

CHAPTER 39  
FORMERLY  
SENATE BILL NO. 54  
AS AMENDED BY  
SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 138, VOLUME 68, LAWS OF DELAWARE, AS AMENDED,  
ENTITLED "AN ACT TO INCORPORATE THE TOWN OF DAGSBORO", RELATED TO  
NOMINATIONS FOR TOWN COUNCIL ELECTIONS.

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 Chapter 138, Volume 68, Laws of Delaware, as amended, entitled "An Act to Incorporate The Town of Dagsboro" by striking said Section 6 entitled "Method of Filing for Candidacy for Town Council person" in its entirety and substituting in lieu thereof the following:

"Section 6 Method of Filing for Candidacy for Town Council person

Each candidate for the Office of Town Council shall file for candidacy as follows:

(A) Each candidate for Town Council shall notify the Clerk of the Town Council in writing of his or her candidacy.

(B) All notifications of candidacy shall be filed with the Clerk of the Town Council not later than 4:30 p.m. in the afternoon, prevailing time, on the twenty-first day prior to the date of the election. If such day is a legal holiday, the last day for filing notification of candidacy shall be the last business day immediately preceding the twenty-first day prior to the date of election. The earliest date for filing of notifications of candidacy shall be twenty days before the aforesaid deadline. Such notification of candidacy shall be upon a suitable form or blank furnished by The Town of Dagsboro, which said statement shall be dated, signed by the candidate and witnessed by at least two (2) qualified persons eligible to vote in the Annual Municipal Election. Twenty (20) days prior to the aforementioned filing deadline, the Town shall conspicuously post within the Town a Notice of Solicitation of Candidates. Such Notice shall include the term or terms of each office up for election, the deadline and procedure for declaring candidacy of an office up for election, and the qualifications for holding each office.

(C) The Town Council shall make arrangements for voting machines to be placed in the polling place prior to the time set forth in this Charter for the beginning of the Annual Municipal Election.

(D) The Town Council shall hold a meeting within five (5) days after the close of the time for the filing of notification of candidacy for the purpose of determining the qualifications of the candidates."

Section 2. Amend Charter, Chapter 138, Volume 68, Laws of Delaware, as amended, entitled "An Act to Incorporate The Town of Dagsboro" by striking said Section 7 entitled "Manner of Holding Annual Municipal Elections" in its entirety and substituting in lieu thereof the following:

"Section 7 Manner of Holding Annual Municipal Elections

The procedure for holding the Annual Municipal Election shall be in accordance with the provisions of Title 15, Delaware Code, Chapter 75 and as follows:

(A) The Annual Municipal Election shall be held at a place designated by the Town Council within the corporate limits of The Town of Dagsboro on the first Saturday in December of each and every year from one o'clock in the afternoon, prevailing time, until five o'clock in the evening, prevailing time.

(B) Notice of the Annual Municipal Election shall be posted conspicuously within the Town no later than twenty (20) days prior to the date of the election. Such notice shall include the date, time and location of the election, the candidates for each office on the ballot and the qualifications to vote in the election.

(C) All Notices of Annual Municipal Elections shall include information as to how to obtain an absentee ballot.

(D) The terms of each Councilperson shall be staggered so that at each Annual Municipal Election there shall be elected either 2 or 3 Councilpersons who shall serve for a term of two (2) years or until their successors have been duly elected and qualified.

(E) The members of the Town Council of Dagsboro who hold office at the time of passage of this Act shall continue to hold office until their respective successors have been duly elected and qualified.

(F) The Annual Municipal Election shall be conducted by a Board of Election consisting of an Inspector and two (2) Judges appointed by the Mayor of The Town of Dagsboro with the concurrence of a majority of the members of the Town Council not later than the last regular meeting of the Town Council prior to the date of the Annual Municipal Election. The provisions for qualification of members of the Board of Election, for conduct of members of the Board of Election and the oath to be administered to members of the Board of Election shall be as set forth in Title 15, Delaware Code, Section 7551, 7556, 7557, and 7558, as amended. The Board of Election shall determine who is and who is not lawfully entitled to vote at the Annual Municipal Election, take reasonable steps to see that the law pertaining to the Annual Municipal Election receives compliance and shall count the votes and certify the results to the Town Council. If any of the officers so chosen and designated to conduct the Annual Municipal Election shall not be present at the polling place at the time designated for the holding of the Annual Municipal Election, it shall be lawful for the qualified voters present at the polling place at the time of holding said Annual Municipal Election to elect from among their own number a person to fill each vacancy in such Board of Election caused by the absence of any member of the Board of Election. The Board of Election shall keep a list of all persons who voted at such Annual Municipal Election.

