

**NICOLE POORE**  
*Majority Whip*  
STATE SENATOR  
12<sup>th</sup> District



**SENATE**  
STATE OF DELAWARE  
411 LEGISLATIVE AVENUE  
DOVER, DELAWARE 19901

## Senate Elections, Government, & Community Affairs Minutes

Wednesday, March 27, 2019  
1:30 pm  
Senate Majority Caucus Room  
Legislative Hall

### Committee Members Present:

Senator Nicole Poore, Chair  
Senator John Walsh, Vice Chair  
Senator David McBride  
Senator Catherine Cloutier  
Senator Bryant Richardson

### Attendees:

Senator Gerald Hocker, Senate Minority Leader  
Representative David Bentz  
Mike Morton, Comptroller General  
Kim Gomes, Byrd Group  
Matt Revel, Legislative Assistant to Senator Delcollo  
George Smiley, New Castle County Council  
Deborah Gottschalk, Division of Research  
Tim Barchak, Citizen  
Julie Price, League of Women Voters  
JaCarla Mitchell, League of Women Voters  
Albert Shields, Office of Governor  
Julie Fedele, Office of the Comptroller General  
Elaine Manlove, State Election Commissioner  
Jamie Busch, Assistant Town Manager of Millsboro  
Jennifer Hill, Common Cause

### Agenda:

Consideration of Meeting Minutes from March 13, 2019  
SB 53  
HB 38 w/ HA 1  
SB 51

**Senator Poore** convened the meeting at 1:32pm. With quorum present, meeting minutes from March 13<sup>th</sup> were reviewed.

**Senator McBride** motioned to approve the minutes.

**Senator Richardson** noted a mistake in the minutes.

**Senator Richardson** seconded the motion and the minutes were approved as amended.

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## **Senate Bill 51 - AN ACT TO AMEND THE CHARTER OF THE TOWN OF MILLSBORO RELATING TO CONTRACTS.**

Original Synopsis: The Town Council for the Town of Millsboro determined that the way they award contracts should be improved. The amount that initiates the process is increased from \$20,000 to \$50,000 to better reflect the current cost of ordinary purchases that the Town must make. This Act also allows the Town of Millsboro to have the ability to award a contract to a bidder other than the lowest bidder while also laying out the factors that the Town Council must use in determining who is a responsive and responsible bidder in accordance with their bid vetting process.

**Senator Hocker**, the primary sponsor, summarized the legislation. Sen. Hocker highlighted the provisions that change the minimum contract value required to go through the bidding process from \$20,000 to \$50,000, and the sections that give the Town of Millsboro the authority to not accept the lowest bidder. Sen. Hocker observed that bid evaluation involves more considerations than price alone.

**Senator Poore** asked if the Town Council had already approved the measures.

**Senator Hocker** and **Jamie Busch**, the Millsboro Assistant Town Manager, affirmed that the Town Council had approved these proposals.

**Senator Poore** asked what other considerations the Town would base their contract decisions on.

**Mr. Busch** noted that other factors such as bad references are important. He stated that the Town would like to research bidders' ability to handle the contract. He noted that the Town has had issues with some work done in the past, where the lowest bidder did not perform at acceptable standards. He stated that re-working these jobs is a problem. He explained that the Town has researched other municipalities' policies to develop this proposal. He observed that this unanimously passed Town Council.

**Senator Walsh** asked about the type of contracts effected by the legislation.

**Mr. Busch** explained that these contracts are typically infrastructure related. He also observed that in current economic times, job prices can be all over the place, and the Town has had issues with turnaround.

**Senator Poore** asked how the Town would measure "the bidder's record of performance and integrity".

**Mr. Busch** stated that the Town would confer with engineering consultants and firms that the bidders have done work for in the past. He observed that the Town is currently engaged in a process looking for architects to build their new town hall. He stated that they have hired a third-party engineering firm to evaluate bids.

**Senator Poore** expressed concern over the aforementioned line's wording, specifically the use of "integrity".

**Mr. Busch** noted that he had not written the legislation, but that their attorney had utilized another source's language.

**Senator Walsh** asked why the contract dollar amount initiating the bidding process was being changed.

**Mr. Busch** observed that many towns have done that recently, including Rehoboth and Milford. He stated that in the current good economic times, every contractor is busy and therefore the price of projects is rising.

