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H.771

Introduced by Representative Scheuermann of Stowe

Referred to Committee on Government Operations

Date:

Subject: Municipal government; municipal charters; amendment; town of
Stowe

Statement of purpose: This bill proposes to approve amendments to the charter
of the town of Stowe.

An act relating to approval of amendments to the charter of the town of
Stowe

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

Sec. 1. CHARTER APPROVAL

The general assembly approves the amendments to the charter of the town
of Stowe as provided in this act. Proposals of amendment were approved by
the voters on March 2, 2010.

Sec. 2. 24 App. V.S.A. chapter 153 § 401 is amended to read:

§ 401. OFFICERS GENERALLY; ELECTED OFFICERS; RECALL

(a) The elected officers of the Town of Stowe shall be: Selectboard
members, town clerk, moderator, treasurer, and listers, ~~constable(s) and
auditors. Such~~ These officers shall have all the powers and ~~duties~~ authority

1 necessary to carry out ~~the provisions of~~ their duties and responsibilities under
2 this charter as well as those provided by and the laws of the State of Vermont.
3 ~~All officers elected prior to the effective date of the charter shall remain in~~
4 ~~office until the end of their term. Those persons in office as of the effective~~
5 ~~date of the charter whose terms would otherwise expire prior to the next annual~~
6 ~~town meeting shall remain in office until said town meeting.~~

7 (b) Elected town officers may be removed from office as follows:

8 (1) A petition signed by not less than 30 percent of the registered
9 voters of the town shall be filed with the Selectboard requesting a vote on
10 whether one or more elected officer shall be removed from office before the
11 expiration of the officer's term. The date of signing by each voter shall be
12 indicated in the petition, and the date shall not be earlier than 30 days prior to
13 the filing of the petition.

14 (2) If the petition, as filed, meets the requirements of subdivision (1) of
15 this subsection, the Selectboard shall call a special town meeting, to be held
16 within 45 days of the filing of the petition, to vote on whether the named
17 elected town officer shall be removed.

18 (3) The named elected town officer shall be removed only if at least as
19 many registered voters of the town vote as voted in the election at which the
20 officer was elected, or at least one-third of the registered voters of the town

1 vote, whichever is greater, and a majority of the number of votes is cast for
2 removal.

3 (4) Notwithstanding any other provision of law to the contrary, a vote
4 on a recall petition shall be by Australian ballot.

5 (c) A vacancy resulting from the recall of an elected town officer shall be
6 filled in the manner prescribed by law.

7 (d) A recall petition shall not be brought against a particular named
8 individual more than once within any 12-month period.

9 Sec. 3. 24 App. V.S.A. chapter 153 § 405(a) is amended to read:

10 (a) An official record of the proceedings of the Selectboard shall be kept by
11 its clerk, which shall be kept in the office of the town clerk and shall be open
12 for public inspection within five (5) days of the meeting.

13 Sec. 4. 24 App. V.S.A. chapter 153 § 406(b) is amended to read:

14 (b) The Selectboard shall appoint the following:

15 (1) Members of the zoning board of adjustment or development review
16 board;

17 (2) Members of the planning commission; ~~and~~

18 (3) Town manager; and

19 (4) Constable or constables.

1 Sec. 5. 24 App. V.S.A. chapter 153 § 408 is amended to read:

2 § 408. POWERS AND DUTIES OF THE SELECTBOARD

3 (a) The members of the Selectboard shall constitute the legislative body of
4 the Town of Stowe for all purposes required by statute except as otherwise
5 herein specifically provided in this charter, and shall have all powers and
6 authority given to and shall perform all duties required of town legislative
7 bodies or Selectboards under the laws of the State of Vermont and this charter.

8 (b) Within the limitations of the foregoing, the Selectboard shall have the
9 power to:

10 (1) Authorize the expenditure of all town money, except when this
11 power is expressly conferred upon another body by this charter.

12 * * *

13 ~~(5) Exercise each and every other power which is not specifically set~~
14 ~~forth herein, but which is granted to the Selectboard by the statutes of the State~~
15 ~~of Vermont.~~

16 Sec. 6. 24 App. V.S.A. chapter 153 § 409 is added to read:

17 § 409. INTERFERENCE WITH ADMINISTRATION

18 Neither the Selectboard nor its members shall give orders to or seek to
19 direct the actions of any employee who is subject to the direction and
20 supervision of the town manager.

