



SPONSOR: Rep. Schwartzkopf & Sen. Lopez

HOUSE OF REPRESENTATIVES
150th GENERAL ASSEMBLY

HOUSE BILL NO. 34

AN ACT TO AMEND THE CHARTER OF THE CITY OF REHOBOTH BEACH RELATING TO MUNICIPAL ELECTIONS AND VOTING.

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 Section 2(d) of the Charter of the City of Rehoboth Beach by making insertions as shown by underline and deletions as shown by strikethrough as follows:

At the Special Election, every ~~property owner~~ freeholder or leaseholder as defined in this Charter, ~~whether an individual, partnership or corporation,~~ shall be entitled to cast one vote and every bona fide resident of the City of Rehoboth Beach who is not a ~~property owner~~ freeholder or leaseholder as defined in this Charter shall be entitled to cast one vote. At the said Special Election, every ~~property owner~~ freeholder or leaseholder, as defined in this Charter, of the territory proposed to be annexed, ~~whether an individual, partnership or corporation,~~ shall be entitled to cast one vote and every bona fide resident of the territory proposed to be annexed who is not a ~~property owner~~ freeholder or leaseholder as defined in this Charter shall be entitled to cast one vote. ~~Property owner~~ Freeholders or leaseholders, as defined in this Charter, whose property or whose improvement located on leased land is exempt from taxation or is not assessed shall not be entitled to vote. The books and records of the City of Rehoboth Beach in the case of city ~~property owners~~ freeholders, or leaseholders as defined in this Charter or residents and the books and records of Sussex County in the case of ~~property owners~~ freeholders, leaseholders as defined in this Charter, or residents of the territory proposed to be annexed shall be conclusive evidence of the right of such persons, ~~firms or corporations~~ to vote at the Special Election.

~~In the event that an individual, partnership or corporation holds a power of attorney duly executed and acknowledge and specifically authorizing the said individual, partnership or corporation to vote at the said Special Election, a duly authenticated copy of the power of attorney shall be filed in the office of the City Manager of The City of Rehoboth Beach. Said Power of Attorney as so filed shall constitute conclusive evidence of the right of said person, partnership or corporation to vote in the Special Election.~~

Section 2. Amend Section 3 of the Charter of the City of Rehoboth Beach by making insertions as shown by underline and deletions as shown by strikethrough as follows:

(a) The government of The City and the exercise of all power conferred by this Charter, except as otherwise provided herein, shall be vested in The Commissioners of Rehoboth Beach. The Commissioners of Rehoboth Beach shall

24 consist of seven (7) members, to be chosen as hereinafter provided, all of whom shall be citizens of the United States of
25 America. One of said Commissioners shall have the title of Mayor of The City of Rehoboth Beach, with duties hereinafter
26 to be prescribed, and who shall also be President of The Commissioners of Rehoboth Beach. Each of the seven (7)
27 Commissioners of Rehoboth Beach, at the time of the approval of ~~his~~ the Commissioner's qualifications by The
28 Commissioners as hereinafter provided or at the time of ~~his~~ the Commissioner's appointment as the case may be, shall have
29 attained the age of twenty-one (21) years of age. Not less than three of the Commissioners shall be designated resident
30 Commissioners. A resident Commissioner shall be a bona-fide resident and domiciliary of the City. The Commissioner
31 with the title of Mayor of the City of Rehoboth Beach shall also be a bona-fide resident and domiciliary of the City and
32 shall have been domiciled in the City of Rehoboth Beach for a period of at least twelve (12) months immediately preceding
33 the date of election. The other three Commissioners must either have the qualifications of a resident Commissioner as
34 defined above (i.e. a bona-fide resident and domiciliary of the City) or be a freeholder of real estate located within The
35 City. If any of the Commissioners or the Mayor fails to retain ~~his~~ the qualifications as aforesaid during the term of ~~his~~
36 office, ~~he~~ that Commissioner or Mayor shall ipso facto vacate ~~his~~ office. The Commissioners shall be judges of the
37 qualifications of their members.

38 Section 3. Amend Section 4 of the Charter of the City of Rehoboth Beach by making insertions as shown by
39 underline and deletions as shown by strikethrough as follows:

40 All provisions in this Charter pertaining to Annual Municipal Elections, Special Elections, or any other elections,
41 and voting, shall be construed in accordance with the principle of "one person, one vote": If a voter is entitled to vote by
42 virtue of being both a resident of the City and a Freeholder, the voter is entitled to only one vote; If a voter is entitled to
43 vote by virtue of being both a resident of the City and a Leaseholder, the voter is entitled to only one vote; If a voter is
44 entitled to vote by virtue of being both a Freeholder and a Leaseholder, the voter is entitled to only one vote; if a voter is
45 entitled to vote by ownership of two or more parcels of real property, the voter is entitled to only one vote.

