

HOUSE BILL 3985

By Lynn

AN ACT to amend Chapter 685 of the Private Acts of 1929; as amended by Chapter 158 of the Private Acts of 1943, Chapter 410 of the Private Acts of 1949, Chapter 310 of the Private Acts of 1957, Chapter 176 of the Private Acts of 1961, Chapter 279 of the Private Acts of 1972, Chapter 381 of the Private Acts of 1972, Chapter 60 of the Private Acts of 1985, Chapter 120 of the Private Acts of 1991, Chapter 185 of the Private Acts of 1994, Chapter 20 of the Private Acts of 1999, Chapter 169 of the Private Acts of 2002, Chapter 60 of the Private Acts of 2005, Chapter 61 of the Private Acts of 2005, Chapter 62 of the Private Acts of 2005, and any other acts amendatory thereto, relative to the charter of the City of Lebanon.

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

SECTION 1. Article III, Section 2, of Chapter 685 of the Private Acts of 1929; as amended by Chapter 410 of the Private Acts of 1949, Chapter 310 of the Private Acts of 1957, Chapter 176 of the Private Acts of 1961, Chapter 279 of the Private Acts of 1972, Chapter 381 of the Private Acts of 1972, Chapter 120 of the Private Acts of 1991, Chapter 185 of the Private Acts of 1994, Chapter 20 of the Private Acts of 1999, Chapter 169 of the Private Acts of 2002, Chapter 61 of the Private Acts of 2005, Chapter 62 of the Private Acts of 2005, and any other acts amendatory thereto, is amended by deleting Section 2 in its entirety and by appropriately renumbering the remaining sections of Article III.

SECTION 2. Article VI, of Chapter 685 of the Private Acts of 1929, as amended by Chapter 381 of the Private Acts of 1972, Chapter 120 of the Private Acts of 1991, Chapter 20 of the Private Acts of 1999, Chapter 169 of the Private Acts of 2002, and any other acts amendatory thereto, is amended by deleting the Article in its entirety and by substituting instead the following:

ARTICLE VI

DEPARTMENT HEADS AND OTHER EMPLOYEES

Section 1. Department Heads, Department Managers, and Judicial Official

A. The following positions shall be designated as Department Heads within the City of Lebanon organizational structure:

- (1) Commissioner of Finance
- (2) Commissioner of Public Works
- (3) Commissioner of Public Safety
- (4) Director of Personnel
- (5) Director of Parks and Recreation
- (6) Director of Jimmy Floyd Family Life Center
- (7) City Attorney
- (8) Chief of Police (Subject to the disciplinary provisions set forth in §1(C) below)
- (9) Chief of Fire (Subject to the disciplinary provisions set forth in §1(C) below)

(B) With the exception of the Chiefs of Police and Fire (See § 1(C) below), all Department Heads shall be hired and managed by the Mayor and shall be subject to discipline by the Mayor, up to and including suspension without pay for a maximum of ten (10) days per calendar year. Suspension for more than ten (10) days in any calendar year, termination, transfer, or any other removal from the position or designation of "Department Head," shall require prior City Council approval in the form of a majority vote of the City Council at a regular called Lebanon City Council meeting. The hiring or appointment of any Department Head by the Mayor referenced in this part shall require the advice and consent of the City Council by majority vote prior to the hiring or appointment.

(C) The Chiefs of Police and Fire shall be hired, managed, and disciplined, up to and including suspension without pay for a maximum of ten (10) days per calendar year, by the Public Safety Commissioner. Suspension for more than ten (10) days in any calendar year, termination, transfer, or any other removal from the position or designation of "Chief" of his or her respective department, shall require prior City Council approval in the form of a majority vote of the City Council at a regular called Lebanon City Council meeting. Prior to the hiring or appointment of any person for either the Chief of Police or Fire, the Public Safety Commissioner

shall be required to seek the advice and counsel of the Mayor and the Lebanon City Council who shall offer input to better assist the Public Safety Commissioner with such decision.