1 Sec. 7. 24 App. V.S.A. chapter 153 § 503 is added to read:

2 § 503. BOARD OF LIBRARY TRUSTEES

3 (a) The board of library trustees shall consist of seven members appointed by
4 the Selectboard to staggered three-year terms. The library trustees shall be
5 responsible for setting general policies concerning library operations,
6 including programs and collections, consistent with the provisions of this
7 charter. The library director shall be responsible for ensuring that library
8 policy adopted by the library trustees is effectively implemented.

9 (b) Library personnel are town employees subject to the personnel
10 policies and labor agreements duly adopted by the Selectboard. The town
11 manager shall have the authority to hire, appoint, fix the salary of, discipline,
12 suspend, and remove the library director and all employees pursuant to the
13 provisions of this charter and personnel rules adopted pursuant to this charter.

14 (c) On the hiring of the library director, the town manager shall seek the
15 advice of the library trustees. The library trustees shall have at least two
16 trustees on the search committee to review resumes and interview candidates.
17 The town manager shall give seven days' notice to the library trustees of his
18 or her intent to hire the library director prior to extending a job offer.

19 (d) Trust funds and other donations to benefit the library shall be
20 under the exclusive control and direction of the library trustees subject to the
21 terms of the document creating the trust or evidencing the gift. The town

1 treasurer shall maintain separate accounts for these funds and shall write checks
2 from those accounts as directed by the library trustees. Town appropriations
3 and all other taxpayer-sourced library funds shall be subject to and handled in
4 accord with financial policies and controls duly adopted by the Selectboard.

5 (e) Except as otherwise provided in this section, to the extent of any
6 conflict between the provisions of this charter and the provisions of Vermont
7 statutes pertaining to municipal libraries, the provisions of this charter shall
8 control.

9 Sec. 8. 24 App. V.S.A. chapter 153 § 602 is amended to read:

10 § 602. ANNUAL AUDIT

11 The ~~auditors~~ Selectboard shall provide for an annual independent audit by a
12 ~~registered or certified public accountant on an annual basis.~~

13 Sec. 9. 24 App. V.S.A. chapter 153 § 703 is amended to read:

14 § 703. POWERS AND DUTIES

15 * * *

16 (e) The town manager shall be the general purchasing agent of the town
17 and purchase all supplies for every department of the town, except the Electric
18 Department.

19 * * *

20 (h) The town manager shall have authority to hire, appoint, fix the salary
21 of, discipline, suspend, and remove the zoning administrator and all other

1 employees of the town not hired or appointed by the Selectboard, subject to the
2 provisions of this charter or personnel rules adopted pursuant to this charter.

3 The town manager may authorize any department head subject to the town
4 manager's direction and supervision to exercise these powers with respect to
5 that department head's subordinates. Prior to hiring a department head, the
6 town manager shall notify the Selectboard of the intent to hire a department
7 head, and the Selectboard may take action within seven days of receipt of that
8 notice that overrides the town manager's authority to hire that department
9 head. Thereafter, the town manager shall select and submit notification to the
10 Selectboard of an alternate choice for that department head.

11 * * *

12 Sec. 10. 24 App. V.S.A. chapter 153 § 802 is amended to read:

13 § 802. GENERAL FUND BUDGET PREPARATION AND SUBMISSION

14 (a) The town manager, at least ~~fifty (50)~~ 50 days before the annual town
15 meeting, or at such previous time as may be directed by the Selectboard, shall
16 submit to the Selectboard a financial report containing:

17 (1) An estimate of the financial condition of the town as of the end of
18 the fiscal year.

19 (2) An itemized statement of appropriations recommended for current
20 expenses, during the next fiscal year, with ~~comparative statements in parallel~~
21 ~~columns of appropriations and estimated expenditures for the current fiscal~~

1 ~~year and~~ actual appropriations and expenditures for the immediate preceding
2 fiscal year.

3 * * *

4 (4) A capital budget ~~for the next fiscal year~~ and program showing
5 anticipated capital expenditures, financing and tax requirements.

6 * * *

7 Sec. 11. 24 App. V.S.A. chapter 153 § 901 is amended to read:

8 § 901. TAXES ON REAL PROPERTY

9 Taxes on real property shall be ~~paid due~~ in four (4) equal payments, with
10 ~~one quarter of the annual tax bill for each taxpayer due and payable on August~~
11 ~~10, November 10, February 10, and May 10~~ installments on dates established
12 annually by the Selectboard, provided the first payment in each fiscal year is
13 not earlier than 30 days after the date tax bills for that fiscal year are mailed to
14 taxpayers. Any taxes not paid when due shall be deemed delinquent and
15 payable to the collector of delinquent taxes.

