



SPONSOR: Rep. Dukes & Rep. D. Short & Sen. Hocker
Reps. Briggs King, Collins, Hensley, Morris, Ramone,
Michael Smith, Spiegelman, Vanderwende; Sen.
Pettyjohn

HOUSE OF REPRESENTATIVES
150th GENERAL ASSEMBLY

HOUSE BILL NO. 136

AN ACT PROPOSING AN AMENDMENT TO ARTICLE II OF THE DELAWARE CONSTITUTION RELATING TO LIMITATIONS ON THE TIME AND FREQUENCY OF SESSIONS.

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 Article II of the Delaware Constitution by making deletions as shown by strikethrough and insertions as shown by underline as follows:

§ 4. Time and frequency of sessions.

Section 4. The General Assembly shall convene on the second Tuesday of January of each calendar year unless otherwise convened by the Governor, or by mutual call of the presiding officers of both Houses.

The General Assembly may continue in session each calendar year so long as, in its judgment, the public interest may require; however, each session ~~shall not~~ may not extend beyond 7:00 p.m. the last day of June unless the session is recalled by the Governor or the mutual call of the presiding officers of both Houses. Except as otherwise provided by resolution passed with the concurrence of two-thirds of all members elected to each House, a session recalled by the Governor or the mutual call of the presiding officers of both Houses must be adjourned or recessed to the call of the chair not later than 11:59 p.m. on the last day of June and must not be called to order before 9:00 a.m. on any other calendar day or be adjourned or recessed to the call of the chair later than 9:00 p.m. on any other calendar day.

SYNOPSIS

This Act is the first leg of a constitutional amendment that would ensure that legislative business is conducted at a reasonable time during a special session to enable the public to monitor and participate in the legislative process.

Specifically, this Act:

(1) Prohibits the regular session of the General Assembly from extending beyond 7:00 p.m. on the last day of June, unless the session is recalled by the Governor or the presiding officers of both Houses. This changes the time beyond which a regular session of the General Assembly may not extend from midnight on June 30 to 7:00 p.m., which changes the time at which the presiding officers of both Houses must act to recall the General Assembly into special session. This change negates the Supreme Court's ruling in Opinion of the Justices, 405 A.2d 694 (Del. 1979), that "the General Assembly, by operation of law, is required to stop its session at midnight of June 30th annually and it cannot continue by Legislative initiative unless 'the session is recalled by . . . the mutual call of the presiding officers of both Houses.'"

(2) Requires that a session of a special session adjourn or recess to the call of the chair not later than 11:59 p.m. on June 30, unless otherwise provided by a resolution passed by a 2/3 vote of all members elected to both Houses.

(3) Prohibits a session of a special session from being called to order before 9:00 a.m. on any other calendar day or being adjourned or recessed to the call of the chair later than 9:00 p.m. on any other calendar day, unless otherwise provided by a resolution passed by a 2/3 vote of all members elected to both Houses.

This Act does not change the date of or process for “final adjournment,” as defined in Opinion of the Justices, 175 A.2d 543, 545 (Del. 1961) (“[F]inal adjournment’ . . . means the adjournment sine die of the second regular session, or, in the absence of such adjournment, the extinguishment of the particular General Assembly by reason of expiration of the terms of office of the members.”). In addition, this Act contemplates that the General Assembly will continue its traditional practice of recessing to the call of the chair to enter a temporary recess of a special session, from which a presiding officer may then recall the officer’s House at that officer’s pleasure.