

CHAPTER 42
FORMERLY
HOUSE BILL NO. 94

AN ACT TO AMEND CHAPTER 59, VOLUME 63 OF THE LAWS OF DELAWARE, AS AMENDED, THE CHARTER OF THE TOWN OF DEWEY BEACH, TO MAKE THE TOWN CHARTER CONSISTENT WITH CHANGES TO 15 DEL. C. SECTION 7501 ET SEQ., ENACTED BY THE 143RD GENERAL ASSEMBLY CONCERNING MUNICIPAL ELECTIONS AND RELATING TO ANNEXATION, ELECTIONS, TERMS OF OFFICE, AND ORGANIZATIONAL MEETINGS AND DUTIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Two-thirds of all members elected to each house thereof concurring therein):

Section 1. Amend Subsection (d), Section 2, Chapter 59, Volume 63 of the Laws of Delaware, as amended, by striking the following two paragraphs, as said two paragraphs appear therein:

“The Mayor shall appoint three (3) persons to act as a Board of Special Election, at least one (1) of whom shall reside and own property in the Town, and at least one (1) of whom shall reside and own property in the territory proposed to be annexed. One (1) of the said persons so appointed shall be designated the Presiding Officer. Voting shall be conducted in the Municipal Building and the Board of Election shall have available, clearly marked, two (2) ballot boxes. All ballots cast by those persons, partnerships or corporations authorized to vote as residents, property owners or leaseholders in the territory proposed to be annexed shall be deposited in one (1) such ballot box, and all ballots cast by those persons, partnerships or corporations who are authorized to vote as residents, property owners or leaseholders of the Town shall be deposited in the other such ballot box. The polling places shall be opened from 1:00 p.m., prevailing time, until 6:00 p.m., prevailing time, on the date set for the Special Election.

Immediately upon the closing of the polling places, the Board of Special Election shall count the ballots for and against the proposed annexation and shall announce the result thereof; the Board of Election shall make a certificate under their hands of the number of votes cast for and against the proposed annexation, and the number of void votes, and shall deliver the same to the Commissioners of Dewey Beach. The said certificate shall be filed with the papers of the Commissioners of Dewey Beach.”

and substituting in lieu thereof the following two paragraphs:

“The Mayor shall appoint three (3) persons to act as Election Officials, at least one (1) of whom shall reside and own property in the Town, and at least one (1) of whom shall reside and own property in the territory proposed to be annexed. One (1) of the said persons so appointed shall be designated the Presiding Officer. Voting shall be conducted in the Municipal Building and the Election Officials shall have available, clearly marked, two (2) ballot boxes. All ballots cast by those persons, partnerships or corporations authorized to vote as residents, property owners or leaseholders in the territory proposed to be annexed shall be deposited in one (1) such ballot box, and all ballots cast by those persons, partnerships or corporations who are authorized to vote as residents, property owners or leaseholders of the Town shall be deposited in the other such ballot box. The polling places shall be opened from 1:00 p.m., prevailing time, until 6:00 p.m., prevailing time, on the date set for the Special Election.

Immediately upon the closing of the polling places, the Election Officials shall count the ballots for and against the proposed annexation and shall announce the result thereof; the Election Officials shall make a certificate under their hands of the number of votes cast for and against the proposed annexation, and the number of void votes, and shall deliver the same to the Commissioners of Dewey Beach. The said certificate shall be filed with the papers of the Commissioners of Dewey Beach.”

Section 2. Amend Section 6, Chapter 59, Volume 63 of the Laws of Delaware, as amended, by striking Section 6 in its entirety and substituting in lieu thereof the following:

“Section 6. Board of Elections.

(a) The Commissioners of the Town of Dewey Beach shall appoint the Board of Elections members for a term of one (1) year. The Board of Elections shall consist of three (3) members. All members of the Board of Elections shall meet the appointment qualifications as specified in 15 Del. C. § 7501 et seq.

(b) Board of Elections appointees shall be confirmed by swearing or affirming, both orally and in writing, the oath specified in 15 Del. C. § 7501 et seq. Board of Elections appointees shall be sworn or affirmed by the Alderman of the Town of Dewey Beach or the Mayor of the Town of Dewey Beach.

(c) It shall be the duty of members of the Board of Elections, as empowered by 15 Del. C. § 7501 et seq. and the ordinances of the Town, to perform prescribed duties with fidelity and without favor or electioneering to accomplish the proper conduct of municipal candidate elections within the Town of Dewey Beach.

(d) Any member of the Board of Elections may be removed from office for cause after a public hearing by a majority vote of the Commissioners of Dewey Beach.

(e) Activities of the Board of Elections shall be consistent with the Delaware Freedom of Information Act, 29 Del. C. § 10001 et seq.”.

Section 3. Amend Subsection (a), Section 7, Chapter 59, Volume 63 of the Laws of Delaware, as amended, by striking Subsection (a) in its entirety and substituting in lieu thereof the following:

“(a) Each Commissioner shall be elected for a two-year term. All other offices shall be appointive and the person or persons filling such appointive offices shall be appointed by the Commissioners of Dewey Beach.”.

Section 4. Amend Subsection (a), Section 8, Chapter 59, Volume 63 of the Laws of Delaware, as amended, by striking Subsection (a) in its entirety and substituting in lieu thereof the following:

“(a) The Commissioners of Dewey Beach shall hold a meeting no sooner than seven (7) days following the annual election for the purpose of organization at the usual place for holding meetings of the Commissioners of Dewey Beach. At that meeting the Commissioners elected shall elect one (1) of the Commissioners as the presiding officer of the Commissioners of Dewey Beach for a term of one (1) year. If the Commissioners are unable to elect one (1) of their number as a presiding officer then such officer shall be chosen for the Commissioners, by lot, by the Commissioners. The presiding officer shall be called the ‘Mayor’.

