



SPONSOR: Rep. Baumbach & Rep. Hensley & Sen. Sokola
Reps. Osienki, Michael Smith; Sen. Townsend

HOUSE OF REPRESENTATIVES
151st GENERAL ASSEMBLY

HOUSE BILL NO. 11

AN ACT TO AMEND TITLE 9 OF THE DELAWARE CODE RELATING TO NEW CASTLE COUNTY PROPERTY TAX RATES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend Subchapter I, Chapter 11, Title 9 of the Delaware Code by making deletions as shown by strike
2 through and insertions as shown by underline as follows:

3 § 1101A. Definitions.

4 For purposes of this chapter, beginning for the Fiscal Year 2023 budget:

5 (1) “Chief Financial Officer” means the Chief Financial Officer of New Castle County or a designee.

6 (2) “Fire protection” means the prevention and extinguishment of fires; maintenance of apparatus and
7 equipment, including ambulances, rescue trucks, aerial, or platform trucks and rescue boats; provision of basic life
8 support; and operation of stations.

9 (3)a. “Local service function” or “LSF” means a local governmental service, or a group of closely allied
10 governmental services, that is all of the following:

11 1. A service for which, New Castle County or any municipality, as distinguished from the State, has
12 a primary responsibility for provision and financing, under the Constitution, Code, or judicial decision.

13 2. Performed or financially supported by New Castle County and by at least 1 municipality, in whole
14 or in part, instead of New Castle County.

15 3. Funded by New Castle County, in whole or in part, through property tax revenue.

16 b. “Local service function” or “LSF” may include any of the following:

17 1. Planning and zoning, including subdivision regulations.

18 2. Adoption and enforcement of ordinances for the protection of persons and property from hazards
19 in the use, occupancy, condition, alteration, maintenance, repair, sanitation, removal, and demolition of
20 buildings, structures, and appurtenant grounds; the operation of equipment; and outdoor signs, including codes
21 and regulations for any of the following:

22 A. Zoning.

- 23 B. Building.
- 24 C. Plumbing.
- 25 D. Property maintenance.
- 26 3. Programs for redevelopment, affordable housing, and urban renewal.
- 27 4. Parks and park related activities and recreational programs.
- 28 5. Police protection.
- 29 6. Fire protection.
- 30 7. 911 communications.
- 31 8. Animal control.
- 32 9. Public works, including maintenance and operation of sanitary and storm sewers, drainage
- 33 systems, sewage disposal facilities, and refuse disposal facilities, including trash and garbage collection
- 34 disposal.
- 35 10. Lighting of streets, roads, alleys, and other public places.
- 36 11. Maintenance and operation of the water supply system.
- 37 12. Library system.

38 (4) “Municipality” means a municipal corporation located within New Castle County and incorporated by an

39 act of the General Assembly.

40 (5) “New Castle County service percentage” means the degree to which New Castle County provides a local

41 service function within a municipality, determined by subtracting the degree to which a municipality provides the local

42 service function from 100%. The New Castle County service percentage in the unincorporated area equals 100%.

43 Section 2. Amend Subchapter III, Chapter 11, Title 9 of the Delaware Code by creating a new Subpart A before §

44 1131 of Title 9 by making deletions as shown by strike through and insertions as shown by underline as follows:

45 Subpart A. Local service functions.

46 Section 3. Amend Subchapter III, Chapter 11, Title 9 of the Delaware Code by making deletions as shown by

47 strike through and insertions as shown by underline as follows:

48 § 1125. Local service functions; New Castle County property tax rates in municipalities.

49 (a) Beginning for the Fiscal Year 2023 budget, in determining the New Castle County property tax rate for real

50 property in a municipality, New Castle County shall consider the degree that a local service function is fully or partially

51 performed or financially supported by the municipality instead of New Castle County under § 1102 and § 1128 of this title.

52 (b) Beginning for the Fiscal Year 2023 budget, New Castle County shall establish a property tax rate for real
53 property in a municipality based on the degree of any local service function fully or partially performed or financially
54 supported by the municipality instead of New Castle County under § 1102 and § 1128 of this title.

55 (c) A property tax rate for real property in a municipality does not have to be either of the following:

56 (1) The same as a property tax rate for property located in other municipalities or in the unincorporated area of
57 New Castle County.

58 (2) The same as a property tax rate set in a prior year.

59 (d) New Castle County may divide a local service function into subcategories on forms used under § 1128 of this
60 title. A subcategory of a local service function constitutes a local service function.

61 § 1126. Local service functions; calculation of net county LSF cost and individual LSF tax rates.

62 (a) Beginning for the Fiscal Year 2023 budget, New Castle County shall calculate the net county LSF cost for each
63 local service function. The “net county LSF cost” equals the amount in the New Castle County budget for the local service
64 function for the next fiscal year. The “net county LSF cost” is the amount of direct and indirect costs applicable to that local
65 service function, and excludes service charges, grants, or other revenue or funds that New Castle County directly attributes
66 or otherwise apportions to that local service function.

67 (b) Except as provided for fire protection under subsection (c) of this section, beginning for the Fiscal Year 2023
68 budget, New Castle County shall convert the net county LSF cost for each local service function into a real property tax rate
69 for each municipality and the unincorporated area by calculating each of the following for each municipality and the
70 unincorporated area:

71 (1) The “share of New Castle County assessment”, which equals the taxable assessed value of all real property
72 within a municipality or the unincorporated area divided by the aggregate taxable assessed value for all real property in
73 the County.

74 (2) The “New Castle County service percentage” for a municipality, as determined under § 1102 and § 1128
75 of this title.

76 (3) The “weighted service share”, which equals a municipality’s or the unincorporated area’s share of New
77 Castle County assessment multiplied by the municipality’s or the unincorporated area’s New Castle County service
78 percentage.

79 (4) The “total weighted service amount”, which equals the sum of all weighted service shares.

80 (5) The “final service weight”, which equals a municipality’s or the unincorporated area’s weighted service
81 share divided by the total weighted service amount.

82 (6) The “apportioned net LSF Cost”, which equals the municipality’s or the unincorporated area’s final
83 service weight multiplied by the net County LSF cost.

84 (7) The “individual LSF tax rate”, which equals the municipality’s or the unincorporated area’s apportioned
85 net LSF cost divided by the taxable assessed value of all real property in the respective municipality or the
86 unincorporated area, adjusted to reflect New Castle County’s estimated level of cash receipts.

87 (c) For fire protection that is partially financially supported but not directly provided by New Castle County and
88 that is also partially financially supported but not directly provided by a municipality, New Castle County shall convert the
89 net county LSF cost into a real property tax rate for each municipality under § 1102(e) of this title.

90 (d) New Castle County shall adopt policies and procedures to implement this section.

91 § 1128. Local service functions; determining the New Castle County service percentage and credit percentage;
92 transition year.

93 (a)(1) New Castle County will develop the forms and instructions for municipalities to request that New Castle
94 County recognize the New Castle County service percentage for a local service function or direct contribution of funds or
95 in-kind contribution of goods and services to a volunteer fire company. New Castle County will hold meetings to discuss
96 the draft forms and instructions with municipalities before the forms and instructions become final.