46 Ballots may be cast in person or by absentee ballot in all elections. Absentee voting shall be in compliance with
47 the applicable provisions of Title 15 of the Delaware Code.

48 Section 4. Amend Section 5 of the Charter of the City of Rehoboth Beach by making insertions as shown by
49 underline and deletions as shown by strikethrough as follows:

50 (a) The six offices of Commissioners of Rehoboth Beach and the office of Commissioner of Rehoboth Beach with
51 the title of Mayor of the City of Rehoboth Beach, with duties hereinafter to be prescribed, shall be elective. All other offices
52 shall be appointive and the person or persons filling such appointive offices shall be appointed by the Commissioners of
53 Rehoboth Beach in the manner hereinafter to be prescribed. Six offices of Commissioner of Rehoboth Beach shall be for a
54 three year term. The office of Commissioner of Rehoboth Beach with the title of Mayor of the City of Rehoboth Beach
55 shall be for a three year term and in every event that a person shall be nominated to this office, the ballots shall not only

specify that ~~he~~ the individual seeks the Office of Commissioner of Rehoboth Beach, but also that ~~he~~ the individual seeks that office with the title of Mayor of the City of Rehoboth Beach, with duties hereinafter to be prescribed.

(b) The qualifications for the office of Commissioner of Rehoboth Beach as well as the office of Commissioner of Rehoboth Beach having the title of Mayor of the City of Rehoboth Beach shall be as set forth in Section 3 of this Charter.

(c) In the case of a vacancy created in any office of Commissioner of Rehoboth Beach, or in the office of Commissioner of Rehoboth Beach having the title of Mayor of the City of Rehoboth Beach, either by death, resignation, loss of residence in the City of Rehoboth Beach, or other disqualifying event, or otherwise, The Commissioners of Rehoboth Beach shall fill such vacancy for the residue of the whole term.

(d) Aside from loss of residence, as in those instances specified in Section 3 of this Charter, if any elected officer be found guilty of any felony, ~~he~~ the elected officer shall forthwith be disqualified to act as such officer and ~~he~~ the elected officer shall, ipso facto, vacate ~~his~~ the elective office, which office shall be filled by the Commissioners of Rehoboth Beach as in the case of other vacancies.

(e) Each non-resident Commissioner shall receive an allowance for every mile necessarily driven from ~~his~~ the Commissioner's permanent home to Rehoboth Beach in order to attend any meeting of the Commissioners of Rehoboth Beach or the meeting of any committee of which ~~he~~ the non-resident Commissioner is a member; provided however, that no such allowance shall be paid for any meeting attended prior to September 1, 1974, said amount per mile to be the same as ~~that permitted to be assessed by the Sheriff of Sussex County for the serving of papers~~ the standard mileage rate set annually by the Internal Revenue Service.

Section 5. Amend Section 6 of the Charter of the City of Rehoboth Beach by making insertions as shown by underline and deletions as shown by strikethrough as follows:

(a) The mode of nomination of candidates for elective offices in the City of Rehoboth Beach shall be by petition, signed by not less than ten nor more than twenty-five qualified electors of the City and filed with the Secretary of the Commissioners of Rehoboth Beach, on or before ~~12:00 noon~~ 4:30 P.M. on the first ~~Saturday~~ Monday in June of each year preceding the Annual Municipal Election.

(b) Whenever a petition nominating a person for the office of Commissioner of Rehoboth Beach, or the office of Commissioner of Rehoboth Beach who shall have the title of Mayor of the City of Rehoboth Beach, shall have been filed as above prescribed, the name of such person shall be printed on the ballot for the regular municipal election as a candidate for the office for which ~~he~~ the person was nominated; provided, ~~he~~ the person possesses the qualifications of an incumbent of that office as prescribed by this Charter. The Commissioners of Rehoboth Beach shall be judge of ~~his~~ the person's qualifications as prescribed by this Charter and, at the regular meeting in June ~~between the hours of 8 and 10 P.M.,~~ The the Commissioners of Rehoboth Beach shall sit in open meeting to judge the qualifications of candidates so nominated.

(c) No nominating petition shall designate more than one person to be voted for as a Commissioner of Rehoboth Beach, or as Commissioner of Rehoboth Beach with the title of Mayor of the City of Rehoboth Beach.

(d) No qualified elector shall sign the nominating petition of more candidates than there are elective offices to be filled at such regular municipal election. Each qualified elector signing such petition shall also state whether ~~he~~ the qualified elector signed such petition as a freeholder or as a leaseholder or as a resident.