16 Sec. 12. 24 App. V.S.A. chapter 153 § 902 is amended to read:

17 § 902. INTEREST

18 An additional charge of two ~~(2)~~ percent of the unpaid tax shall be imposed
19 per month for each month or fraction ~~thereof~~ of the month as interest on any
20 tax not paid on or before the dates specified in section 901 of this charter.

1 Sec. 13. 24 App. V.S.A. chapter 153 § 1001 is amended to read:

2 § 1001. APPOINTMENT AND REMOVAL

3 (a) Subject to the provisions of this charter, all employees other than
4 elected officials and appointees of the Selectboard shall be appointed,
5 suspended, or removed by the town manager without interference ~~of~~ by the
6 Selectboard. The town and its employees shall comply with Vermont's Fair
7 Employment Practices Act and shall not discriminate in their employment
8 practices on account of political opinions or affiliations. Appointments,
9 layoffs, promotions, and discipline, including suspensions, demotions, and
10 removals, shall be determined on the basis of training, experience, fitness and
11 performance of the individual and be undertaken to ensure that the responsible
12 administrative officer will secure efficient and competent service.

13 (b) ~~Each newly hired employee shall be hired, disciplined, suspended,~~
14 ~~demoted, removed, or laid off consistent with the personnel rules adopted by~~
15 ~~the Selectboard.~~ Employees of the town whose terms and conditions of
16 employment are not governed by the provisions of a collectively bargained
17 labor agreement shall be hired, disciplined, suspended, demoted, removed, or
18 laid off in accordance with the personnel rules and policies adopted by the
19 Selectboard.

20 * * *

1 Sec. 14. 24 App. V.S.A. chapter 153 § 1002(a) is amended to read:

2 (a) The town manager or his or her designee shall be the personnel director.

3 He or she may prepare personnel rules and regulations protecting the interests

4 of the town and of the employees. These rules and regulations must be

5 approved by the Selectboard and shall include the procedure for amending

6 them and for placing them into practice. ~~Each employee shall receive a copy~~

7 ~~of the rules and regulations when the employee is hired.~~

8 Sec. 15. 24 App. V.S.A. chapter 153 § 1004 is amended to read:

9 § 1004. CONFLICT OF INTEREST

10 ~~No elective or appointive officer or employee of the town shall be~~

11 ~~beneficially interested directly or indirectly in any contract with the town,~~

12 ~~regardless of amount; or furnish any material, or perform any labor, except in~~

13 ~~the discharge of his or her official duties, unless such contract shall have been~~

14 ~~awarded upon bids advertised for by publication. Such publication shall be at~~

15 ~~least two (2) times in a newspaper having general circulation in the town; the~~

16 ~~second publication shall be at least seven (7) days prior to the opening of such~~

17 ~~bids. No officer or employee of the town shall take part in any decision~~

18 ~~concerning the business of the town in which he or she has a direct or indirect~~

19 ~~financial interest, aside from his or her salary as an officer or employee, greater~~

20 ~~than any other citizen or taxpayer in the town. This section shall not apply in~~

21 ~~the event of an emergency where immediate action shall be deemed more~~

1 ~~important to the town than the receipt of formal bids.~~ All appointed town
2 officials and employees, including commissioners and employees of the
3 Electric Department, shall be governed by and adhere to an ethics policy duly
4 adopted by the Selectboard.

5 Sec. 16. 24 App. V.S.A. chapter 153 § 1101 is amended to read:

6 § 1101. ELECTRIC UTILITY COMMISSION

7 (a) There shall be a Town of Stowe Electric ~~Utility Department which shall~~
8 ~~initially serve the same area as the Village of Stowe Electric Department.~~

9 (b)(1) The Electric ~~Utility~~ Commission shall be composed of three
10 Commissioners appointed by the Town of Stowe Selectboard for staggered
11 ~~terms of three years each. The initial three Commissioners shall be the Trustees~~
12 ~~of the Village of Stowe who held such office on June 30, 1996, and such shall~~
13 ~~continue to serve as such Commissioners until June 30, 1997 at which time the~~
14 ~~Selectboard shall, in their own discretion, appoint one Commissioner for a one-~~
15 ~~year term, one Commissioner for a two-year term, and one Commissioner for a~~
16 ~~three-year term so that each year thereafter, the Selectboard shall appoint one~~
17 ~~Commissioner for a three-year term.~~