97 (2) By January 31, 2021, New Castle County shall provide to each municipality the forms and instructions
98 under paragraph (a)(3) of this section to submit the municipality’s request that New Castle County recognize the
99 following:

100 a. The New Castle County service percentage for a local service function is less than 100% based on the
101 municipality’s performance or partial performance of the local service function.

102 b. In the case of fire protection that a municipality does not provide directly, the municipality’s direct
103 contribution of funds or in-kind contribution of goods and services to a volunteer fire company.

104 (3) New Castle County shall provide a copy of each of the following:

105 a. New Castle County’s budget for the current fiscal year.

106 b. A standardized form listing each local service function and the documentation necessary to support a
107 request that New Castle County recognize the degree to which the municipality performs or financially supports a
108 local service function instead of New Castle County.

109 c. Contact information for appropriate representatives that a municipality may contact to discuss relevant
110 financial information of New Castle County and the municipality, and the scope and nature of services provided
111 by both entities.

112 (b)(1) By March 1, 2021, a municipality shall submit its application and supporting documentation to New Castle
113 County if the municipality is requesting that New Castle County recognize a New Castle County service percentage less
114 than 100% for any local service function based on the municipality's degree of performance of the local service function.

115 (2) By September 1, 2021, a municipality shall submit its application and supporting documentation to New
116 Castle County if the municipality is requesting that New Castle County recognize the municipality's contribution of
117 funds or in-kind contributions of goods and services to a volunteer fire company.

118 (3) New Castle County may request, and the municipality must provide, additional information that may
119 reasonably be needed to determine the degree of performance of local service functions provided by the municipality.

120 (c)(1) By July 1, 2021, New Castle County shall notify each municipality of New Castle County's determination
121 regarding the New Castle County service percentage for each local service function other than fire protection. A
122 disagreement regarding New Castle County's calculations under this paragraph (c)(1) of this section is subject to
123 negotiation between New Castle County and the municipality.

124 (2) By October 1, 2021, New Castle County shall notify each municipality of New Castle County's
125 determination regarding the dollar amount of direct and in-kind donations that the County will recognize to calculate
126 the individual fire protection rate. A disagreement regarding New Castle County's calculations under this paragraph
127 (c)(2) of this section is subject to negotiation between New Castle County and the municipality.

128 (d)(1)a. By September 1, 2021, a municipality that is unable to reach agreement with New Castle County
129 regarding the New Castle County service percentage for a local service function under paragraph (c)(1) of this section may
130 provide notice to New Castle County demanding arbitration which includes the municipality's designated member of the
131 arbitration panel under paragraph (d)(2) of this section. If the municipality does not provide such notice by September 1,
132 2021, New Castle County's determination is final and may not be appealed.

133 b. By November 1, 2021, a municipality that is unable to reach agreement with New Castle County
134 regarding the New Castle County individual fire protection tax rate under paragraph (c)(2) of this section may
135 provide notice to New Castle County demanding arbitration that includes the municipality's designated member of
136 the arbitration panel under paragraph (d)(3) of this section. If the municipality does not provide such notice by
137 November 1, 2021, New Castle County's determination is final and may not be appealed.

138 (2) If arbitration is demanded under paragraph (d)(1)a. of this section, an arbitration panel will be created
139 which is comprised of 3 members, selected as follows:
140 a. The municipality’s designee.
141 b. By September 10, 2021, the County Executive shall designate a member.
142 c. By September 20, 2021, the arbitration panel designees of the County Executive and the municipality
143 shall jointly select the third member. If the two arbitration panel designees cannot agree on the selection of the
144 third member by September 20, 2021, the third arbitration panel member is the Chair of the New Castle County
145 Financial Advisory Council or the Chair’s designee.
146 d. The arbitration hearing must occur by December 15, 2021. At the hearing, New Castle County and the
147 municipality may present testimony, evidence, and oral argument as to the matters in dispute.
148 (3) If arbitration is demanded under paragraph (d)(1)b. of this section, an arbitration panel will be created
149 which is comprised of 3 members, selected as follows:
150 a. The municipality’s designee.
151 b. By November 10, 2021, the County Executive shall designate a member.
152 c. By November 20, 2021, the arbitration panel designees of the County Executive and the municipality
153 shall jointly select the third member. If the two arbitration panel designees cannot agree on the selection of the
154 third member by November 20, 2021, the third arbitration panel member is the Chair of the New Castle County
155 Financial Advisory Council or the Chair’s designee.
156 d. The arbitration hearing must occur by December 15, 2021. At the hearing, New Castle County and the
157 municipality may present testimony, evidence, and oral argument as to the matters in dispute.
158 (4) An arbitration panel may establish rules for the arbitration hearing, including information required to be
159 produced by a party and deadlines for the submission of evidence.
160 (5) An arbitration panel shall issue its decision by January 31, 2022. An arbitration panel’s decision is binding
161 and may not be appealed.
162 (e) Notwithstanding subsections (a) through (d) and (f) of this section, either of the following may occur:
163 (1) New Castle County and a municipality may enter into an agreement setting different terms or timing for
164 negotiations, calculations, or approval of the New Castle County service percentages.
165 (2) New Castle County may determine New Castle County service percentages for a municipality that does
166 not make a request in the manner required under this section. New Castle County’s determination under this paragraph
167 (e)(2) of this section is final, may not be appealed, and is not subject to arbitration under subsection (d) of this section.

168 (f) New Castle County shall adopt policies and procedures to implement this section.

169 (g) This section applies beginning for the Fiscal Year 2023 budget.

170 Section 4. Amend Subchapter III, Chapter 11, Title 9 of the Delaware Code by creating a new Subpart B before §
171 1131 of Title 9 by making deletions as shown by strike through and insertions as shown by underline as follows:

172 Subpart B. Budgeting.

173 Section 5. Amend Subchapter III, Chapter 11, Title 9 of the Delaware Code by making deletions as shown by
174 strike through and insertions as shown by underline as follows:

175 § 1131. Separate budgeting for local service functions performed by the ~~County outside of the limits of~~
176 ~~municipalities.~~ County.

177 (a) The Chief Administrative Officer and the County Executive, in the preparation of the annual operating budget,
178 shall divide and segregate in a separate budget, entitled Local Service Function Budget, all ~~expenditures~~ appropriations for
179 the performance or funding of local service functions ~~which are performed by the County within the limits of municipality~~
180 by New Castle County within the municipalities and the unincorporated area. The Chief Administrative Officer and the
181 County Executive, in the preparation of the Local Service Function Budget, shall specify separately the total appropriation
182 required for the performance or funding of each local service function, ~~including appropriations for Supporting Services,~~
183 ~~which is not performed by the County within the limits of any municipality.~~ The County Executive, in estimating the
184 revenues necessary for the payment of the cost of each such local service function, shall not include in the estimate any
185 estimated revenues to be derived from ad valorem taxation of real property within any municipality which performs such
186 function independently for its residents and pays the cost thereof out of its own revenue sources function by New Castle
187 County.