Section 5. Amend Subsection (b), Section 8, Chapter 59, Volume 63 of the Laws of Delaware, as amended, by striking Subsection (b) in its entirety and substituting in lieu thereof the following:

“(b) During the organizational meeting, the newly elected Commissioners shall assume the duties of their respective offices, being first duly sworn or affirmed to perform their duties with fidelity, which oath or affirmation shall be taken before a Notary Public, the Alderman of the Town of Dewey Beach, or by a holding-over member of the Commission. The Commissioners shall likewise select a Secretary from their own number to serve until the organizational meeting after the next succeeding election. They may also choose other officers and employees as may be determined to be necessary.”.

Section 6. Amend Subsection (a), Section 10, Chapter 59, Volume 63 of the Laws of Delaware, as amended, by striking Subsection (a) in its entirety and substituting in lieu thereof the following:

“(a) Annual municipal elections shall be held on the third Saturday of the month of September, from 10:00 a.m. to 6:00 p.m. at such place or places as shall be determined by the Commissioners, due notice of which shall be given by posting notices thereof in two (2) conspicuous places within the corporate limits of the Town of Dewey Beach; due notices of which shall be given in compliance with the applicable provisions of 15 Del. C. § 7501 et seq. In the event that there is no contest for any of the several offices up for election in any year, the polls shall not open. The Town Commissioners shall have the power and authority to enact by ordinance certain voter registration procedures as are deemed reasonably necessary to provide for the orderly and efficient conduct of municipal elections,

provided that no such ordinance shall alter the qualifications of voters as herein below set forth, nor shall such ordinance unduly impair the right to vote in a municipal election. No person may be eligible to vote unless properly registered. No person may cast more than one ballot.

Section 7. Amend Subsection (c), Section 10, Chapter 59, Volume 63 of the Laws of Delaware, as amended, by striking Subsection (c) in its entirety and substituting in lieu thereof the following:

“(c) Every election shall be held under the supervision of the Election Officials. The Election Officials shall consist of one (1) Inspector of the Election and such Officers of the Election as shall be appointed by the Commissioners of Dewey Beach. The Inspector and such Officers constituting the Election Officials shall be qualified voters of the Town of Dewey Beach and shall be appointed for that purpose by the Commissioners at least thirty (30) days before such Annual Municipal Election. If, at the opening of the polls, the Election Officials (or any one of them) are not present, then in such case the persons qualified to vote at such election and present at the opening of the polls shall, by viva voce, select a qualified voter or voters to act as the Election Officials to fill such vacancies caused by the absence of the Election Officials. Election Officials shall be Judges of the Election, and shall decide upon the legality of the votes offered. The Election Officials shall keep a true and accurate list of all voters voting at the Annual Municipal Election. The Board of Elections shall have the power to subpoena persons and officers of the Town, and to subpoena books, records and papers relative to the determination of the validity of any vote or votes offered.”.

Section 8. Amend Subsection (d), Section 10, Chapter 59, Volume 63 of the Laws of Delaware, as amended, by striking Subsection (d) in its entirety and substituting in lieu thereof the following:

“(d) Upon the close of the election, the votes shall be computed and announced publicly and the qualified persons having the highest number of votes shall be declared, by the Election Officials, to be duly elected; and such persons shall continue in office during the terms for which they were chosen, or until their successors are duly elected or appointed and qualified.”.

Section 9. Amend Subsection (e), Section 10, Chapter 59, Volume 63 of the Laws of Delaware, as amended, by striking Subsection (e) in its entirety and substituting in lieu thereof the following:

“(e) In the event of a tie vote for any office, the Election Officials shall determine the tie by lot.”.

Section 10. Amend Subsection (f), Section 10, Chapter 59, Volume 63 of the Laws of Delaware, as amended, by striking Subsection (f) in its entirety and substituting in lieu thereof the following:

“(f) The Election Officials, as soon as possible after the polls have closed and the results announced, shall deliver all election documents, envelopes, and absentee ballots to the Board of Elections. The Board of Elections shall secure the documents, envelopes, and absentee ballots until such time that they need to canvass the election.”.

Section 11. Amend Subsection (g), Section 10, Chapter 59, Volume 63 of the Laws of Delaware, as amended, by striking Subsection (g) in its entirety and substituting in lieu thereof the following:

“(g) The Election Officials shall enter in a book, to be provided for that purpose, a minute of the election, containing the names of the persons chosen. The book, containing such matters, shall be preserved by the Town Commissioners and shall be evidence in any Court of Law and Equity.”.

Section 12. Amend Subsection (h), Section 10, Chapter 59, Volume 63 of the Laws of Delaware, as amended, by striking Subsection (h) in its entirety and substituting in lieu thereof the following:

“(h) Ballots may be cast in person or by absentee ballot in all elections. Absentee voting shall be in compliance with the applicable provisions of 15 Del. C. § 7501 et seq.”.

Section 13. If any provision of this Act shall be deemed or held to be invalid or unenforceable for any reason whatsoever, then such invalidity or unenforceability shall not affect any other provision of this Act which may be given effect without such invalid or unenforceable provision, and to this end, the provisions of this Act are hereby declared to be severable.

Section 14. This Act shall become effective upon its enactment into law.

Approved June 16, 2009