18 * * *

19 (c) The ~~Utility~~ Commissioners shall serve as electric commissioners under
20 30 V.S.A., Sections 2915 and 2916. The Electric ~~Utility~~ Commission shall
21 have authority to construct an electric light plant, for the purpose of lighting

1 the street, walks, and other public grounds, and lighting any buildings therein,
2 and supplying and furnishing electricity for domestic and other purposes to
3 such persons and corporations in Stowe and adjoining town as it may desire
4 upon such terms as may be agreed upon. And for this purpose may take,
5 purchase₂ or acquire and hold any water power, land₂ and ~~rights-of-way~~
6 rights-of-way in said town, needed for the construction, maintenance₂ and
7 operation of said electric light plant, and may use any public highway over
8 which it may be necessary or desirable to pass with the poles and wire of the
9 same, provided the use of such public highway for the purpose of public travel
10 is not thereby unnecessarily impaired. The Electric ~~Utility~~ Commission shall
11 have the power to purchase, hire, construct₂ or otherwise acquire an interest in,
12 to maintain, operate, and to sell, lease or otherwise dispose of any plant
13 (including but not limited to a gas plant) or system (including but not limited to
14 existing ~~rights-of-way~~ rights-of-way, poles, lines, towers and fixtures₂ and
15 transmission line serving the existing system owned by others) located within
16 or outside the state, for the production, distribution, purchase₂ or sale of
17 electricity, to extend, enlarge₂ or improve the same and for that purpose to
18 purchase, hire, construct₂ or otherwise acquire any real or personal property.
19 These powers may be exercised through a taking by eminent domain in the
20 manner prescribed by law. The Electric ~~Utility~~ Commission shall also have the
21 power to purchase, sell₂ and otherwise acquire and dispose of electricity₂

1 including sale to electric distribution companies, cooperatives, municipal and
2 privately owned, within or outside the state and to make all agreements,
3 conveyances, and regulations necessary or convenient in connection therewith.

4 All of the foregoing powers are in addition to and not in substitution for or in
5 limitation of any other powers conferred by law, and are subject to regulatory
6 review for municipal utilities as provided in Title 30, Vermont Statutes
7 Annotated.

8 (d) ~~The Stowe Electric Utility Commissioners shall administer their~~
9 ~~responsibilities in the Electric Department.~~ The department Electric
10 Department shall have its own professional management, staff, plan,
11 equipment, and entirely separate financial accounts.

12 (e) ~~The department Electric Department~~ shall be directly managed ~~under~~
13 ~~the Utility Commission by a General Manager.~~ ~~The Commission recommends~~
14 ~~to the Selectboard any hiring or firing of Electric Department personnel by a~~
15 general manager who shall be responsible to the Electric Commission for the
16 performance of his or her duties.

17 (f) The General Manager shall ~~have the special and immediate care and~~
18 ~~practical supervision of the Electric Department~~ be the chief executive officer
19 and head of the Electric Department and shall be responsible to the Electric
20 Commission for the efficient administration of the Electric Department.

1 (g) The general manager shall attend all meetings of the Electric
2 Commission, except when the general manager's removal or discipline is being
3 considered, and shall keep the Electric Commission informed of the financial
4 condition and future needs of the Electric Department, and shall make reports
5 as required by law or ordinance or which may be requested by the Electric
6 Commission. The general manager shall make other reports and
7 recommendations as the general manager may deem advisable. The general
8 manager shall perform other duties as may be prescribed by this charter, or
9 required of the manager by law, ordinance, or resolution of the Electric
10 Commission not inconsistent with this charter.

11 (h) Prior to hiring a general manager, the commissioners shall notify the
12 Selectboard of the intent to hire, and the Selectboard may take action within
13 seven days of receipt of that notice overriding the commissioners' authority to
14 hire the identified individual as the general manager. Thereafter, the
15 commissioners shall select and submit notification to the Selectboard of an
16 alternate choice for general manager until the Selectboard is in agreement.