188 (b) The County Executive shall submit to the County Council a proposed revenue ordinance which will achieve
189 sufficient revenues to balance the total operating budget, including the Local Service Function Budget. The County
190 Executive in the preparation of the proposed revenue ordinance shall may not, and the County Council and the County
191 Executive in the enactment of the annual revenue ordinance shall may not, impose ad valorem taxation on real property
192 within any municipality to pay the cost of New Castle County's performance or funding of any local service function if
193 ~~such function is performed by the municipality for its residents, paid out of municipal revenues and the fact that the service~~
194 ~~is being provided is validated by County Council~~ in excess of the individual LSF tax rate or individual fire protection rate.

195 (c) ~~The provisions of subsections (a) and (b) of this section shall not be applicable.~~ The County Executive's
196 proposed budget presented to the County Council shall include tables providing all of the following information:

197 (1) The calculation of the proposed individual LSF tax rate and individual fire protection tax rate for each
198 local service function for each municipality and the unincorporated area.

199 (2) The proposed aggregate of the individual LSF tax rates and individual fire protection tax rates for each
200 municipality and the unincorporated area.

201 (d) New Castle County may also impose ad valorem taxation on real property within any municipality as follows:

202 (1) In any instance where a municipality initiates the performance of, ~~or exercises responsibility for,~~ a local
203 service function, ~~without the affirmative action in the form of an ordinance of the County Council of New Castle~~
204 County, ~~and a local service function without the consent of New Castle County under § 1102 of this title.~~

205 (2) ~~To~~ For the cost of operation by the County of park and recreational facilities which are not local in nature
206 and which serve the metropolitan ~~area; and~~ area.

207 (3) To any municipality not expending funds in the previous fiscal year for the given local service function or
208 not adequately performing the local service function.

209 ~~(d)~~(e) The Chief Administrative Officer and the County Executive, in the preparation of the annual operating
210 budget, shall divide and segregate in a separate budget entitled General Operating Budget all ~~expenditures~~ appropriations
211 not properly allocable to the Local Service Function Budget or other operating budget fund. The County ~~Council~~ Council,
212 in estimating the revenues which will be necessary for the payment of these ~~expenditures~~ appropriations, shall include the
213 estimated revenues to be derived from county-wide ad valorem taxation of real property.

214 ~~(e)~~(f) The County Executive in the preparation of the proposed revenue ordinance, and the County Council and the
215 County Executive in the enactment of the annual revenue ordinance, shall uniformly impose ad valorem taxation on real
216 property within the County to pay the cost of the General Operating Budget.

217 § 1133. Administration and enforcement of the operating budget ordinance; adoption of operating budget;
218 allocations and allotments; approval of allocations and allotments; revisions.

219 (a) The adoption of the operating budget ordinance ~~shall constitute~~ is an appropriation of the sum specified in the
220 budget for the purpose and from the funds indicated. ~~Such appropriation shall be considered~~ The appropriation is valid only
221 for the year for which it is made, and any part of ~~such~~ an appropriation which is not encumbered or expended ~~shall lapse~~
222 lapses at the end of the year.

223 § 1134. Preparation of the capital program and the capital budget; preparation by Chief Administrative Officer;
224 recommendation by County Executive; action by County Council.

225 (a) The Chief Administrative Officer shall annually prepare a capital program and a capital budget under the
226 direction of the County Executive. In the course of the preparation of the capital program, the Chief Administrative Officer

227 shall confer with the Department of Land Use to ascertain that the proposed capital program is in accordance with the
228 comprehensive development plan prepared by the Department of Land Use.

229 (b) No later than April 1 of each year, the County Executive shall recommend to the County Council, a capital
230 program for the ensuing 6 years and a capital budget for the ensuing year. Not later than the date that the program is
231 submitted to County Council, the County Executive shall submit ~~it~~ the capital program to the Department of Land Use for
232 its review and recommendations to County Council. The County Executive shall also submit ~~it~~ the capital program to the
233 Planning Board for the sole purpose of determining if it is in accordance with the comprehensive development plan.

234 (c) The proposed capital program, and the proposed capital budget, ~~shall~~ must have ~~such~~ the content and be in ~~such~~
235 the form as necessary to enable ~~action to be taken thereupon by the County Council to take action as required by under §~~
236 1159 of this title.

237 (d)(1) The County Executive, in the preparation of the capital budget, ~~shall~~ may not include in the revenue
238 estimates any estimated revenues to be derived from ad valorem taxation of real property within a municipality for any
239 capital ~~expenditure~~ appropriation including debt service which is related to the performance or funding by the County of a
240 local service function ~~which is performed by the municipality for its own residents and for which the cost is paid out of~~
241 municipal revenues in excess of the individual LSF tax rate or individual fire protection rate for that local service function.

242 (2) The County Council, in the adoption of the capital budget by ordinance, ~~shall~~ may not impose ad valorem
243 taxation on real property within a municipality for the payment of the cost of any capital ~~expenditure,~~ appropriation,
244 including debt service, which is related to the performance or funding by the County of a local service function ~~which~~
245 is performed by the municipality for its own residents and for which the cost is paid out of municipal revenues. in
246 excess of the individual LSF tax rate or individual fire protection rate for that local service function.

247 (3) The provisions of this subsection ~~shall~~ are not be applicable to capital ~~expenditures,~~ appropriations,
248 including debt service, for the acquisition by the County of park and recreational facilities which are not local in nature
249 and which serve the metropolitan area.

250 (e) The County Executive and the County Council, in the adoption of a capital budget by ordinance, shall
251 uniformly impose ad valorem taxation on real property within the County for the payment of the cost of any capital
252 ~~expenditure,~~ appropriation, including debt service, ~~which is not except for costs~~ related to the performance or funding by
253 the County of a local service function ~~exclusively performed by a municipality for its own residents and for which the cost~~
254 is paid out of municipal revenues. in excess of the individual LSF tax rate or individual fire protection rate for that local
255 service function.

256 Section 6. Amend Subchapter IV, Chapter 11, Title 9 of the Delaware Code by making deletions as shown by
257 strike through and insertions as shown by underline as follows:

258 § 1155. Consideration and adoption of the annual operating budget ordinance.

259 (a) The County Council, upon receipt of the operating budget, shall immediately publish a notice in a newspaper
260 of general circulation in the County, setting ~~forth:~~ forth all of the following:

261 (1) A summary of the estimated revenues and ~~expenditure;~~ appropriations.

262 (2) The detail of recommended new sources of revenue or increased rates of existing taxes, licenses, ~~fees~~ fees,
263 or other ~~revenue;~~ revenue.

264 (3) The website address where a copy of the budget may be located and identification of the pages of the
265 budget on which a listing of all individual LSF tax rates and individual fire protection tax rates for each municipality
266 may be found.

267 (4) That copies of the budget are available upon request at the office of the Clerk of County ~~Council;~~ Council.

268 (4) ~~(5)~~ The date, time, and place at which the County Council will commence its public hearings upon the
269 proposed budget, which ~~shall~~ may not be less than 10 days after the date of publication of such notice.

270 (b) The County Council, upon conclusion of its public hearings but not later than June 1, shall enact the operating
271 budget ordinance. The County Council may increase, decrease, or delete any item of appropriation recommended by the
272 County Executive, and may add new items of appropriation.

273 (c) No amendment to the operating budget ordinance shall increase the aggregate of authorized ~~expenditures~~
274 appropriations to an amount greater than the estimate of revenue for the corresponding period.

