



SPONSOR: Rep. D. Short & Sen. Richardson

HOUSE OF REPRESENTATIVES  
150th GENERAL ASSEMBLY

HOUSE BILL NO. 297

AN ACT TO AMEND THE CHARTER OF THE CITY OF SEAFORD RELATING TO FISCAL PROCEDURES.

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 14 of the Charter of the City of Seaford by making deletions as shown by strike through and insertions as shown by underline as follows:

Section 14. Contracts

(a)(1) ~~It shall be~~ Except as provided under paragraph (a)(2) of this section, it is unlawful for the City Council to make or enter into any contract in excess of ~~Five Hundred Dollars (\$500.00)~~ \$500 for materials, supplies, ~~work~~ work, or labor for the benefit and use of the City of Seaford with any of the following:

~~a. member~~ A member of the City ~~Council~~ Council.

~~b. or the Mayor~~ The Mayor.

~~c. or with any~~ A partnership in which any member of the City Council or the Mayor is a general ~~partner~~ partner.

~~d. or with any~~ A corporation in which any member of the City Council or the Mayor is a director or controlling ~~stockholder~~ stockholder.

~~e. or with any~~ A firm or company in which any member of the City Council or the Mayor is pecuniarily ~~interested,~~ interested.

(2) ~~provided that if~~ The City may enter into a contract prohibited under paragraph (a)(1) of this section if all the elected members of the City Council ~~shall vote to enter into such contract, then the City may enter into such a contract.~~ the contract.

(3) ~~Any such~~ A contract executed without ~~such~~ the unanimous vote ~~shall be~~ required under paragraph (a)(2) of this section is absolutely null and void.

(b) ~~All~~ Except as provided under subsections (c) and (d) of this section, all contracts for the purchase of materials or for the furnishing of services authorized or permitted by this Charter ~~shall~~ must be accomplished by advertising and by competitive bidding in the awarding of contracts to the lowest responsible ~~bidder,~~ bidder.

(c) ~~PROVIDED HOWEVER, that competitive bidding shall not be~~ Advertising and competitive bidding are not  
required under any of the following circumstances:

1. ~~(1)~~ The aggregate amount involved is not more than ~~Twenty-five Thousand Dollars (\$25,000)~~ \$25,000.

2. ~~(2)~~ For purchases related to a Department of Public Works or Department of Electric project in which the  
aggregate amount involved is not more than \$50,000.

3. ~~(3)~~ The purchase or contract is for personal or for professional ~~services;~~ services.

4. ~~(4)~~ The purchase or contract is for any service rendered by a university, college, or any other educational  
~~institution;~~ institution.

5. ~~(5)~~ The purchase or contract is for any service to be rendered by the State of Delaware or any political  
subdivision ~~thereof;~~ of the State.

6. ~~(6)~~ The purchase or contract is for property or services for which it is impracticable to obtain ~~competition;~~  
competition.

7. ~~(7)~~ The public exigency as determined by ~~city council~~ City Council will not permit the delay incident to  
~~advertising;~~ advertising or competitive bidding.

8. ~~(8)~~ The purchase or contract is for property or services for which the City Council determines the price  
received after competitive bidding are unreasonable as to all parts of the requirements or were not independently  
reached in open ~~competition;~~ competition.

9. ~~(9)~~ A public emergency as determined by the City Manager exists.

10. ~~(10)~~ Contracts in which the City Council directly contracts for the procurement of labor or material for  
public improvements for the benefit of a special development district or a tax increment financing district created or  
designated by the Council. The provision includes a contract between the City Council and an owner of real property  
located in a special development district or tax increment financing district which provides for the transfer to the City  
Council from the owner of work performed by and the cost of labor or materials provided by the owner for the benefit  
of the district.

(d) An advertisement for bid is not required for a purchase related to a Department of Public Works or Department  
of Electric project in which the aggregate amount involved is between \$50,000 and \$99,999. However, the Director of the  
Department of Public Works and the Director of the Department of Electric must solicit competitive, written proposals  
from a minimum of 3 contractors and may select a contractor based on past performance and experience on projects of  
similar magnitude.

Section 2. Amend Section 37 of the Charter of the City of Seaford by making deletions as shown by strike through and insertions as shown by underline as follows:

Section 37. Floating Debt.

(a) The City Council of the City of Seaford ~~shall have full power and authority to~~ may anticipate revenue by borrowing upon the faith and credit of The City of Seaford ~~the sum or sums of, not exceeding Two Million Dollars (\$2,000,000)~~ not more than \$3 million in any one fiscal year, when, in the opinion of the majority of the ~~said~~ City Council, the needs of the City of Seaford demand it.

(b) The City Council may secure ~~such sum or sums of money so~~ the amount borrowed under subsection (a) of this section by promissory notes of the City executed by the Mayor and attested by the Secretary of City Council, either with or without the corporate seal of The City of Seaford affixed as is requested by the Bank or persons advancing the money on ~~said notes, and the notes.~~

(c) ~~no~~ An officer or Councilman ~~shall be~~ is not personally liable for the payment of ~~such~~ a note issued under subsection (b) of this section because it is signed by them as officers or Councilmen of The City of Seaford, and is authorized by the Resolution of the City ~~Council;~~ Council.

(d) ~~provided, however, that any sum of money~~ An amount borrowed under subsection (a) of this section on the faith and credit of The City of ~~Seaford, as aforesaid;~~ Seaford in any fiscal year, ~~shall be~~ year must be paid out of the general funds of the City at the minimum rate of ~~ten per centum (10%)~~ 10% per fiscal year and ~~shall be~~ must be completely paid at the end of ~~ten (10)~~ 10 fiscal years following the first fiscal year which ~~said~~ the money was borrowed with the interest ~~thereon, on the money.~~

(e) ~~and no~~ No part of the principal of nor the interest on any borrowing authorized by this ~~Section shall be~~ section is taxable by the State of Delaware nor any political subdivision ~~thereof.~~ of the State.

#### SYNOPSIS

This Act amends the City of Seaford's Charter ("Charter") as follows:

1. In Section 1, to make clear that the existing exceptions to the general requirement of advertising and competitive bidding requirements are meant to be excluded from both the advertising and competitive bidding requirements established in the Charter. In addition, to create a new exception to the general requirement of advertising and competitive bidding for a purchase related to a Department of Public Works or Department of Electric project in the aggregate amount of not more than \$50,000. Furthermore, to provide that an advertisement for bid is not required for a purchase related to a Department of Public Works or Department of Electric project in the aggregate amount of \$50,000 to \$99,999. For projects that do not require an advertisement for bid, the Director of the Department of Public Works or the Department of Electric, as applicable, shall solicit competitive, written proposals from a minimum of 3 contractors. Finally, purchases related to a Department of Public Works or Department of Electric project with an aggregate amount of \$100,000 or greater continue to generally require competitive bidding and advertisement of bid.

2. In Section 2, to increase the City's borrowing limit from \$2 million to \$3 million and make clear that a Councilman is not personally liable for a note issued under Section 37 of the Charter.

3. Throughout the Act, to make technical corrections to conform existing law to the standards of the Delaware Legislative Drafting Manual, including as it relates to the drafting of lists, numbers, and amounts of money.

This Act requires a greater than majority vote for passage because § 1 of Article IX of the Delaware Constitution requires the affirmative vote of two-thirds of the members elected to each house of the General Assembly to amend a municipal charter.