

## VIRGINIA ACTS OF ASSEMBLY — CHAPTER

*An Act to amend and reenact § 62 and §§ 63, 64, and 114, as severally amended, of Chapter 34 of the Acts of Assembly of 1918, which provided a charter for the City of Norfolk, relating to division of fire; classified service.*

[S 987]

Approved

**Be it enacted by the General Assembly of Virginia:**

**1. That § 62 and §§ 63, 64, and 114, as severally amended, of Chapter 34 of the Acts of Assembly of 1918 are amended and reenacted as follows:**

§ 62. Division of fire.

The fire force shall be composed of a chief, *deputy chief*, and of such other officers, firemen and employees as the city manager may determine. The fire chief shall have immediate direction and control of the said force, subject, however, to the supervision of the director of public safety, and to such rules and regulations and orders as the said director may prescribe, and through the fire chief the director of public safety shall promulgate all orders, rules and regulations for the government of the whole force.

The members of the fire force other than the chief and *deputy chief* shall be appointed from the list of eligibles prepared by the civil service commission and in accordance with such rules and regulations as may be prescribed by the said commission; provided, however, that in case of riot, conflagration or emergency, the director of public safety may appoint additional firemen and officers for temporary service who need not be in the classified service.

The chief of the fire department and his assistants are authorized to exercise the powers of police officers while going to, attending or returning from any fire or alarm of fire. The fire chief and each of his assistants shall have issued to him a warrant of appointment signed by the director of public safety, in which the date of his appointment shall be stated, and such warrant shall be his commission. The director of public safety shall prescribe the uniform and badges for the members of the fire force.

Whenever any building in said city shall be on fire it shall be lawful for the chief of the fire department to order and direct such building or any other building which he may deem hazardous and likely to communicate fire to other buildings, or any part of such buildings, to be pulled down or destroyed; and no action shall be maintained against said chief or any person acting under his authority or against the city therefor. But any person interested in the property so destroyed may within one year thereafter apply in writing to the council to assess and pay the damages he has sustained. The council may thereupon pay to the claimant such sum as may be agreed upon between him and the council. If no agreement be effected, such claimant may give to the city attorney of said city ten days' written notice of his intention to apply to the corporation court of said city for the appointment of commissioners to ascertain and assess his said damage. Upon its appearing that such notice has been given, the corporation court of said city shall appoint five disinterested freeholders, residents of said city, any three or more of whom may act, for the purpose of ascertaining and assessing the amount of such damages. Thereupon the said commissioners shall proceed to ascertain and assess the amount of such damages in the same manner as is now or may hereafter be provided by law in the case of taking private property for public use, and the procedure upon the filing of the report of said commissioners shall conform as nearly as may be to the procedure under the statutes of Virginia relating to eminent domain.

§ 63. Supervision in divisions of fire and police.

The chief of police and the fire chief, with the approval of the director of public safety, except as hereinafter provided, shall have the right and power to reprimand, or to suspend, for a given number of days or indefinitely, any of the sworn officers and sworn employees in their respective divisions who may be under their management and control, for incompetence, neglect of duty, immorality, drunkenness, failure to obey orders given by proper authority, or for any other just and reasonable cause. This section does not apply to the deputy chief of police or the *deputy fire chief*, who, like the chief of police and the fire chief, is *are* appointed by and ~~serves~~ *serve* at the will of the city manager. If any such officer or employee be suspended for more than ten days or be suspended indefinitely, the chief of the division concerned shall forthwith certify in writing the fact, together with the cause for such suspension, to the trial board hereinafter provided for, and a copy of such certificate of suspension, and the cause therefor, shall be promptly served on such officer or employee, which service may be by an officer of his division or in the manner prescribed by law for the service of civil process.

Any such officer or employee so suspended may, within ten days after he shall have been so served with such certificate of suspension and the cause therefor, file with said trial board a written request for a hearing

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upon the accusations so made against him, whereupon said trial board shall, after not less than five days' written notice to such officer or employee, and to the chief of the division by whom he has been suspended, hold and conduct a hearing, which shall be open to the public, upon such accusations, at a time and place to be specified in such notice, and may render judgment thereon. Such judgment, in the event said accusations or any of them are, in the opinion of said trial board, sustained, may be a reprimand, extra duty without extra compensation, suspension for a fixed time, reduction in rank, or dismissal, as to said trial board may seem proper, which judgment shall be final.