275 (d)~~(1)~~ The County Council, in the adoption of the annual operating budget ordinance, shall divide and segregate in
276 a separate budget, entitled Local Service Function Budget, all ~~expenditures~~ appropriations for the performance or funding
277 of local service functions ~~which are not performed within the limits of any municipality by New Castle County within the~~
278 municipalities and unincorporated area.

279 (2) The County Council, in estimating the revenues for the payment of the cost of each such local service
280 function, ~~shall~~ may not include in the estimate any estimated revenues to be derived from ad valorem taxation of real
281 property within any municipality ~~which performs such function independently for its residents and pays the cost~~
282 ~~thereof out of its own revenue sources.~~ related to the performance or funding by the County of a local service function
283 in excess of the individual LSF tax rate or individual fire protection rate for that local service function. ~~The provisions~~
284 ~~of this subsection shall not be applicable:~~

285 (e) New Castle County may also impose ad valorem taxation on real property within any municipality as follows:

286 (1) In any instance where a municipality initiates the performance of ~~or exercises responsibility for a local~~
287 ~~service function or a distinct activity without the affirmative action in the form of an ordinance of the County Council~~
288 ~~of New Castle County; and a local service function without the consent of New Castle County under § 1102 of this~~
289 ~~title.~~

290 (2) ~~For~~ For the cost of operation by the County of park and recreational facilities which are not local in nature
291 and which serve the metropolitan area.

292 (3) To any municipality not expending funds in the previous fiscal year for the given local service function or
293 not adequately performing the local service function.

294 ~~(e)~~(f) County Council, in the adoption of the annual operating budget ordinance, shall divide and segregate in a
295 separate budget, entitled General Operating Budget, all ~~expenditures~~ appropriations not properly allocated to the Local
296 Service Function Budget or other operating budget funds. County Council, in estimating the revenues necessary for the
297 payment of these ~~expenditures,~~ appropriations, shall include the estimated revenue to be derived from county-wide ad
298 valorem taxation of real property.

299 § 1158. Budget of revenues.

300 (a) The County Council, at the meeting at which the annual operating budget ordinance is adopted, and within the
301 limits of its power and subject to other provisions of this title, shall ordain such taxes and other revenue measures as will
302 yield sufficient revenue, which, together with any available surplus, will balance the budget.

303 (b) ~~Revenues~~ The County Council shall ~~be estimated~~ estimate revenues only upon the basis of the cash receipts
304 anticipated for the fiscal year.

305 (c) The County Executive shall certify the estimated yield from each item of revenue and of the amounts of surplus
306 to be used in the balancing of the budget ~~shall be certified to the County Council by the County Executive.~~ Council.

307 (d) The annual operating budget ordinance ~~shall~~ is not ~~become~~ effective until the County Council ~~shall have~~ has
308 adopted revenue measures which, together with the available surplus, ~~shall~~ are in the opinion of the County ~~Executive~~ be
309 Executive, estimated to yield sums at least sufficient to balance the proposed ~~expenditures.~~ appropriations. The Office of
310 Finance ~~shall~~ may not approve any expenditure under any portion of an annual operating budget ordinance until such
311 balancing shall have been provided.

312 (e) County Council, in the enactment of the annual revenue ordinance or other revenue measures, ~~shall~~ may not
313 impose ad valorem taxation on real property within any municipality to pay the cost of ~~any local service function if such~~
314 ~~function is performed by the municipality for its residents, paid out of municipal revenues and the fact that the service is~~

315 ~~being provided is validated by County Council. New Castle County's performance or funding of any local service function~~
316 ~~in excess of the individual LSF tax rate or individual fire protection rate for that local service function.~~

317 ~~The provisions of this subsection shall not be applicable:~~

318 (f) New Castle County may also impose ad valorem taxation on real property within any municipality as follows:

319 (1) ~~In any instance where a municipality initiates the performance of, or exercises responsibility for, a local~~
320 ~~service function or a distinct activity without the affirmative action of an ordinance of the County Council of New~~
321 ~~Castle County; and a local service function without the consent of New Castle County under § 1102 of this title.~~

322 ~~(2) To~~ For the cost of operation by the County of park and recreational facilities which are not local in nature
323 and which serve the metropolitan area.

324 (3) To any municipality not expending funds in the previous fiscal year for the given local service function or
325 not adequately performing the local service function.

326 ~~(f)~~ (g) County Council, in the enactment of the annual revenue ordinance or in the enactment of other revenue
327 measures, shall uniformly impose ad valorem taxation on real property within the County and pay the cost of the General
328 Operating Budget.

329 § 1159. Capital program and capital budget.

330 (a) County Council shall adopt a capital program and adopt a capital budget before, or at the same meeting as, it
331 adopts the annual operating budget.

332 (b) The capital program shall detail all permanent physical improvements, including the acquisition of real estate,
333 that are planned to be financed, in whole or in part, from funds that are, or may become, subject to control or appropriation
334 by the County Council during each of the ensuing 6 years. For each separate project there shall be shown the amount and
335 the source of money that has been expended or encumbered, or is to be expended or encumbered before the next fiscal year,
336 and also the amount and the sources of money planned to be expended during each of the ensuing 6 years.

337 (c) The County Council may not amend the capital program as submitted to it by the County Executive, until it has
338 received from the County Executive recommendations with respect to the proposed amendment. The County Council ~~shall~~
339 ~~is not be bound by such~~ the County Executive's recommendations and may act without them if they are not received within
340 15 days from the date they are requested.

341 (d) The Capital Budget Ordinance shall show the total capital appropriations.

342 (e) Amendments to the Capital Budget Ordinance must conform to the pertinent portions of the capital program in
343 its original or amended form.

344 (f)(1) The County Council, in the adoption of the Capital Budget Ordinance, ~~shall~~ may not include in the revenue
345 estimates, any estimated revenues to be derived from ad valorem taxation of real property within a municipality for any
346 capital ~~expenditure, appropriation,~~ including debt service, which is related to the performance or funding by the County of a
347 local service function ~~which is performed by the municipality for its own residents, paid out of municipal revenues and the~~
348 ~~fact that the service is being provided is validated by County Council.~~ in excess of the individual LSF tax rate or individual
349 fire protection rate for that local service function.

350 (2) The County Council, in the adoption of the Capital Budget Ordinance, ~~shall~~ may not impose ad valorem
351 taxation on real property within a municipality for the payment of the cost of any capital ~~expenditure, appropriation,~~
352 including debt service, which is related to the performance or funding by the County of a local service function ~~which~~
353 ~~is performed by the municipality for its own residents, paid out of municipal revenues and the fact that the service is~~
354 ~~being provided is validated by County Council.~~ in excess of the individual LSF tax rate or individual fire protection
355 rate for that local service function.

356 This subsection shall not be applicable:

357 (3) New Castle County may also impose ad valorem taxation on real property within any municipality as
358 follows:

359 (4) a. In any instance where a municipality initiates the performance of, ~~or exercises responsibility for,~~ a local
360 ~~service function or a distinct activity without the affirmative action in the form of an ordinance of the County Council~~
361 ~~of New Castle County; and a local service function without the consent of New Castle County under § 1102 of this~~
362 title.

