures made by the Police Department and no expenditures shall be
2 made by the Department except in conformity with the standards promulgated
3 by the City Council.

4 (b) The Board of Police Commissioners shall have such authority and
5 responsibility relating to the management, auditing, or monitoring of the Police
6 Department, its services, and facilities as may be delegated from time to time
7 by resolution, ordinance, and order of the City Council. ~~Said~~ The Board shall
8 notify the Mayor ~~and~~, the Chief Administrative Officer, and the City Council,
9 in writing, of any and all changes, modifications, or additions to the rules and
10 regulations of the Department.

11 (c) Without limitation to the foregoing, the Board of Police Commissioners
12 and the Chief of Police may propose rules and regulations for the government
13 of the entire Police Department in a manner not inconsistent with those
14 established by the City Council. Adoption of the proposed rules and
15 regulations requires joint approval by the Board of Police Commissioners and
16 the Chief of Police. In the event joint approval is not provided by the Board of
17 Police Commissioners and the Chief of Police, either party may bring forward
18 to the City Council the proposed rule or regulation for the City Council's
19 consideration.

20 (d) The Board of Police Commissioners shall have the authority to receive
21 and review all civilian and internal allegations of misconduct by members of

1 the Police Department. The Mayor's proposed budget and the City Council
2 shall annually appropriate an amount necessary for the adequate support and
3 facilitation of such review. To the greatest extent permitted by law, the Chief
4 of Police shall provide the Board of Police Commissioners timely updates of
5 any review, investigation, or disposition of alleged misconduct. The Board of
6 Police Commissioners shall have the ability to request additional information
7 from the Chief of Police and access to those documents or other evidence
8 relied upon by the Chief of Police in reviewing allegations of misconduct as
9 the City Council shall designate by ordinance. For complaints of alleged
10 misconduct that constitute an offense subject to an investigation of the
11 Vermont Criminal Justice Training Council pursuant to 20 V.S.A § 2401 et
12 seq. or for which the Chief of Police intends to impose discipline constituting
13 loss of pay, suspension, or termination, the complaint shall not be disposed
14 until the Board of Police Commissioners is notified of the proposed
15 disposition.

16 (e)(1) After receiving notice from the Chief of Police of the recommended
17 or actual disposition relating to the review of alleged misconduct, the Board of
18 Police Commissioners shall have the authority to:

19 (A) recommend an alternative disposition to the Chief of Police
20 within a time established by ordinance; or

1 (B) independently investigate any allegation of misconduct by
2 members of the Police Department upon a two-thirds majority vote.

3 (2) An investigation or review shall be conducted by an independent
4 investigator hired by the Board of Police Commissioners and approved by the
5 City Attorney's Office, and completed within a time established by ordinance.

6 (3) Upon the conclusion of such an investigation, the Board of Police
7 Commissioners may make a recommendation per subdivision (1)(A) of this
8 subsection. The Board of Police Commissioners shall not have the authority to
9 investigate or impose discipline upon the Chief of Police. Matters regarding
10 the alleged misconduct of the Chief of Police shall be addressed in conformity
11 with subsection 190(b) of this charter and other relevant Vermont statutes.

12 (f) Upon receiving a recommendation by the Board of Police
13 Commissioners in subsection (e) of this section, the Chief of Police may accept
14 the recommendation subject to the notice and hearing provisions in Article 62,
15 subsection 190(a) of this charter or reject the recommendation. In the event
16 the Chief of Police rejects the recommendation, the Chief of Police shall
17 immediately notify the Board of Police Commissioners. Upon receiving notice
18 of the rejection, the Board of Police Commissioners may, upon a two-thirds
19 majority vote, request that an independent panel decide the disposition of the
20 matter within a time established by ordinance, subject to the notice and hearing
21 provisions set forth in Article 62, subsection 190(a) of this charter. The

1 disposition of the independent panel shall be final, subject to any applicable
2 right of appeal or grievance process. This independent panel shall consist of
3 three to five persons appointed per ordinance.

4 § 185. OFFICERS OF POLICE ~~FORCE~~ DEPARTMENT DESIGNATED

5 (a) The direction and control of the entire ~~police force~~ Police Department,
6 except as herein otherwise provided, shall be vested in a police officer who
7 shall be called the Chief of Police, and such other ranking police officers as the
8 City Council shall authorize, subject to the ordinances, resolutions, and orders
9 of the city council; and, provided that the Mayor shall retain the powers and
10 duties of chief executive officer pursuant to section 116 of this charter. The
11 order of rank and succession within the Police Department shall be as
12 designated by the City Council by regulation.

