

SENATE BILL 2649

By Bowling

AN ACT to amend Chapter 127 of the Private Acts of 2006; and any other acts amendatory thereto, relative to the charter of the City of Cowan.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Chapter 127 of the Private Acts of 2006, and any other acts amendatory thereto, is amended by deleting Article II, Section 2.03(b), and substituting instead the following:

(b) The salary of the mayor shall be three hundred dollars (\$300) per month, and each councilman's salary shall be one hundred fifty dollars (\$150) per month.

Notwithstanding the foregoing, the city council may determine the annual salary of the mayor and members of council by ordinance, but no ordinance increasing the salary of the mayor shall become effective until the date the mayor's term commences following the next election, nor shall any ordinance increasing the salary of a member of council become effective until the date the council member's term commences following the next election. The mayor and members of council shall receive their actual and necessary expenses incurred in the performance of their duties of office.

SECTION 2. Chapter 127 of the Private Acts of 2006, and any other acts amendatory thereto, is amended by deleting Article II, Section 2.09, and substituting instead the following:

SECTION 2.09. Ordinances.

(a) In addition to other acts required by law or by specific provision of this charter to be done by ordinance, those acts of the city council shall be by ordinance which:

(1) Adopt or amend an administrative code;

- (2) Provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed;
- (3) Levy taxes;
- (4) Grant, renew, or extend a franchise;
- (5) Regulate the rate charged for its services by a public utility;
- (6) Convey or lease or authorize the conveyance or lease of any lands of the city;
- (7) Regulate land use and development;
- (8) Amend or repeal any ordinance previously adopted; or
- (9) Special assessments.

(b) Acts other than those referred to in subsection (a) may be done either by ordinance, resolution, or a vote of the council.

(c) All ordinances adopted by the city council shall begin: "Be it ordained by the City of Cowan, Tennessee,".

(d) All ordinances shall be in writing when offered for adoption by the city council, and must pass two (2) readings on two (2) different days in open session of the council before adoption. Not less than one (1) week shall elapse between the first and second readings.

(e) An ordinance may be read by title only provided a copy of said proposed ordinance shall have been made available to the city council and city recorder at least three (3) days prior to the time and date of the meeting at which said ordinance shall be read for the first time.

(f) An amendment to an existing ordinance shall be in the form of a new ordinance, and adoption of such amendments shall be had in the same manner as a new ordinance.

(g) Three (3) affirmative votes are required to pass an ordinance; an ordinance shall become effective upon passage unless its terms provide for a later effective date.

(h) Emergency Ordinances. To meet a public emergency affecting life, health, property, or the public peace, the city council may adopt one (1) or more emergency ordinances, but such ordinances may not levy taxes, grant, renew or extend a franchise, regulate the rate charged by any public utility for its services, or authorize the borrowing of money. An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced, but the affirmative vote of at least four (4) members shall be required for adoption. An emergency ordinance shall become effective upon its adoption or at such later time as the ordinance may specify. Every emergency ordinance shall automatically stand repealed as of the sixty-first day following the date on which it was adopted, but this shall not prevent reenactment of the ordinance in the manner specified in this subsection if the emergency still exists. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this subsection for adoption of emergency ordinances.

(i) The council may have the general and continuing ordinances of the city assembled into an official code of the city, a copy of which shall be kept up to date by the city recorder and shall be available to the public. After adoption of the city code, all ordinances shall be adopted as additions to, deletions from, or amendments to the code.

SECTION 3. Chapter 127 of the Private Acts of 2006, and any other acts amendatory thereto, is amended by adding the following as Section 2.11:

SECTION 2.11. Resolutions.

(a) All resolutions adopted by the city council shall begin "Be it resolved by the City of Cowan, Tennessee,".

(b) A resolution shall be effective from and after adoption on one (1) reading, and shall not be subject to the requirement, applicable to ordinances, that they be passed on two (2) readings.

(c) At the discretion of the council, the reading of a resolution in its entirety may be dispensed with provided that a copy of said proposed resolution shall have been lodged with the city council and the recorder at least three (3) days prior to the date and starting time of the meeting, at which said resolution shall be presented.