363 (2) ~~To~~ b. For capital ~~expenditures, appropriations,~~ including debt service, for the acquisition by the County of
364 park and recreational facilities which are not local in nature and which serve the metropolitan area.

365 c. To any municipality not expending funds in the previous fiscal year for the given local service function
366 or not adequately performing the local service function.

367 (g) The County Council, in the adoption of a capital budget by ordinance, shall uniformly impose ad valorem
368 taxation on real property within the County for the payment of the cost of any capital ~~expenditure, appropriation,~~ including
369 debt service, which is not related to the performance or funding by the County of a local service function ~~which is~~
370 ~~performed by a municipality for its own residents, paid out of municipal revenues and the fact that the service is being~~
371 ~~provided is validated by County Council.~~ in excess of the individual LSF tax rate or individual fire protection rate for the
372 local service function.

373 § 1160. Unrestricted use of present revenues: [Reserved.]

374 (a) The government of New Castle County may use the proceeds derived from ad valorem taxation of real property
375 within the County, including real property within municipalities, at the tax rate imposed by the Levy Court of New Castle
376 County as of July 1, 1965, for any purpose including the payment of the cost of services included in the Local Service
377 Function Budget.

378 (b) ~~The provisions of §§ 1131, 1134(d), 1155(d) and (e), 1158(e) and (f), and 1159(f) and (g) of this title shall be~~
379 ~~subject to the provisions of subsection (a) of this section.~~

380 Section 7. Amend § 2515, Title 9 of the Delaware Code by making deletions as shown by strike through and
381 insertions as shown by underline as follows:

382 § 2515. Exceptions.

383 This chapter ~~shall~~ does not apply to ~~buildings~~ any of the following:

384 (1) A building or structures structure devoted to agricultural use as defined in Chapter 26 of this ~~title, nor to~~
385 title.

386 (2) A properties, buildings or structures property, building, or structure located within any ~~incorporated city or~~
387 ~~town in New Castle County~~ a municipality unless ~~the responsibility~~ New Castle County has any responsibility for the
388 local service function ~~has been duly transferred to New Castle County.~~ under § 1102 of this title.

389 Section 8. Amend § 2910, Title 9 of the Delaware Code by making deletions as shown by strike through and
390 insertions as shown by underline as follows:

391 § 2910. Exceptions.

392 This chapter ~~shall~~ does not apply to ~~properties, buildings or structures~~ a property, building, or structure located
393 within any ~~incorporated city or town in New Castle County~~ a municipality unless ~~the responsibility~~ New Castle County has
394 any responsibility for the local service function ~~has been duly transferred to New Castle County.~~ under § 1102 of this title.

395 Section 9. Amend Subpart A, Subchapter III, Chapter 11, Title 9 of the Delaware Code by making deletions as
396 shown by strike through and insertions as shown by underline as follows:

397 § 1129. Local service functions; Local Service Function Review Committee.

398 (a) New Castle County shall create the Local Service Function Review Committee (“Committee”) for the purpose
399 of conducting an annual review of Subpart A of this subchapter. The Committee must complete the review no later than
400 August 3.

401 (b) The Local Service Function Review Committee is comprised of the following representatives:

402 (1) The Chief Financial Officer, or a designee, who serves as chair.

403 (2) One member of County Council, selected by the County Council.

404 (3) Two members from municipal governments in New Castle County appointed by the County Council from
405 a list of names provided by the Delaware League of Local Governments.

406 (4) One member who is a resident of New Castle County and who owns real property in the unincorporated
407 area of New Castle County, appointed by the County Council.

408 (c)(1) The chair of the Committee must provide the Committee with administrative support, including the
409 preparation and distribution of meeting notices, agendas, minutes, correspondence, and reports.

410 (2)a. A quorum of the Committee is a majority of its members.

411 b. Official action by the Committee requires the approval of a quorum of the Committee.

412 c. The Committee may adopt rules necessary for its operation and may create working subcommittees.

413 d. The chair of the Committee may invite individuals with relevant expertise to participate in the
414 Committee's discussions.

415 (d)(1) The Committee shall include all of the following in the annual review under subsection (a) of this section:

416 a. The calculation procedure under § 1126 of this title.

417 b. The New Castle County service percentage or credit percentage process under § 1128 of this title.

418 c. Changes to the service functions that are eligible for an individual LSF tax rate under § 1128 of this
419 title.

420 (2) The Committee's review must include a specific topic under paragraph (d)(1) of this section that is
421 requested by a municipality before June 1 of the current year.

422 (e) The Local Service Function Review Committee must provide an annual report containing a summary of the
423 review conducted under this section and any recommendations for improvements to all members of the County Council,
424 each municipality in New Castle County, all members of the General Assembly who represent New Castle County, and the
425 Division of Research by September 15 of each year.

426 Section 10. Amend Chapter 11, of Title 9 of the Delaware Code by making deletions as shown by strike through
427 and insertions as shown by underline as follows:

428 § 1101A. Definitions.

429 For purposes of this chapter, ~~beginning with the Fiscal Year 2023 budget:~~ chapter:

430 § 1102. ~~Transfer of functions.~~ Local service functions; subcategories; responsibility for performance.

431 ~~(a) The term "local service function," as used in this chapter, shall mean a local governmental service, or a group~~
432 ~~of closely allied governmental services, performed by New Castle County, or by a municipality within New Castle County,~~
433 ~~for its inhabitants and for which, under constitutional and statutory provisions and judicial interpretations, the County, or~~

434 any municipality as distinguished from the State, has a primary responsibility for provision and financing. Without in any
435 way limiting the foregoing, the following are examples of local service functions:

- 436 (1) ~~Planning and zoning including subdivision regulations;~~
437 (2) ~~Adoption and enforcement of ordinances and regulations for the protection of persons and property from~~
438 ~~hazards in the use, occupancy, condition, alteration, maintenance, repair, sanitation, removal and demolition of~~
439 ~~buildings and structures or any parts thereof and grounds appurtenant thereto, in the operation of equipment therein,~~
440 ~~and of outdoor signs including, but not limited to, zoning ordinances and regulations thereunder, building codes and~~
441 ~~regulations thereunder, plumbing codes and regulations thereunder or other such codes;~~
442 (3) ~~Programs for redevelopment, low rent housing and urban renewal;~~
443 (4) ~~Parks and park related activities and recreational programs;~~
444 (5) ~~Police protection;~~
445 (6) ~~Fire protection;~~
446 (7) ~~Public works including, but not limited to, maintenance and operation of sanitary and storm sewers,~~
447 ~~drainage systems, sewage disposal facilities, refuse disposal facilities, including trash and garbage collection disposal;~~
448 (8) ~~Lighting of streets, roads, alleys, and other public places;~~
449 (9) ~~Maintenance and operation of water supply system;~~
450 (10) ~~Library services.~~

451 New Castle County may divide a local service function into subcategories on forms used under § 1128 of this title.
452 A subcategory of a local service function constitutes a local service function.