17 (i) ~~The General Manager shall at all times be subject in respect to his or her~~
18 ~~responsibilities to the order of the Electric Utility Commission. With approval~~
19 ~~of the Electric Utility Commission, the General Manager~~ The commissioners
20 shall have the authority to enter into labor agreements and to adopt personnel
21 policies affecting the working conditions and terms of employment for Electric

1 Department employees without the approval of the Selectboard. The general
2 manager of the Electric Department shall, subject to terms of labor agreements
3 and personnel policies adopted by the electric commissioners, have the
4 authority to hire, appoint, fix the salary of, discipline, suspend, and remove all
5 employees of the Electric Department. The general manager of the Electric
6 Department shall receive all funds due the ~~Town of Stowe~~ Electric
7 Department, shall issue bills for services rendered, have ~~sole~~ responsibility to
8 maintain books of account~~7~~. The electric commissioners shall approve the
9 expenditure of money as it pertains to the Electric Department. The general
10 manager and other designated persons with authority specifically approved by
11 the commissioners shall execute and issue on behalf of the Stowe Electric
12 Department drafts, checks and/or other negotiable orders for the payment of
13 bills and charges of the Electric Department ~~provided that any such payment~~
14 ~~shall be made exclusively from the revenue of the department.~~ All such
15 accounting functions of the Electric Department shall be subject to ~~the review~~
16 ~~by the auditors of the Town of Stowe~~ an annual independent audit by a
17 certified public accountant chosen by the electric commissioners.

18 (e)(j) The Town of Stowe Electric Department shall ~~inherit all of the assets,~~
19 ~~accounts and liabilities of the Village of Stowe Electric Department,~~ subject to
20 ~~the management of the Stowe Electric Utility Commission under the general~~
21 ~~supervision of the Selectboard. It shall~~ operate under the statutory authority

1 and requirements of 30 V.S.A., Chapter 79, relating to municipal electric
2 plants, and 24 V.S.A., Chapter 53, relating to municipal indebtedness, all of
3 which control the financing, improvements, expansion, and disposal of the
4 municipal electric plant and its operations. With specific reference to the
5 legislative authorization contained in 24 V.S.A., Chapter 53, subchapter 2,
6 “Indebtedness for Public Utility Purposes,” Sections 1821-1828, the ~~Stowe~~
7 Electric ~~Utility~~ Commission is permitted to issue revenue-backed bonds and/or
8 general obligation bonds for any capital improvement purpose related to their
9 responsibilities to operate such utilities for the benefit of the people of Stowe,
10 provided each such issue of bonds is approved by the Selectboard and the
11 voters according to law.

12 ~~(f)(k)~~ The charges and rates for electric service shall be a lien on real estate,
13 wherever located, furnished with such service in the same manner and to the
14 same effect as taxes are a lien upon real property under 32 V.S.A. ~~Section~~
15 ~~§~~ 5061. The owner of such property, furnished with electric service, wherever
16 located, shall be liable for such charges and rates.

17 ~~(g) The Town of Stowe Electric Department shall take over for~~
18 ~~administrative purposes all contractual benefits and obligations inherited by the~~
19 ~~Town of Stowe under this Merger Plan that involve or apply to its operations~~
20 ~~as an electric utility without any further act, deed or instrument being~~
21 ~~necessary, or the approval of any agency of State government.~~

1 (e) The Water Department service area may be enlarged or modified by the
2 ~~Water Commissioners~~ Water Commission after holding a public hearing on
3 any such proposed enlargement or modification. The public notice for each
4 such public hearing shall be given not less than 15 days prior to the date of the
5 public hearing by the publication of the date, place and purpose of the hearing
6 in a newspaper of general circulation in the Town of Stowe and by the posting
7 of the same information in one or more public places within the Water
8 Department service area.

9 ~~(f) The Water Department shall every year make a contribution to the Town~~
10 ~~of Stowe in lieu of taxes in form of a cash payment and/or the equivalent in~~
11 ~~free services and municipal rate benefits in an amount equaling the amount of~~
12 ~~money which would be received by the Town of Stowe in ad valorem real~~
13 ~~estate taxes were such department a privately owned utility.~~

14 Sec. 18. 24 App. V.S.A. chapter 153 § 1401 is amended to read:

15 § 1401. EFFECTIVE DATE

16 This charter shall become effective upon approval in accordance with
17 24 V.S.A. ~~section~~ § 703. Any amendment to this charter shall become
18 effective in accordance with the laws of Vermont then in effect.

19 Sec. 19. REPEAL

20 24 App. V.S.A. chapter 153 §§ 601 (auditors); 1502 (assets transferred and
21 liabilities assumed following merger); 1503 (existing ordinances following

1 merger); 1504 (personnel following merger); 1505 (taxation following
2 merger); 1506 (town of Stowe pension plan following merger); and 1507
3 (severability following merger) are repealed.

4 Sec. 20. EFFECTIVE DATE

5 This act shall take effect upon passage.