H.771

Introduced by Representative Scheuermann of Stowe

Referred to Committee on

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) The Selectboard shall appoint the following:

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

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

(3) Town manager; and

(4) Constable or constables.

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

§ 408. POWERS AND DUTIES OF THE SELECTBOARD

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

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

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

* * *

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

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

§ 409. INTERFERENCE WITH ADMINISTRATION

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

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

§ 503. BOARD OF LIBRARY TRUSTEES

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

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

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

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

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

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

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

§ 602. ANNUAL AUDIT

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

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

§ 703. POWERS AND DUTIES

* * *

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

* * *

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

employees of the town not hired or appointed by the Selectboard, subject to the provisions of this charter or personnel rules adopted pursuant to this charter. The town manager may authorize any department head subject to the town manager's direction and supervision to exercise these powers with respect to that department head's subordinates. Prior to hiring a department head, the town manager shall notify the Selectboard of the intent to hire a department head, and the Selectboard may take action within seven days of receipt of that notice that overrides the town manager's authority to hire that department head. Thereafter, the town manager shall select and submit notification to the Selectboard of an alternate choice for that department head.

* * *

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

§ 802. GENERAL FUND BUDGET PREPARATION AND SUBMISSION

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

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

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

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

* * *

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

* * *

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

§ 901. TAXES ON REAL PROPERTY

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

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

§ 902. INTEREST

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

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

§ 1001. APPOINTMENT AND REMOVAL

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

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

* * *

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

(a) The town manager or his or her designee shall be the personnel director. He or she may prepare personnel rules and regulations protecting the interests of the town and of the employees. These rules and regulations must be approved by the Selectboard and shall include the procedure for amending them and for placing them into practice. ~~Each employee shall receive a copy of the rules and regulations when the employee is hired.~~

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

§ 1004. CONFLICT OF INTEREST

~~No elective or appointive officer or employee of the town shall be beneficially interested directly or indirectly in any contract with the town, regardless of amount; or furnish any material, or perform any labor, except in the discharge of his or her official duties, unless such contract shall have been awarded upon bids advertised for by publication. Such publication shall be at least two (2) times in a newspaper having general circulation in the town; the second publication shall be at least seven (7) days prior to the opening of such bids. No officer or employee of the town shall take part in any decision concerning the business of the town in which he or she has a direct or indirect financial interest, aside from his or her salary as an officer or employee, greater than any other citizen or taxpayer in the town. This section shall not apply in the event of an emergency where immediate action shall be deemed more~~

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

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

§ 1101. ELECTRIC UTILITY COMMISSION

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

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

* * *

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

the street, walks, and other public grounds, and lighting any buildings therein, and supplying and furnishing electricity for domestic and other purposes to such persons and corporations in Stowe and adjoining town as it may desire upon such terms as may be agreed upon. And for this purpose may take, purchase, or acquire and hold any water power, land, and ~~rights of way~~ rights-of-way in said town, needed for the construction, maintenance, and operation of said electric light plant, and may use any public highway over which it may be necessary or desirable to pass with the poles and wire of the same, provided the use of such public highway for the purpose of public travel is not thereby unnecessarily impaired. The Electric ~~Utility~~ Commission shall have the power to purchase, hire, construct, or otherwise acquire an interest in, to maintain, operate, and to sell, lease or otherwise dispose of any plant (including but not limited to a gas plant) or system (including but not limited to existing ~~rights of way~~ rights-of-way, poles, lines, towers and fixtures, and transmission line serving the existing system owned by others) located within or outside the state, for the production, distribution, purchase, or sale of electricity, to extend, enlarge, or improve the same and for that purpose to purchase, hire, construct, or otherwise acquire any real or personal property. These powers may be exercised through a taking by eminent domain in the manner prescribed by law. The Electric ~~Utility~~ Commission shall also have the power to purchase, sell, and otherwise acquire and dispose of electricity,

including sale to electric distribution companies, cooperatives, municipal and privately owned, within or outside the state and to make all agreements, conveyances, and regulations necessary or convenient in connection therewith. All of the foregoing powers are in addition to and not in substitution for or in limitation of any other powers conferred by law, and are subject to regulatory review for municipal utilities as provided in Title 30, Vermont Statutes Annotated.

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

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

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

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

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

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

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

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

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

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

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

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

(m) An official record of the proceedings of the commission shall be kept by its clerk, shall be kept in the office of the town clerk, and shall be open for public inspection within five days of the meeting. The minutes of each meeting shall be approved by the commission at its next meeting and the official copy authenticated by signature of the clerk of the Selectboard.

Sec. 17. 24 App. V.S.A. chapter 153 § 1201 is amended to read:

§ 1201. WATER UTILITY COMMISSION

* * *

(d) The Selectboard of the Town of Stowe shall be the ~~Water Commissioners, who in connection with those powers enumerated in the general laws of the State with respect to waterworks and supply,~~ water commission and shall have the power to adopt and enforce rules, regulations, or ordinances concerning the control and operation of such water system in accordance with the powers enumerated in the general laws of the state with respect to water works and water supply.

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

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

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

§ 1401. EFFECTIVE DATE

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

Sec. 19. REPEAL

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

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

Sec. 20. EFFECTIVE DATE

This act shall take effect upon passage.