453 (b) ~~The term “municipality,” as used in this chapter, shall mean any municipal corporation located within New~~
454 ~~Castle County, and incorporated pursuant to law by the General Assembly of this State, which performs for its residents~~
455 ~~any local service function and pays the cost thereof out of its own revenue sources. Responsibility~~ The responsibility for all
456 or part of a local service function or a distinct activity or portion thereof exercised by a municipality located within New
457 Castle County, in a municipality is established as set forth under the approved budget enacted for Fiscal Year 2023 under §
458 1155 of this title, or by the later of any of the following:

459 (1) A municipality provides timely notice of a change in degree of performance of a local service function to
460 New Castle County under § 1127(d)(2) of this title.

461 (2) New Castle County and a municipality enact ordinances transferring responsibility for performance of a
462 local service function under subsection (c) of this section.

463 (3) A service performed by a municipality is classified as a local service function under subsection (d) of this
464 section.

465 (4) A new local service function is established under § 1128 of this title.

466 (c) ~~Except as provided under subsection (e) of this section, responsibility~~ (1) Responsibility for the performance or
467 funding of a local service function may be transferred to the County between New Castle County and a municipality by the
468 concurring affirmative action in the form of an ordinance of enacted by the County Council of New Castle County and of
469 the governing body of the municipality concerned. municipality. Responsibility for a local service function or a distinct
470 activity or portion thereof not exercised by New Castle County, or by a municipality located within New Castle County, as
471 of January 3, 1967, or exercised by New Castle County as of January 3, 1967, may be transferred to a municipality located
472 within New Castle County by the concurring affirmative action in the form of an ordinance of the County Council of New
473 Castle County and of the governing body of the municipality concerned.

474 (d) ~~(2) The expression of official action ordinances transferring a local service function shall make explicit:~~
475 under paragraph (c)(1) of this section must explicitly state all of the following:

476 (1) ~~a. The nature of the local service function transferred;~~ transferred.

477 (2) ~~b. The effective date of such transfer;~~ the transfer.

478 (3) ~~c. The manner in which affected employees engaged in the performance of the local service function~~
479 will be transferred, reassigned reassigned, or otherwise treated; treated.

480 (4) ~~d. The manner in which real property, facilities, equipment equipment, or other personal property~~
481 required in the exercise of the local service function are to will be transferred, sold sold, or otherwise treated;
482 treated.

483 (5) ~~e. The method of financing to be used in the exercise of the local service function received;~~ received.

484 (6) ~~f. Other legal, financial, and administrative arrangements necessary to effect transfer of the local~~
485 service function in an orderly and equitable manner.

486 (d)(1) If a municipality is performing a service that is included in the New Castle County General Operating
487 Budget, the municipality may request that the service be classified as a local service function in the next fiscal year by
488 providing a notice to New Castle County by August 1 that states all of the following:

489 a. The service that is included in the New Castle County General Operating Budget.

490 b. The degree of performance.

491 c. The date municipality began performing the service.

492 (2) New Castle County may request, and the municipality must provide, additional information that may
493 reasonably be needed to determine the degree of performance of the service by the municipality.

494 (3) By November 1, New Castle County shall notify the municipality of New Castle County's determination
495 regarding the municipality's request under paragraph (d)(1) of this section.

496 (4) If a municipality is unable to reach agreement with New Castle County regarding the municipality's
497 request under paragraph (d)(1) of this section, the municipality may demand arbitration under the procedure in §
498 1128(d) of this title.

499 (c) ~~Notwithstanding any other provision of law, for fire protection that is partially financially supported but not~~
500 ~~directly provided by New Castle County and that is also partially financially supported but not directly provided by a~~
501 ~~municipality, New Castle County shall convert the net County fire protection cost into a real property tax rate equivalent for~~
502 ~~each municipality and the unincorporated area that does not directly provide fire protection by calculating for each~~
503 ~~municipality and the unincorporated area under its jurisdiction that does not directly provide fire protection by calculating~~
504 ~~all of the following for each municipality and the unincorporated area:~~

505 ~~(1) The "service area share", which equals the taxable assessed value of real property within the municipality~~
506 ~~or the unincorporated area not directly providing fire protection divided by the sum of the taxable assessed value for all~~
507 ~~real property in the unincorporated area and all municipalities not directly providing fire protection.~~

508 ~~(2) The "apportioned gross amount", which equals the service area share multiplied by the net New Castle~~
509 ~~County fire protection cost for fire protection.~~

510 ~~(3) The "net New Castle County fire protection cost", which is New Castle County's contribution of funds or~~
511 ~~in-kind services to volunteer fire companies within New Castle County, increased by indirect costs applicable to fire~~
512 ~~protection and decreased by service charges, grants, or other revenue that New Castle County directly attributes or~~
513 ~~otherwise apportions to fire protection.~~

514 ~~(4) The "credit percentage", which equals the municipality's actual direct contribution of funds or in-kind~~
515 ~~contributions of goods or services to a volunteer fire company in the previous year, divided by the municipality's~~
516 ~~apportioned gross amount. The "credit percentage" may not exceed 100%. The "credit percentage" is 0% for the~~
517 ~~unincorporated area.~~

518 ~~(5) The "New Castle County fire protection percentage", which equals 100% minus the municipality's or the~~
519 ~~unincorporated area's credit percentage. The "New Castle County fire protection percentage" for the unincorporated~~
520 ~~area is 100%.~~

- 521 ~~(6) The “weighted service share”, which equals the municipality’s or the unincorporated area’s service area~~
522 ~~share multiplied by the municipality’s or the unincorporated area’s New Castle County fire protection percentage.~~
- 523 ~~(7) The “total weighted service amount”, which equals the sum of the weighted service shares.~~
- 524 ~~(8) The “final service weight”, which equals the municipality’s or the unincorporated area’s weighted service~~
525 ~~share divided by the total weighted service amount.~~
- 526 ~~(9) The “apportioned net fire protection cost”, which equals the final service weight multiplied by the net New~~
527 ~~Castle County fire protection cost for fire protection.~~
- 528 ~~(10) The “individual fire protection tax rate” which equals the municipality’s or the unincorporated area’s~~
529 ~~apportioned net fire protection cost divided by the taxable assessed value of real property in the respective municipality~~
530 ~~or the unincorporated area. This calculation may be adjusted to raise sufficient revenues after accounting for the~~
531 ~~historical County wide level of nonpayment of County real property tax. [Reserved.]~~

532 § 1125. Local service functions; New Castle County property tax rates in municipalities.

533 ~~(a) Beginning for the Fiscal Year 2023 budget, in In~~ determining the New Castle County property tax rate for real
534 property in a municipality, New Castle County shall consider the degree that a local service function is fully or partially
535 performed or financially supported by the municipality instead of New Castle County under § 1102 ~~and § 1128~~ of this title.

536 ~~(b) Beginning for the Fiscal Year 2023 budget,~~ New Castle County shall establish a property tax rate for real
537 property in a municipality based on the degree of any local service function fully or partially performed or financially
538 supported by the municipality instead of New Castle County under § 1102 ~~and § 1128~~ of this title.

539 ~~(d) New Castle County may divide a local service function into subcategories on forms used under § 1128 of this~~
540 ~~title. A subcategory of a local service function constitutes a local service function. [Reserved.]~~

541 § 1126. Local service functions; calculation of net county LSF cost and individual LSF tax rates.