(e) There must be attached to each nominating petition an affidavit of the circulator thereof stating: the number of signers; that each signature appended thereto was made in ~~his~~ the circulator's presence; that each signature is the genuine signature of the person whose name it purports to be; and that all of said signers are entitled to vote at the regular municipal election referred to.

The form of the nominating petition shall be substantially as follows:

We, the undersigned, electors of the City of Rehoboth Beach, hereby nominate for the office of to be voted for at the regular municipal election to be held in said City, on the day of in the year.....; and we individually certify that we are qualified to vote for a candidate for the office named, and that we have truly designated the capacity in which we have signed this petition as such qualified voter.

Name	Freeholder	Resident of Delaware & Rehoboth
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(space for signatures)

State of Delaware:

SS

Sussex County:

..... being duly sworn (or affirmed) deposes and says that ~~he~~ the individual is the circulator of the foregoing petition paper containing signatures and that the signatures appended thereto were made in ~~his~~ the circulator's presence and are the signatures of the persons whose names they purport to be, and that ~~he~~ the circulator verily believes the status of each signer thereof to be truly stated and that all of said signers are entitled to vote at the said regular municipal election referred to in said paper.

.....
Circulator

SUBSCRIBED AND SWORN TO (or affirmed) before me this day of, A.D.

.....
Notary Public

Section 6. Amend Section 7 of the Charter of the City of Rehoboth Beach by making insertions as shown by underline and deletions as shown by strikethrough as follows:

(d) At such annual election, every natural person, ~~male or female~~, who shall have attained the age of Eighteen (18) years and who shall be freeholder, as defined in this Chapter, in The City of Rehoboth Beach for a period of thirty (30) days immediately preceding the date of such Annual Municipal Election or who shall be a leaseholder, as defined in this Chapter, in The City of Rehoboth Beach for a period of Six (6) months immediately preceding the date of such Annual Municipal Election, whether or not such person is a resident of the State of Delaware or of The City of Rehoboth Beach shall have One (1) vote, provided such person is registered on the "Books of Registered Voters" of The City of Rehoboth Beach as set forth herein. In addition, every natural person, ~~male or female~~, who shall have obtained the age of Eighteen (18) years on the date of the Annual Municipal Election who shall be a bona fide resident of the State of Delaware and The City of Rehoboth Beach on the date of the Annual Municipal Election shall be entitled to one (1) vote provided such person shall be registered on the "Books of Registered Voters" of The City of Rehoboth Beach as set forth herein. The Commissioners of Rehoboth Beach shall provide Two (2) registers to be known as the "Books of Registered Voters" which are to be kept at the office of the City Manager. The Books of Registered Voters shall contain the following information for each registrant: The names of the voters arranged in alphabetical order, The permanent address of the voter, the local address of the voter, the birth date of the voter, the date the registrant became a resident of the State of Delaware, the date the registrant became a resident of the City of Rehoboth Beach, the date the registrant became a freeholder of the City of Rehoboth Beach and other pertinent information. No natural person shall be registered upon the Books of Registered Voters unless such person will have acquired the qualifications to vote in the Annual Municipal Election for the year in which such person registers. A person shall only be required to register One (1) time; provided however, that if a registered voter fails to vote in Two (2) consecutive Annual Municipal Elections in which there is a contest, ~~his name shall be removed from the Books of Registered Voters and notice sent to said registered voter at his last known address by registered mail with return receipt requested advising that his name has been removed from the list of registered voters and that it will be necessary to register again in order to be eligible to vote in the Annual Municipal Election~~ the City shall send a voter verification request by forwardable first-class mail to the voter at the voter's last known address, provided all similarly situated voters are also sent such voter verification request at the same time, asking the voter to sign a return card and: (1) authorize cancellation of their Rehoboth Beach voter registration because they are no longer eligible to vote as a resident, Freeholder, or Leaseholder in Annual Municipal Elections, or (2) confirm that the voter continues to be eligible to vote in Annual Municipal Elections. The City, upon receipt of the returned notice and in accordance with the response, shall: (1) cancel the person's registration, or (2) update the person's voter registration record with any new information and certify the person remains eligible to vote. Sixty days following a voter verification mailing, the City shall place all persons who did not reply to the voter verification request into "inactive status." A person shall be returned to active status if the person subsequently returns the return card indicating the person continues to be eligible to vote in Annual Municipal Elections, or if the person votes in an Annual Municipal election while in "inactive status." The City shall remove from the Books of Registered Voters any person who

remains in "inactive status" for two consecutive Annual Municipal Elections in which there is a contest. The Books of Registered Voters shall be maintained at the office of the City Manager and shall be conclusive evidence of the right of any person to vote at the Annual Municipal Election. A person may register at the Office of the City Manager on any day during the regular business hours on any day until the close of business on the Friday in June in any year thirty (30) days prior to the Annual Municipal Election.