(D) The City Judge shall be designated a Judicial Official and shall be appointed by the Mayor and confirmed by a majority vote of the City Council before taking his or her oath of office and serving in such capacity. The City Judge shall be compensated in an amount, and receive such benefits, as determined by the Lebanon City Council with the passage of an annual fiscal year budget. The City Judge shall serve at the pleasure of the City Council and shall not be subject to the City of Lebanon Personnel Rules and Regulations. In the event of the temporary absence, disability, or sickness of the City Judge, the City judge may request any Wilson County municipal or general sessions judge to preside over the Lebanon Municipal Court by interchange. In the event that a Wilson County municipal or general sessions judge is unable to sit by interchange, the Mayor of Lebanon is authorized to appoint, in writing, a temporary City Judge, who shall be qualified on the basis of being licensed to practice law in the courts of the State of Tennessee and shall be empowered with all duties, responsibilities and abilities as the regular City Judge. The City Council of Lebanon shall determine the amount and duration of any compensation to be received by the temporary City Judge.

(E) The City Council shall set the salaries and compensation of all members thereof; and that of all Department Heads, Judicial Officials, and all other city officials and employees with the passage of annual fiscal year budget, and may define the duties of all City officials not inconsistent with the provisions of this charter. Any position, including that of any Department Head, may be frozen or eliminated by the City Council for budgetary reasons. The City Council, by a majority vote, shall, at any time, have the power and authority to limit the number of employees in any department of the City. Additionally, the City Council, notwithstanding any other provision in the law to the contrary, shall by a majority vote select, elect, and fill any and all positions of employment which may be created and which are paid in whole or in part by the federal and/or state governments.

(F) The City Council may authorize any officer, agent, or employee of the City to charge fees or commissions, and all fees or commissions collected by any officer, agent, or employee of the City shall be paid into the general fund of the City.

Section 2. Discipline of Department Heads

(A) All disciplinary proceedings against the Department Heads must be initiated by the Mayor, except for the Chiefs of Police and Fire, whose disciplinary proceedings must be initiated by the Public Safety Commissioner. The suspension for more than ten (10) days in any calendar year, termination for cause, or any removal from position or designation as Department Head or Chief, of any Department Head shall require prior City Council approval in the form of a majority vote of the City Council at a regular called Lebanon City Council meeting before taking effect.

(B) Notwithstanding the application of any other provisions of the City of Lebanon Personnel Rules and Regulations to Department Heads, any Department Head, including the Chiefs of Police and Fire, disciplined, terminated for cause, or otherwise removed from his or her position or designation as Department Head or Chief, as provided for by Art. VI, shall have only the right of disciplinary appeal in the form of a hearing before an Administrative Law Judge provided by the City. Such an appeal shall be requested by the aggrieved Department Head within five (5) business days of the disciplinary action and the hearing shall take place within thirty (30) calendar days of such request. The aggrieved Department Head shall have the right to legal counsel at such hearing, at his or her own expense, and the City shall be represented by outside legal counsel, as provided for by Article IX of the Lebanon City Charter. The Administrative Law Judge shall determine whether the facts, evidence, and testimony substantiate the decision(s) of the Mayor and Lebanon City Council by a preponderance of the evidence and shall render a verdict on the record. Both the City of Lebanon and the aggrieved Department Head shall have the right to appeal to the Chancery Court for Wilson County. A court reporter shall be provided by the City at the hearing for the purpose of creating an official record.

(C) Nothing in this section shall prohibit the Mayor from issuing a verbal or written reprimand to any Department Head, or shall prohibit the Public Safety Commissioner from issuing a verbal or written reprimand to either the Chief of Police or Fire, as deemed necessary to address any concerns relative to the welfare of the City of Lebanon administration or to the public. There shall be no right of disciplinary appeal arising from the issuance of any verbal or

written reprimand to any Department Head, including the Chiefs of Police or Fire. A record of any reprimand shall be placed in the personnel file of the recipient.

(D) Nothing in this section shall prohibit the City Council of Lebanon from having the ability to publicly censure, by a majority vote of the City Council at a public meeting, any Department Head, including the Chiefs of Police and Fire, whose actions are deemed by the City Council to be detrimental to, and negatively reflect upon, the Department Head's ability to represent the City of Lebanon in such Department Head's capacity.

SECTION 3. 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 Lebanon. Its approval or nonapproval shall be proclaimed by the presiding officer of the legislative body and certified to the secretary of state.

SECTION 4. 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 3.