542 ~~(a) Beginning for the Fiscal Year 2023 budget,~~ New Castle County shall calculate the net county LSF cost for each
543 local service function. The “net county LSF cost” equals the amount in the New Castle County budget for the local service
544 function for the next fiscal year. The “net county LSF cost” is the amount of direct and indirect costs applicable to that local
545 service function, and excludes service charges, grants, or other revenue or funds that New Castle County directly attributes
546 or otherwise apportions to that local service function.

547 ~~(b) Except as provided for fire protection under subsection (c) of this section, beginning for the Fiscal Year 2023~~
548 ~~budget,~~ New Castle County shall convert the net county LSF cost for each local service function into a real property tax rate
549 for each municipality and the unincorporated area by calculating each of the following for each municipality and the
550 unincorporated area:

551 (2) The “New Castle County service percentage” for a municipality, as determined under § 1102 ~~and 1128~~ of
552 this title.

553 (c) For fire protection that is partially financially supported but not directly provided by New Castle County and
554 that is also partially financially supported but not directly provided by a municipality, New Castle County shall convert the
555 net county LSF cost into a real property tax rate for each municipality ~~under § 1102(e) of this title~~ and the unincorporated
556 area that does not directly provide fire protection by calculating all of the following for each municipality and the
557 unincorporated area:

558 (1) The “service area share”, which equals the taxable assessed value of real property within the municipality
559 or the unincorporated area not directly providing fire protection divided by the sum of the taxable assessed value for all
560 real property in the unincorporated area and all municipalities not directly providing fire protection.

561 (2) The “apportioned gross amount”, which equals the service area share multiplied by the net county LSF
562 cost for fire protection.

563 (3) The “net New Castle County fire protection cost”, which is New Castle County’s contribution of funds or
564 in-kind services to volunteer fire companies within New Castle County, increased by indirect costs applicable to fire
565 protection and decreased by service charges, grants, or other revenue that New Castle County directly attributes or
566 otherwise apportions to fire protection.

567 (4) The “credit percentage”, which equals the municipality’s actual direct contribution of funds or in-kind
568 contributions of goods or services to a volunteer fire company in the previous year, divided by the municipality’s
569 apportioned gross amount. The “credit percentage” may not exceed 100%. The “credit percentage” is 0% for the
570 unincorporated area.

571 (5) The “New Castle County fire protection percentage”, which equals 100% minus the municipality’s credit
572 percentage. The “New Castle County fire protection percentage” for the unincorporated area is 100%.

573 (6) The “weighted service share”, which equals the municipality’s or the unincorporated area’s service area
574 share multiplied by the municipality’s or the unincorporated area’s New Castle County fire protection percentage.

575 (7) The “total weighted service amount”, which equals the sum of the weighted service shares.

576 (8) The “final service weight”, which equals the municipality’s or the unincorporated area’s weighted service
577 share divided by the total weighted service amount.

578 (9) The “apportioned net LSF cost”, which equals the final service weight multiplied by the net county LSF
579 cost for fire protection.

580 (10) The “individual fire protection tax rate” which equals the municipality’s or the unincorporated area’s
581 apportioned net fire protection cost divided by the taxable assessed value of real property in the respective municipality
582 or the unincorporated area, adjusted to reflect New Castle County’s estimated level of cash receipts.

583 § 1127. Local service functions; change in degree of performance; notice requirements.

584 (a) By August 1 of each year, a municipality shall provide notice to New Castle County if the municipality intends
585 to begin performing, stop performing, or change the degree of performance of a local service function, other than fire
586 protection, during New Castle County’s fiscal year beginning the following July 1.

587 (b) In the notice under subsection (a) of this section, the municipality shall state with specificity which of the
588 following modifications the municipality intends to make to its performance of the local service function:

589 a. Initiating performance.

590 b. Ceasing performance.

591 c. Changing the degree of performance.

592 (c) New Castle County may request, and the municipality must provide, additional information that may
593 reasonably be needed to understand the municipality’s proposed modification.

594 (d)(1) A municipality must initiate or cease performance of a local service function under § 1102(c) of this title.

595 (2) A municipality may change the degree of performance of a local service function that the municipality
596 already performs by providing notice to New Castle County under subsection (a) of this section.

597 § 1128. Local service functions; determining the New Castle County service percentage and credit percentage;
598 ~~transition year.~~ percentage.

599 ~~(a)(1) New Castle County will develop the forms and instructions for municipalities to request that New Castle~~
600 ~~County recognize the New Castle County service percentage for a local service function or direct contribution of funds or~~
601 ~~in-kind contribution of goods and services to a volunteer fire company. New Castle County will hold meetings to discuss~~
602 ~~the draft forms and instructions with municipalities before the forms and instructions become final.~~

603 (2) By January 15, 2021, July 1 of each year, New Castle County shall provide to each municipality the forms
604 and instructions under paragraph (a)(3) (a)(2) of this section to submit the municipality’s request that New Castle
605 County recognize the following:

606 (3)(2) New Castle County shall provide a copy of each of the following:

607 (b)(1) By March 1, 2021, September 1 of each year, a municipality shall submit its application and supporting
608 documentation to New Castle County if the municipality is requesting that New Castle County recognize a either of the
609 following:

610 a. New Castle County service percentage less than 100% for any local service function based on the
611 municipality's degree of performance of the local service function.

612 ~~(2) By September 1, 2021, a municipality shall submit its application and supporting documentation to New~~
613 ~~Castle County if the municipality is requesting that New Castle County recognize b. In the case of fire protection that a~~
614 ~~municipality does not provide directly, the municipality's contribution of funds or in-kind contributions of goods and~~
615 ~~services to a volunteer fire company.~~

616 ~~(3) (2)~~ New Castle County may request, and the municipality must provide, additional information that may
617 reasonably be needed to determine the degree of performance of local service functions provided by the municipality.

618 ~~(c)(1) By July 1, 2021, By November 1 of each year,~~ New Castle County shall notify each municipality of New
619 Castle County's determination regarding the New Castle County service percentage for each local service ~~function other~~
620 ~~than fire protection.~~ function and the dollar amount of direct and in-kind donations that the County will recognize to
621 ~~calculate the individual fire protection rate.~~ A disagreement regarding New Castle County's calculations determination
622 under this ~~paragraph (c)(1) of this section~~ subsection (c) is subject to negotiation between New Castle County and the
623 municipality.

624 ~~(2) By October 1, 2021, New Castle County shall notify each municipality of New Castle County's~~
625 ~~determination regarding the dollar amount of direct and in-kind donations that the County will recognize to calculate~~
626 ~~the individual fire protection rate. A disagreement regarding New Castle County's calculations under this paragraph~~
627 ~~(e)(2) of this section is subject to negotiation between New Castle County and the municipality.~~

628 ~~(d)(1)a. By September 1, 2021, By December 1 of each year,~~ a municipality that is unable to reach agreement with
629 New Castle County regarding the New Castle County service percentage for a local service function or individual fire
630 protection tax rate under ~~paragraph (e)(1)~~ subsection (c) of this section may provide notice to New Castle County
631 demanding arbitration that includes the municipality's designated member of the arbitration panel under paragraph (d)(2) of
632 this section. If the municipality does not provide such notice by ~~September 1, 2021, by December 1,~~ New Castle County's
633 determination is final and may not be appealed.