**Senator Richardson** asked for some examples of the incidents that precipitated the policy change.

**Mr. Busch** recounted a state project on State Street during which he joined two post-project walk throughs. He said he was surprised by some of what he saw. He observed that DelDot was also surprised by some of the issues. He said that this situation can sometimes arise if towns are left to accept the lowest bidder.

**Senator Richardson** asked how often this becomes a problem.

**Mr. Busch** stated that he believes many municipalities are dealing with the problem.

**Senator Poore** expressed agreement with that statement and mentioned a situation she had encountered with a

sidewalk.

**Mr. Busch** noted that some bidders cut corners and expect to be able to fix the job on the backend, which he observed is not good for the citizens.

SB 51 was circulated for signatures at 1:39pm. It was released from committee with 5 on its merits.

### **Senate Bill 53 - AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO EXCEPTIONS TO SELLING OR POSSESSING FIREWORKS.**

Original Synopsis: Diwali is a 5-day festival of lights, celebrated by millions of Hindus, Sikhs, and Jains across the world. The dates for Diwali change each year, but it usually falls in October or November. Fireworks are an essential component of Diwali and the third day of Diwali is the height of the festival. In recognition of the many Indo-Americans living in Delaware, this Act permits the sale and possession of sparklers and ground-based sparkling devices during a 30-day period before and including the third day of Diwali and the use of these items on the third day of Diwali.

**Senator Poore**, a co-sponsor, stated that she worked with Senator Delcollo on this legislation. She summarized the bill and explained the significance of Diwali and its festival of lights to millions of people around the world, including many Delawareans.

**Senator Richardson** inquired about whether Delaware makes arrests on firework violations.

**Senator Poore** indicated that she believed that Delaware does make some arrests although she was not familiar with the numbers. She mentioned that the bill is modeled on similar legislation authorizing sparklers for the 4<sup>th</sup> of July.

SB 53 was circulated for signatures at 1:41pm. It was released from committee with 5 on its merits.

### **House Bill 38 w/ HA 1 - AN ACT TO AMEND TITLE 15 OF THE DELAWARE CODE RELATING TO EARLY VOTING.**

Original Synopsis: This Act establishes in-person early voting in Delaware beginning January 1, 2022. Registered voters will be allowed to vote in-person during at least 10 days before an election, up to and including the Saturday and Sunday immediately before the election at locations determined by the State Election Commissioner. This Act also charges the State Election Commissioner with determining whether such voting should occur by voting machine or paper ballot. All other procedures relating to conducting voting are the same as for general election voting. Further, this Act requires that for statewide elections there must be at least 1 in-person polling place in each county, and an additional location in the City of Wilmington.

Amendment Synopsis: By its own Charter and State law, City of Wilmington municipal elections must comply with State election laws. This amendment removes municipal elections because any change in State election law will necessarily require a change in City of Wilmington municipal elections.

**Senator Poore**, a co-sponsor, summarized the legislation and stated that the bill is straightforward and would not take effect until 2022.

**Senator McBride** asked why Delaware should wait until 2022.

**Representative Bentz**, the primary sponsor, indicated that the delay is meant to provide the Department of Elections with time to prepare. He referenced the flexibility in the legislation that gives the Department of Elections discretion on the number of locations provided for early voting.

**Commissioner Elaine Manlove**, the Elections Commissioner, stated that the Department of Elections needs to find space for this operation. She stated that the Department would like to maybe open two offices in Sussex, possibly one in the western part of the county, so that not every voter interested has to drive to Georgetown.

**Senator McBride** inquired about whether the Department would need over five hundred days to make the preparations.

**Representative Bentz** clarified that the Department of Elections did not request the 2022 timeline.

**Commissioner Manlove** stated that the Department could implement early voting before 2020 elections.

**Senator McBride** expressed interest in having representative Bentz re-evaluate the timeline.

**Representative Bentz** stated that his goal is to have early voting become law in Delaware, and he would be fine with the deadline of implementation being re-evaluated.

**Senator McBride** conveyed his interest in seeing early voting being implemented by the 2020 elections, but also stated that he would follow Rep. Bentz's wishes with his legislation. He assured Rep. Bentz that the legislation would not be slowed down in the Senate if it was amended to 2020 implementation.

