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SENATE BILL NO. 623

Offered January 10, 2024

Prefiled January 10, 2024

A BILL to amend and reenact §§ 40.1-55, 40.1-57.2, and 40.1-57.3 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 4 of Title 40.1 an article numbered 2.2, consisting of sections numbered 40.1-57.4 through 40.1-57.7, relating to collective bargaining by firefighters and emergency medical services providers.

Patrons—Lucas, Carroll Foy, Salim, Perry and Williams Graves; Delegate: Henson

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That §§ 40.1-55, 40.1-57.2, and 40.1-57.3 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 4 of Title 40.1 an article numbered 2.2, consisting of sections numbered 40.1-57.4 through 40.1-57.7, as follows:

§ 40.1-55. Employee striking terminates, and becomes temporarily ineligible for, public employment.

A. Any employee of the Commonwealth, or of any county, city, town or other political subdivision thereof, or of any agency of any one of them, who, in concert with two or more other such employees, for the purpose of obstructing, impeding or suspending any activity or operation of his employing agency or any other governmental agency, strikes or willfully refuses to perform the duties of his employment shall, by such action, be deemed to have terminated his employment and shall thereafter be ineligible for employment in any position or capacity during the next 12 months by the Commonwealth, or any county, city, town or other political subdivision of the Commonwealth, or by any department or agency of any of them.

B. The provisions of subsection A shall apply to (i) any employee authorized to engage in collective bargaining pursuant to Article 2.2 (§ 40.1-57.4 et seq.) and (ii) any employee of any county, city, or town or local school board without regard to any local ordinance or resolution adopted pursuant to § 40.1-57.2 by such county, city, or town or school board that authorizes its employees to engage in collective bargaining.

§ 40.1-57.2. Collective bargaining.

A. No state, county, city, town, or like governmental officer, agent, or governing body is vested with or possesses any authority to recognize any labor union or other employee association as a bargaining agent of any public officers or employees, or to collectively bargain or enter into any collective bargaining contract with any such union or association or its agents with respect to any matter relating to them or their employment or service unless:

1. Such authority is provided for by Article 2.2 (§ 40.1-57.4 et seq.); or

2. In the case of a county, city, or town, such authority is provided for or permitted by a local ordinance or by a resolution. Any such ordinance or resolution shall provide for procedures for the certification and decertification of exclusive bargaining representatives, including reasonable public notice and opportunity for labor organizations to intervene in the process for designating an exclusive representative of a bargaining unit. As used in this section, "county, city, or town" includes any local school board, and "public officers or employees" includes employees of a local school board.

B. No ordinance or resolution adopted pursuant to ~~subsection~~ subdivision A 2 shall include provisions that restrict the governing body's authority to establish the budget or appropriate funds.

C. For any governing body of a county, city, or town that has not adopted an ordinance or resolution providing for collective bargaining, such governing body shall, within 120 days of receiving certification from a majority of public employees in a unit considered by such employees to be appropriate for the purposes of collective bargaining, take a vote to adopt or not adopt an ordinance or resolution to provide for collective bargaining by such public employees and any other public employees deemed appropriate by the governing body. Nothing in this subsection shall require any governing body to adopt an ordinance or resolution authorizing collective bargaining.

D. Notwithstanding the provisions of subsection A regarding a statute, local ordinance, or resolution granting or permitting collective bargaining, no officer elected pursuant to Article VII, Section 4 of the Constitution of Virginia or any employee of such officer is vested with or possesses any authority to recognize any labor union or other employee association as a bargaining agent of any public officers or employees, or to collectively bargain or enter into any collective bargaining contract with any such union or association or its agents, with respect to any matter relating to them or their employment or service.

§ 40.1-57.3. Certain activities permitted.

Nothing in this article shall be construed to prevent employees of the Commonwealth, of its political

59 subdivisions, or of any governmental agency of any of them from forming associations for the purpose of
 60 promoting their interests before the employing agency and, if they are (i) *firefighters or emergency medical*
 61 *services providers authorized to engage in collective bargaining by Article 2.2 (§ 40.1-57.4 et seq.)* or (ii)
 62 employees of a county, city, or town or local school board that has, by a local ordinance or resolution as
 63 provided in § 40.1-57.2, authorized its employees to engage in collective bargaining, from doing so as
 64 provided in such *statute, ordinance, or resolution.*

65 *Article 2.2.*

66 *Collective Bargaining by Firefighters and Emergency Medical Services Providers.*

67 **§ 40.1-57.4. Definitions.**

68 *As used in this article, unless the context requires a different meaning:*

69 "*Arbitration*" means the procedure whereby the parties involved in an impasse or grievance dispute
 70 submit their differences to a third party for a final and binding decision or as otherwise provided in this
 71 article.