13 (b) Except as herein otherwise provided, ~~such~~ the officers shall have the
14 powers and duties granted to police officers by Vermont law and assigned to
15 them by regulations adopted under section 184 of this charter.

16 * * *

17 § 190. CHIEF OF POLICE MAY REMOVE MEMBER FOR CAUSE;

18 HEARING

19 (a) Whenever it shall appear to the Chief of Police that any member of ~~said~~
20 ~~force~~ the Department has become incompetent, inefficient, or incapable from
21 any cause, or is or has been negligent or derelict in ~~his or her~~ the Department

1 member's official duty, or is guilty of any misconduct in ~~his or her~~ the
2 Department member's private or official life, or whenever any well-grounded
3 complaints or charges to such effect are made in writing to the Chief of Police
4 by a responsible person against such member, the Chief of Police may
5 investigate and, after appropriate notice and hearing, dismiss such member
6 from the ~~force~~ Department, order a demotion in rank, or suspend the member
7 without pay for a specified time period in excess of 14 days. In connection
8 with any possible dismissal, demotion, or suspension for more than 14 days,
9 the Chief's notice to the member shall be given at least 48 hours prior to any
10 hearing and shall include a description of the charges being considered. In
11 connection therewith, the Chief of Police shall have the power to subpoena
12 documents and witnesses and to administer the oath to ~~such~~ the witnesses.
13 Such a subpoena will be subject to enforcement or modification pursuant to the
14 procedures set forth in 3 V.S.A. §§ 809a and 809b. The Board of Police
15 Commissioners or, in the case it has already offered an opinion on discipline
16 pursuant to subsection 184(e) of this charter or in the case that the voting
17 number of commissioners falls below four due to declared actual or apparent
18 conflict of interest, an independent panel comprised as in subsection 184(f) of
19 this charter shall hear any appeal filed in a timely manner with respect to such
20 actions of the Police Chief. The time of filing an appeal and the nature of the
21 appellate process shall be as determined by such Board of Regulation.

1 Following its consideration of any such appeal, the Board may affirm, modify,
2 or vacate the decision made by the Chief of Police.

3 (b) Whenever it shall appear to the Mayor that the Chief of Police has
4 become incompetent, inefficient, or incapable from any cause, or has been
5 negligent or derelict in ~~his or her~~ the Chief's official duty, or is guilty of any
6 misconduct in ~~his or her~~ the Chief's private or official life, or whenever any
7 well-grounded complaints or charges to such effect are made in writing to the
8 Mayor by a responsible person, the Mayor may suspend the Chief of Police
9 from duty pending a hearing ~~thereon~~ on the matter by the City Council. The
10 City Council shall forthwith notify the Chief of Police of the charges preferred
11 by them, or of the complaints or charges presented by ~~such~~ the responsible
12 person in writing, and shall thereupon proceed to consider and investigate the
13 same. It shall appoint a time and place for the hearing of ~~such~~ the complaints
14 and charges so made, shall give the Chief of Police reasonable notice of the
15 same, not less than 48 hours, and the City Council shall have the power to
16 subpoena documents and witnesses and to administer the oath to ~~such~~ the
17 witnesses. Such a subpoena will be subject to enforcement or modification
18 pursuant to the procedures set forth in 3 V.S.A. §§ 809a and 809b.

19 (c) If, upon hearing, the City Council shall find ~~such~~ the complaints or
20 charges to be well founded, it may dismiss the Chief of Police from the ~~foree~~
21 Police Department, demote ~~him or her~~ the Chief in rank, or suspend ~~him or her~~

1 the Chief without pay for a period not to exceed 60 days. The procedures
2 outlined in this section shall control in the event of any conflict with section
3 129 of this charter as pertains to the removal of the Chief of Police.

4 (d) The Chief of Police may, without notice or hearing for any infraction,
5 violation, or disobedience of any of the rules and regulations of the Police
6 Department that may seem to the Chief sufficient, suspend from duty without
7 pay any member of the ~~police force~~ Police Department for a period not to
8 exceed 14 days.

9 * * *

10 Sec. 3. EFFECTIVE DATE

11 This act shall take effect on passage.