As used in this Chapter "Freeholder" means a natural person who holds title of record to a fee simple estate or life estate in and to an undivided interest in real property in the City or who holds title of record to real property in the City as a tenant by the entirety or who is both grantor/settler and trustee of a valid revocable trust to which real property located within the City has been conveyed, provided that a copy of the trust document identifying a grantor/settler and trustee is on file with the City.

"Real Property" includes condominiums created under the Delaware Unit Property Act or the Delaware Uniform Common Interest Ownership Act.

As used in this Chapter "Lease" means a valid lease to real property in the City for a term of at least ten (10) years which lease is recorded in the Office of the Recorder of Deeds in and for Sussex County and upon which real property is erected an improvement having an assessed valuation of at least one thousand dollars (\$1,000.00) as shown by the records of the City of Rehoboth Beach.

As used in this Chapter "Leaseholder" as used in this Chapter means an individual a natural person holding title to an undivided interest in a lease or who holds title to a lease as a tenant by the entirety.

As used herein "resident" shall mean an individual actually a natural person residing and domiciled in the City of Rehoboth Beach for a period of 6 months at least thirty (30) days immediately preceding the date of the election. As used herein "domicile" shall mean the place where a person has their true, fixed, permanent home, and principal establishment, and to which, whenever the person is absent, the person has the intention of returning.

These provisions shall be construed in accordance with the principle of "one person, one vote" for each elective office.

Section 7. Amend Section 40 (h.) of the Charter of the City of Rehoboth Beach by making insertions as shown by underline and deletions as shown by strikethrough as follows:

h. At the said Special Election, every owner freeholder or leaseholder, as defined in this Charter, of property, whether an individual, partnership or corporation, shall have one vote and every person who is a bona fide resident of the City of Rehoboth Beach, but who is not an owner a freeholder or leaseholder, as defined in this Charter, of property within the corporate limits of the City of Rehoboth Beach and who would be entitled at the time of holding of the said Special Election to register and vote in the Annual Municipal Election if such Annual Municipal Election were held on the day of the Special Election shall have one vote whether or not such person be registered to vote in the Annual Municipal Election.

182 Section 8. Amend Section 40 (j.) of the Charter of the City of Rehoboth Beach by making insertions as shown by
183 underline and deletions as shown by ~~strikethrough~~ as follows:

184 j. ~~(reserved). In the event that an individual holds a power of attorney duly executed and acknowledged of another~~
185 ~~person or of a firm or corporation specifically authorizing the said individual to vote at the said Special Election, a duly~~
186 ~~authenticated copy of which has been filed in the Office of the City Manager of the City of Rehoboth Beach, such~~
187 ~~individual shall be entitled to cast the vote of said person, firm or corporation.~~

188 Section 9. Amend Section 41A(j) of the Charter of the City of Rehoboth Beach by making insertions as shown by
189 underline and deletions as shown by ~~strikethrough~~ as follows:

190 j. ~~The vote of the residents and property owners of the City of Rehoboth Beach~~ on a referred ordinance shall be
191 held not less than thirty (30) days and no later than sixty (60) days from the date that the petition is determined to be
192 sufficient. If the Annual Municipal Election is to be held within the period prescribed in this Section, such referendum shall
193 be considered as part of that election. If the Annual Municipal Election is not to be held within the period prescribed in this
194 section, the Commissioners of Rehoboth Beach shall provide for a special election. If the Commissioners of Rehoboth
195 Beach fail to hold a referendum within the time specified in this section, the ordinance for which the petition was filed shall
196 be deemed to be repealed at the expiration of sixty (60) days from the date that the petition was considered to be sufficient,
197 and shall not be passed in the same form for a period of six (6) months from the effective date of repeal.

SYNOPSIS

This Act amends the Charter of the City of Rehoboth Beach to make Sections 3 through 7 gender-neutral, to provide travel reimbursement at the Internal Revenue Service rate rather than the Sussex County Sheriff's rate, to reduce the ownership requirement for non-resident freeholders for voter eligibility from six months to thirty days, to make the City's process to purge individuals from the Books of Registered Voters consistent with the State's process at 15 Del. C §1704(g), to allow for voter registration up to thirty days prior to the Annual Municipal Election, to amend the definition of real property to include condominiums created under the Delaware Uniform Common Interest Ownership Act, to reduce the durational residency requirement for voter eligibility from six months to thirty days, to define "domicile," and to clarify that all voting provisions in the City Charter (including annual municipal elections, annexation elections and borrowing and bond issuance elections) shall be construed in accordance with the principle of "one person, one vote," and removes any form of artificial entity voting from annexation elections and borrowing and bond issuance elections.