

**No. M-17. An act relating to approval of amendments to the charter of the city of Burlington.**

(H.773)

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 city of Burlington 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 3 § 5 is amended to read:

§ 5. ELECTION TO BE BY BALLOT; METHOD OF ELECTION; RUNOFF

ELECTIONS

~~(a)~~ The election of the mayor and all city councilors and school commissioners shall be by ballot, and the person or persons receiving a plurality of all votes cast for any office aforesaid shall, except as hereinafter provided, be declared elected thereto. However, if no person receives at least 40 percent of all votes cast for any office aforesaid, no one shall be declared elected and a runoff election shall be held. The only candidates in the runoff election shall be the two persons receiving the greater number of votes or, in case of a tie, the persons receiving the greatest number of votes or the persons receiving the second greatest number of votes. The chief administrative officer shall within seven days warn a runoff election to be held not less than 12 days nor more than 20 days after the date of the warning. The warning shall be

published in a newspaper of general circulation in the city and posted in a public place. The person or persons receiving a plurality of all the votes cast in a runoff election shall be declared elected.

~~(b) All elections of mayor shall be by ballot, using a system of instant runoff voting without a separate runoff election. The chief administrative officer shall implement an instant runoff voting protocol according to these guidelines:~~

~~(1) The ballot shall give voters the option of ranking candidates in order of preference.~~

~~(2) If a candidate receives a majority (over 50 percent) of first preferences, that candidate is elected.~~

~~(3) If no candidate receives a majority of first preferences, an instant runoff retabulation shall be performed by the board of civil authority within five business days of the election. The instant runoff retabulation shall be conducted in rounds. In each round, each voter's ballot shall count as a single vote for whichever continuing candidate the voter has ranked highest. The candidate with the fewest votes after each round shall be eliminated until only two candidates remain, with the candidate then receiving the greatest number of votes being elected.~~

~~(4) The city council may adopt additional regulations consistent with this subsection to implement these standards.~~

Sec. 3. 24 App. V.S.A. chapter 3 § 116 is amended to read:

§ 116. DUTIES GENERALLY

The mayor shall be the chief executive officer of ~~said~~ the city. The mayor shall use his or her best efforts to see that the laws and city ordinances are enforced and that the duties of all subordinate officers are faithfully performed. The mayor shall take care that the funds of the city are properly expended, and shall recommend to the consideration of the city council whatever measures the mayor may deem necessary for the prudent and efficient management of the affairs of the city. The mayor shall also be the chief conservator of the peace and safety of the city and as such is empowered to control and direct the police force, in case of riot, insurrection or other emergency, when the mayor may take command of the whole police force, including the chief executive thereof, and may for the occasion appoint and commission as many special policemen as the mayor may deem necessary, who shall have all the powers of regular members of the police force. Any emergency as provided for in this section shall not be construed to be the operation of the police force in its routine duty. The mayor shall serve as a voting member of the local control commissioners. The mayor shall have those powers of a justice of the peace in the State of Vermont with respect to the performance of marriage and/or civil unions. The mayor, commencing on the first Monday in June 2002, shall appoint all city department heads who were heretofore appointed by city

commissions, with the exception of the superintendent of schools, who shall continue to be appointed by the board of school commissioners, and planning director who shall continue to be appointed by the planning commission. Such appointments shall be subject to confirmation by a majority of the membership of the city council. The appointment by the mayor to the position of city officer or department head shall be on the basis of professional competency and/or meritorious performance relating to the duties of the position. In making department head appointments and in evaluating their performance, the mayor shall consult with the applicable city commission. ~~Applicable~~ At least two applicable commissioners chosen by the chair shall be invited to participate in interviews for department head selection; ~~The full applicable commission~~ shall formally participate in the annual evaluation of a department head; and shall make a formal recommendation to the mayor concerning the reappointment of a department head. Department heads shall have such administrative, personnel and managerial authority as shall be delegated to them by the mayor.

Sec. 4. 24 App. V.S.A. chapter 3 § 127 is amended to read:

§ 127. DEPARTMENT HEADS AND OTHER OFFICERS

~~(a) On or before the first day of June 1999, and whenever a vacancy shall occur, the applicable board of commissioners shall deliver to the mayor a list of individuals who are qualified, in the commission's view, to be appointed as~~

~~director of aviation, cemetery superintendent, general manager of the Burlington electric department, chief engineer of the fire department, police chief, executive director of the Church Street marketplace district, superintendent of the parks and recreation department and director of the department of public works respectively. Such list shall not contain less than two names unless there is concurrence between the commission and the mayor as to the individual to be appointed, in which case only that name may be presented to the mayor. The mayor shall appoint the department head from the list presented, such appointment to occur no later than fifteen (15) days after the list has been presented. Reappointments shall be the responsibility of the applicable commission. However, the mayor shall be regarded as a voting member of each such commission on the question of reappointments. The initial two terms of any occupant of such positions may not exceed one year in length, from and after the July 1st following the date of appointment and until a successor has been appointed and qualified. Thereafter, the reappointment may be for a term not less than one year nor more than three years in length. The mayor may remove any such officer during the term of his or her office for negligence, incapacity or bad conduct as determined by the mayor with the concurrence of the applicable commission. The mayor and the applicable commission shall be responsible annually to approve the goals and objectives of and to evaluate the performance of the above referenced department heads.~~

(b) All officers whose terms of office are not herein or by general law otherwise specified, shall, except as herein otherwise provided, hold their offices for the specified terms from the first day of July following their appointment, and until their successors are appointed and have qualified.

Sec. 5. EFFECTIVE DATE

This act shall take effect upon passage.

Approved: April 24, 2010