SECTION 4. Chapter 127 of the Private Acts of 2006, and any other acts amendatory thereto, is amended in Article III, Section 3.04(a), by deleting the last sentence in the subsection.

SECTION 5. Chapter 127 of the Private Acts of 2006, and any other acts amendatory thereto is amended by deleting Article III, Section 3.05, and substituting instead the following:

SECTION 3.05. City judge and court.

(a) There shall be a city court presided over by a city judge appointed by the council. The city judge shall be an attorney licensed to practice law and an attorney in good standing with the disciplinary board of the supreme court of the State of Tennessee. Other qualifications, term of office, if any, and the compensation of the judge shall be as established by the city council by ordinance. Notwithstanding the foregoing, the recorder may serve as judge provided the recorder was serving as city judge on March 1, 2005, and has continued to serve uninterrupted since that date, as provided by the Municipal Court Reform Act of 2004.

(b) In the event the office of city judge shall become vacant for any cause, including resignation, removal, death, or continuous disability that prevents the city judge from discharging the duties of the office, the city council shall appoint some qualified person to fill the position. The qualified person appointed shall be vested with the same powers and shall perform the same duties hereby bestowed and imposed upon the presiding officer of said court.

(c) Where the judge finds it necessary to be absent from holding court, the judge may designate in writing, to be filed with the clerk of the court, a name of a person to act as a special judge to hold court in the judge's place and stead; said person shall be a person who has the qualifications of city judge, and the special judge shall take the same oath and have the same authority as the regular city judge to hold court for the occasion.

(d) Powers to enforce ordinances.

(1) The city judge may impose fines, costs, and forfeitures, and punish by fine for violation of city ordinances.

(2) The city judge may preserve and enforce order in the court and enforce the collection of all fines, costs, and forfeitures imposed.

(3) The city judge may remit, with or without condition, fines and costs imposed for violation of any ordinance provision.

(e) Receipts of the city court shall be deposited daily with the city treasurer, and the city judge shall make monthly reports thereof to the council.

(f) The city judge shall keep a docket of all cases handled by such judge.

(g) The city judge shall be exclusive judge of the law and the facts in every case before such judge, and no officer or employee of the city shall attempt to influence the city judge's decision except through pertinent facts presented in open court.

SECTION 6. Chapter 127 of the Private Acts of 2006, and any other acts amendatory thereto, is amended by deleting Article III, Section 3.08, and substituting instead the following:

SECTION 3.08. Personnel System.

(a) All appointments and promotions of city officers and employees shall be made solely on the basis of merit and fitness demonstrated by a valid and reliable examination or other evidence of competence.

(b) Consistent with applicable federal and state laws, the city council shall provide by resolution for the establishment of personnel policies.

SECTION 7. Chapter 127 of the Private Acts of 2006, and any other acts amendatory thereto, is amended in Article III by adding the following as Section 3.13:

SECTION 3.13. Holding other office. Except where authorized by general law, no member of the city council shall hold any other elected public office during the term for which the member was elected to the council. No council member shall hold any other city office or employment during the term for which the member was elected to the council. No former council member shall hold any compensated appointive office or employment with the city until one (1) year after the expiration of the term for which the member was elected to the council. Nothing in this section shall be construed to prohibit the council from selecting any current or former council member to represent the city on the governing board of any regional or other intergovernmental agency.

SECTION 8. Chapter 127 of the Private Acts of 2006, and any other acts amendatory thereto, is amended by deleting Article IV, Section 4.03, and substituting instead the following:

SECTION 4.03. Purchasing. The mayor shall serve as purchasing agent and shall be authorized to make purchases in accordance with the purchasing policy approved by ordinance by the city council, which shall include provisions establishing public advertising and competitive bid limits. The purchasing policy shall also prescribe the maximum expenditure that the mayor may make without formal approval of the city council.

SECTION 9. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the legislative body of the city of Cowan. Its approval or nonapproval shall be proclaimed by the presiding officer of the city of Cowan and certified to the secretary of state.

SECTION 10. For the purpose of approving or rejecting the provisions of this act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes, it shall become effective as provided in Section 9.