**Senator Poore** stated that as the prime sponsor in the Senate she was fully supportive of the 2022 timeline. In response to an inquiry from Sen. McBride as to why, she stated that she was concerned about the burdens being placed on the Department of Elections.

**Senator Walsh** expressed his support of the legislation with either timeline. He asked whether other voting bills being considered or recently passed also had 2022 implementation dates.

**Commissioner Manlove** stated that the bills vary in their effective date. She observed that some are effective immediately.

**Senator McBride** stated that based on the Commissioner's testimony that early voting could be implemented by 2020 election, he was unsure as to why 2022 was the preferred timeline.

**Senator McBride** and **Senator Poore** expressed their support for and appreciation of Representative's work on this legislation and other elections and voting related policy.

**Representative Bentz** mentioned that he could not amend the bill at the moment, as it had left his chamber and was in the hands of the Senate. He stated that he did not wish to overstep.

**Senator Richardson** asked if the results of early voting would be known before Election Day.

**Commissioner Manlove** stated that the total number of votes cast would be known, but the results would not be released until Election Night.

**Senator Richardson** asked about the early voting set-up and specifically the security of the operation.

**Commissioner Manlove** stated that the Department would need to hire about ten people for each site, as well as hire 24-hour security.

**Controller General Mike Morton** stated that while the legislation is not effective during the next three fiscal years and therefore does not have a fiscal note; his office has determined that the cost would be roughly \$80,000 in FY2023.

**Senator Richardson** asked if the Department of Elections ever struggled to find poll workers.

**Commissioner Manlove** stated that they do have difficulty finding poll workers, but mentioned that the Department emailed state employees for the 2018 midterms and received enough responses that they could not put everyone to work. She concluded that this could be difficult, but is generally not a large problem. She observed that the participation of young people around seventeen years old is very helpful.

**Senator Richardson** stated that while Sussex County is large, Georgetown is the center of the county. He wondered if that one location could be enough, because it was central.

**Commissioner Manlove** stated that the Department would need to find an off-site location for Sussex County because their Georgetown office is too small for the operation. She noted that the Department is potentially interested in a new and larger office for Georgetown anyway.

**Senator Poore** re-stated the strong interest in having early voting in Delaware. She explained that the timeline had been constructed to let the Department of Elections build the project out. She cautioned against the expectation of immediate gratification, and recalled the length of time the new voting machines took to reach completion.

**Senator Richardson** asked if the early voting ballots would be treated like absentee ballots.

**Commissioner Manlove** clarified that because citizens need a reason to vote absentee and typically do so by mail, the two operations are very different. She also stated that absentee totals are broken out on election night in the final counts, whereas early voting is treated the same as Election Day voting.

**Senator Richardson** inquired about security details.

**Commissioner Manlove** stated that voting machines and ballots cannot be left alone and would need 24/7 security.

**Senator McBride** asked if the language requiring at least 10 days of early voting, at least 5 of which have hours that extend to 7pm, is the provision necessitating a 2022 implementation.

**Representative Bentz** stated that during his work on election legislation he has found there to be a general rule that he should leave a window of one election cycle as a courtesy before changes to give adequate time for adjustments and to avoid changing the rules right before an election he would be running in.

**Senator McBride** thanked Representative Bentz for all of his work on the issue.

**Senator Poore** opened the meeting to public comment.

**Jennifer Hill** of Common Cause expressed her organization's support for the legislation. She asked that they consider expanding the availability from 10 to 20 days. She asked that they use paper ballots for security and integrity or offer voters a choice between machines and paper ballots. She observed that this would save money in comparison to doing all paper ballots, and Colorado has this early voting system. She also expressed support for 2020 implementation.

**Julie Price of the League of Women Voters** expressed her organization's support for the legislation. She stated that early voting is the best way to ensure working people, those with disabilities, and individuals with young children have the opportunity to vote. She stated that they are supportive of either implementation date but would prefer 2020 early voting.

HB 38 w/ HA 1 was circulated for signatures at 2:04 pm. It was released from committee with 4 on its merits.

**Senator Poore** adjourned the meeting at 2:04 pm.