(G) Annual Municipal Elections shall be conducted in accordance with the provisions of 15, Delaware Code, Section 7557 entitled, "Conduct of the Election", as amended. At such Annual Municipal Elections, every person, male or female, who shall have attained the age of eighteen (18) years and who shall be an owner of real property within the Town of Dagsboro for a period of thirty (30) days immediately preceding the date of such Annual Municipal Election, whether an individual, partnership, association, or corporation, and whether or not a resident of the State of Delaware or of The Town of Dagsboro shall have one (1) vote, provided such person is registered to vote in The Town of Dagsboro. In addition, every 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 Town of Dagsboro on the date of the Annual Municipal Election shall be entitled to one (1) vote, provided such person is registered to vote in The Town of Dagsboro. Provided, however, that any person who is both an owner of real property and a resident and otherwise qualified to vote, shall only be entitled to one (1) vote. No vote shall be cast by a partnership except by a partner, and no vote shall be cast by an association or corporation except by a person holding a certified copy of a resolution of said association or corporation authorizing the person named therein to cast the vote of said association or corporation, which certified copy of the resolution shall be filed with the Election Board at the time said ballot is cast. The Town Council of The Town of Dagsboro shall provide two (2) registers to be known as the "Books of Registered Voters" which are to be kept at the Town office. The Books of Registered Voters shall contain the following information for each person who registers: 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 voter became a resident of the State of Delaware, the date the voter became a resident of The Town of Dagsboro, the date the voter became a freeholder of The Town of Dagsboro and other pertinent information. No 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 time. The Books of Registered Voters shall be maintained at the Town office and shall show conclusive evidence of the right of any person to vote at the Annual Municipal Election. A person may register at the Town office during regular business hours on any day until the close of business on the third Friday in November in any year. (69 Del. Laws, c. 15, 4/19/93)

(H) Any qualified voter of this Town may cast a vote by absentee ballot in any Municipal Election held under this provision of this Charter, and in accordance with the Absentee Ballot provisions of Subchapter V, Chapter 75 of Title 15, Delaware Code. Such absentee ballot votes shall be counted with the total ballots for the Municipal Election provided the absentee voter is unable to appear at the polling place because of being:

1. In the public service of the United States or of the State;
2. In the armed forces of the United States or the Merchant Marines of the United States, or attached to and serving with the armed forces of the United States in the American Red Cross, Society of Friends or United Service Organizations;
3. Absent from the Town on the day of the Municipal Election;
4. Sick or physically disabled;
5. Absent from the town while on vacation;
6. Occupied by the person's business or occupation, including the business or occupation of providing care to a parent, spouse or that person's child who is living at home and requires constant care due to illness or injury; or
7. Unable to vote at a certain time or on a certain day due to the tenets or teachings of that person's religion.

(I) In the event that no candidate other than the incumbent has filed for office for which an election is to be held within the time set forth in Section 6 of this Charter, the incumbent shall be deemed to be re-elected for a full term and it shall not be necessary to have an election. In the event that a number of candidates file for an equal number of open offices for Town Council for which an election is to be held, the candidates who filed shall be deemed to be elected for full terms and it shall not be necessary to have an election.

(J) In the event that no incumbent files for re-election and that fewer persons than positions available file for offices for which an election is to be held within the time set forth in Section 6 of this Charter, the person or persons who have filed shall be deemed to be elected for a full term and it shall not be necessary to have an election. The Town Council at its next regularly scheduled meeting shall nominate and appoint an otherwise qualified and willing person to fill any vacancy caused by the lack of a sufficient number of candidates to fill all available positions and such person shall serve a full term from the date of the election as if elected.

(K) If two or more candidates for the office of Council shall receive an equal number of votes, the incumbent Councilperson shall continue in office until the run-off election as hereinafter provided is held. The Board of Election shall declare the election a tie and shall report that result to the Town Council which shall, within twenty (20) days thereafter, hold an election between those candidates where a tie resulted under the same rules as hereinbefore set forth.

Approved June 15, 2009