72 "*Collective bargaining*" means performing the mutual obligation of the representatives of a public
 73 employer and the representatives of such public employer's employees to negotiate in good faith at
 74 reasonable times and places with respect to wages, hours, other terms and conditions of employment, the
 75 continuation, modification, or deletion of an existing provision of a collective bargaining agreement, or the
 76 resolution of questions arising under such agreement, and includes executing a written contract
 77 incorporating the terms of any agreement reached.

78 "*Emergency medical services provider*" has the same meaning as provided for the term "*emergency*
 79 *medical services personnel*" in § 9.1-300.

80 "*Employee organization*" means an organization in which employees participate and that exists for the
 81 purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, hours,
 82 and other terms and conditions of employment.

83 "*Employer*" means a political subdivision of the Commonwealth that employs firefighters or emergency
 84 medical services providers.

85 "*Firefighter*" has the same meaning as provided in § 9.1-300.

86 "*Governing body*" means any council or commission, whether elected or appointed, of the
 87 Commonwealth; any local government; or any other public body that determines the policies for operation of
 88 a political subdivision of the Commonwealth.

89 "*Impasse*" means a point in time at which the parties involved in collective bargaining do not settle an
 90 issue in dispute by way of a written agreement within 30 days after collective bargaining proceedings have
 91 been initiated.

92 "*Labor organization*" has the same meaning as provided in § 40.1-54.3.

93 **§ 40.1-57.5. Collective bargaining by firefighters and emergency medical services providers.**

94 A. Firefighters and emergency medical services providers employed by a political subdivision of the
 95 Commonwealth, through labor organizations or other representatives designated by the majority of such
 96 firefighters or emergency medical services providers, shall have the right to (i) collectively bargain with their
 97 employers regarding the terms and conditions of employment, including compensation, hours, working
 98 conditions, retirement, pensions, and other benefits, and (ii) adjust or settle their grievances or disputes in
 99 accordance with the terms of this article.

100 B. Employers, firefighters, and emergency medical services providers shall exert every reasonable effort
 101 to settle all disputes by engaging in collective bargaining in good faith and entering into settlements by way
 102 of written agreements and maintaining such agreements.

103 C. Collective bargaining shall begin at least six months before the start of the fiscal year of a political
 104 subdivision, and any request for arbitration, as provided in § 40.1-57.6, shall be made at least 110 days
 105 before the start of such fiscal year.

106 **§ 40.1-57.6. Dispute resolution; board of arbitration; powers.**

107 A. If a dispute arises between an employer and firefighters or emergency medical services providers
 108 working for such employer in which the collective bargaining process reaches an impasse, or if the relevant
 109 governing body does not approve an agreement reached between such parties within 30 days after such
 110 agreement is reached, then either party to such dispute, after written notice to the opposing party specifying
 111 the issue or issues in dispute, may request the appointment of a board of arbitration.

112 B. Each board of arbitration shall consist of three members, of which one member shall be appointed by
 113 the employer, one member shall be appointed by the firefighters or emergency medical services providers
 114 working for such employer, and one member shall be selected by the other two members. The two members
 115 appointed by the employer and by the firefighters or emergency medical services providers working for such
 116 employer shall be appointed within five days after the date of the request to appoint such board of
 117 arbitration. If, after at least 10 days have passed since the appointment of such two members, the third
 118 member has not been selected by such two members, either of the two members may request a nonprofit
 119 organization in the field of alternative dispute resolution that administers arbitration proceedings to furnish

120 a list of three members of such organization residing in the Commonwealth. The member appointed by the
121 employer shall eliminate one name from such list within five days after such list is furnished, and the member
122 appointed by the firefighters or emergency medical services providers working for such employer shall
123 eliminate another name from such list within five days after such initial elimination. The individual whose
124 name remains on such list shall be appointed as the third member and shall serve as the chairman of the
125 board of arbitration. The board of arbitration shall commence proceedings within 10 days after the chairman
126 is selected and shall make its determination within 30 days after proceedings commence.

127 C. Notice by firefighters or emergency medical services providers of a dispute proceeding to a board of
128 arbitration pursuant to this section shall be served upon the head of the relevant governing body.

129 D. Each board of arbitration shall be authorized to administer oaths and compel the attendance of
130 witnesses and physical evidence by subpoena.

131 E. The compensation for the member of a board of arbitration appointed by firefighters or emergency
132 medical services providers, if any, shall be paid by such firefighters or emergency medical services
133 providers. The compensation for the remaining members of such board of arbitration shall be paid by the
134 relevant political subdivision.

135 **§ 40.1-57.7. Determinations of board of arbitration.**

136 The determination of the majority of the members of a board of arbitration established pursuant to § 40.1-
137 57.6 shall be final on the issue or issues in dispute and shall be binding on the parties involved. Such
138 determination shall be made in writing and a copy thereof shall be sent to such parties.

139 **2. That nothing in this act shall be construed to supersede any active negotiation or agreement between**
140 **an employer and employees engaged in a collective bargaining process prior to the effective date of this**
141 **act.**