Whenever the judgment of the said trial board is that the accusations were not sustained, it may order the reinstatement of such officer or employee in the office or position from which he was suspended. Such order of reinstatement may, in the discretion of said trial board, be retroactive and provide that such officer or employee shall be entitled to compensation for all or part of the time he was so suspended.

In the event any such officer or employee who is suspended for more than ten days or suspended indefinitely shall not file with said trial board a written demand for a hearing as hereinabove provided, the suspension of such officer or employee shall become final, and if the suspension be for an indefinite period, such officer or employee may be discharged by the city manager without a hearing.

The trial board above referred to shall be known as the Norfolk Police-Fire Trial Board, and the members thereof shall be appointed by the council. It shall consist of not less than three nor more than five members, in the discretion of the council, who shall be qualified voters residing in the city, none of whom shall be in any way connected with any other city office. The first appointment of the members of the said trial board shall be for a term of one year commencing July 1, 1950, and all subsequent appointments shall be for consecutive terms of one year. Any member may be appointed for a consecutive term or terms, and any vacancy shall be filled by appointment by the council for the remainder of the unexpired term. The judgment of a majority of the members appointed on said trial board shall control. The members shall receive such compensation as may be provided by council. Each member shall, before entering upon the duties of his office, take and subscribe the oaths provided by § 133 of this Charter for city officers.

The council shall designate one member of said trial board as chairman thereof. The chairman shall have the power to subpoena witnesses, administer oaths and compel the production of any books and papers in connection with any hearing held hereunder by said trial board. Any person refusing or failing to appear and testify or to produce such books and papers, or who shall testify falsely under oath at any hearing held by said trial board, may be proceeded against in the same manner and shall be subject to the same penalties as provided by § 51 of this Charter relating to investigations as to city affairs.

The council shall also designate one member of said trial board as vice-chairman thereof to act in the absence, disability or inability to act of the chairman, and when so acting, the said vice-chairman shall have all the powers herein conferred upon the chairman.

Any such officer or employee against whom accusations are so filed shall have the right to be represented by counsel at any hearing before said trial board. All notices required to be given the trial board may be given to the chairman thereof, or in his absence, to the vice-chairman.

§ 64. Suspension and dismissal of the chief of police, deputy chief of police, ~~and~~ fire chief, *and deputy fire chief*.

The city manager shall have the power to suspend or dismiss the chief of police, the deputy chief of police, ~~and~~ the fire chief, *and the deputy fire chief* at any time, and his action in every such case shall be final; provided that in the event the chief of police, the deputy chief of police, ~~or~~ the fire chief, *or the deputy fire chief* was appointed to such position from the membership of his respective division, he shall, at the time of any such suspension or dismissal, or at any time prior thereto, at his request, be restored to the rank he held in the classified service in such division at the time of his appointment as such chief or deputy chief, without being required to take any examination, subject, however, to the provisions of § 63 of this Charter.

§ 114. Officers exempted from classified service.

Officers who are elected by the people or who are elected or confirmed by the council, pursuant to this charter, members of the school board, the teachers in the public schools and all other persons employed by said school board, heads of the administrative departments of the city, the deputy chief of police, *the deputy fire chief*, assistant city managers, employees who report directly to and whose positions require the personal trust and confidence of the city manager, employees, regardless of their positions, hired and permanently assigned to work for and under the supervision of the constitutional officers of the city or of the circuit court judges of the city, assistant heads of administrative departments, and heads or chiefs of bureaus and divisions within said departments, but not including such positions within the departments of fire and police other than ~~that~~ *those* of the deputy chief of police *and the deputy fire chief*, members of the law department and civil service examiners, shall not be included in such classified service; provided, however, that the council may by ordinance provide that the health officer of said city and such of his trained medical assistants as may be required to give full time to the duties of their positions shall be included in the classified service.