634 ~~b. By November 1, 2021, a municipality that is unable to reach agreement with New Castle County~~
635 ~~regarding the New Castle County credit percentage for fire protection under paragraph (e)(2) of this section may~~
636 ~~provide notice to New Castle County demanding arbitration which includes the municipality's designated member~~
637 ~~of the arbitration panel under paragraph (d)(3) of this section. If the municipality does not provide such notice by~~
638 ~~December 1, New Castle County's determination is final and may not be appealed.~~

639 (2) If arbitration is demanded under paragraph ~~(d)(1)a.~~ (d)(1) of this section, an arbitration panel will be
640 created which is comprised of 3 members, selected as follows:

641 a. The municipality's designee.

642 b. By ~~September 10, 2021,~~ December 10, the County Executive shall designate a member.

643 c. By ~~September 20, 2021,~~ December 20, the arbitration panel designees of the County Executive and the
644 municipality shall jointly select the third member. If the two arbitration panel designees cannot agree on the
645 selection of the third member by ~~December 20, 2021,~~ December 20, the third arbitration panel member is the Chair
646 of the New Castle County Financial Advisory Council or the Chair's designee.

647 ~~d. The arbitration hearing must occur by December 15, 2021. At the hearing, New Castle County and the~~
648 ~~municipality may present testimony, evidence, and oral argument as to the matters in dispute.~~

649 ~~(3) If arbitration is demanded under paragraph (d)(1)b. of this section, an arbitration panel will be created~~
650 ~~which is comprised of 3 members, selected as follows:~~

651 ~~a. The municipality's designee.~~

652 ~~b. By November 10, 2021, the County Executive shall designate a member.~~

653 ~~c. By November 20, 2021, the arbitration panel designees of the County Executive and the municipality~~
654 ~~shall jointly select the third member. If the two arbitration panel designees cannot agree on the selection of the~~
655 ~~third member by November 20, 2021, the third arbitration panel member is the Chair of the New Castle County~~
656 ~~Financial Advisory Council or the Chair's designee.~~

657 ~~d. The arbitration hearing must occur by December 15, 2021. At the hearing, New Castle County and the~~
658 ~~municipality may present testimony, evidence, and oral argument as to the matters in dispute. The arbitration panel~~
659 ~~may establish rules for the arbitration hearing, including information required to be produced by a party and~~
660 ~~deadlines for the submission of evidence.~~

661 ~~(3) The arbitration hearing must occur by January 31. At the hearing, New Castle County and the municipality~~
662 ~~may present testimony, evidence, and oral argument as to the matters in dispute.~~

663 ~~(4) The arbitration panel may establish rules for the arbitration hearing, including information required to be~~
664 ~~produced by a party and deadlines for the submission of evidence.~~

665 ~~(5) The arbitration panel shall issue its decision by January 31, 2022. February 15. The arbitration panel's~~
666 decision is binding and may not be appealed.

667 ~~(g) This section applies beginning for the Fiscal Year 2023 budget. [Reserved.]~~

668 Section 11. Sections 1 through 4 of this Act are effective immediately.

669 Section 12. Sections 5 through 9 of this Act are effective January 1, 2022.

670 Section 13. Section 10 of this Act is effective July 1, 2022.

SYNOPSIS

This Act represents the work and recommendations of the Local Service Functions Task Force created by House Concurrent Resolution No. 54 of the 150th General Assembly (“Task Force”). The Task Force held 17 meetings during 2019 and 2020 and after considerable research and discussion, the members of the Task Force unanimously approved recommending these changes to the New Castle County budgeting process. In order to implement these changes for the Fiscal Year 2023 budget (“FY 23 Budget”), the first deadline in this Act that New Castle County must meet is January 31, 2021.

This Act revises the process by which the New Castle County tax rate for owners of real property in municipalities is calculated so that the tax rate more fairly attributes the cost of services to property owners in municipalities and the unincorporated area. This Act is modeled on the process that has been used successfully in Prince George’s County Maryland for several decades. This Act does not affect mutual aid agreements because mutual aid agreements do not impact property tax rates.

This Act creates 2 processes to determine the degree that a local service function (“LSF”) is fully or partially performed or financially supported by a municipality instead of New Castle County and to calculate the property tax rate for real property in each municipality based on that determination. There is 1 process for fire company contributions and 1 process for all other local service functions. The process for fire company contributions was enacted by House Bill No. 264 of the 150th General Assembly (“HB 264”) and is already in effect. This Act creates the process for all other local service functions, which will be implemented beginning for New Castle County’s FY 23 Budget and allows time for the necessary calculations and the development of forms and procedures.

There are 3 different effective dates in this Act. The sections that are effective immediately and on January 1, 2022, keep current law in effect for the Fiscal Year 2022 budget (“FY 22 Budget”) process while allowing the new process to be developed and implemented for the FY 23 Budget. The sections that are effective July 1, 2022 reorganize and revise provisions for clarity and to apply to future budgets.

Specifically, this Act does all of the following:

Section 1 takes effect immediately and revises current law to update definitions and make technical corrections to conform existing law to the standards of the Delaware Legislative Drafting Manual beginning for the FY 23 Budget.

Sections 2 and 4 take effect immediately and create new subparts of Subchapter III of Chapter 11 of Title 9 to create a clear subpart for local service function calculations and a clear subpart for general budget sections.

Section 3 takes effect immediately and creates a new process to calculate the property tax rate for real property in municipalities for local service functions other than fire protection beginning for the FY 23 Budget. The range of services that can be local service functions is substantively unchanged, but where current law anticipates that a municipality provides all or none of a service, this Act recognizes that there are different degrees of performance of a service, some of which may be provided by a municipality, and some which are provided by New Castle County. The new process to calculate the property tax rate for local service functions is similar to the process for fire protection but does not consider the municipality’s cost and is based on New Castle County’s cost to provide the local service function, reduced by fees, grants, and other revenue that supports the specific service and increased by applicable indirect costs. This Act creates specific calculations that New Castle County will use to determine the county property tax for real property in a municipality based upon the municipality’s degree of performance of a service that New Castle County would provide if the municipality did not. This Act also creates a specific process, with deadlines, that New Castle County and municipalities will use during each budget cycle to determine the individual LSF tax rate for real property in each municipality. This Act also creates a binding, non-appealable dispute resolution process for disputes regarding New Castle County’s level of service determinations.

Sections 5 through 9 take effect on January 1, 2022. Sections 5 through 8 revise current sections of Title 9 to be consistent with the new process and terminology enacted in Sections 1 and 3 of this Act. Under this Act, New Castle County must adopt the individual LSF tax rates for real property in municipalities as part of the annual budget process. These Sections also make technical corrections to conform existing law to the standards of the Delaware Legislative Drafting Manual.

Section 9 creates the Local Service Function Review Committee. The Local Service Function Review Committee will meet annually to review the LSF calculation procedure and prepare a report that includes any recommendations for improvements.

Section 10 takes effect on July 1, 2022, and revises Chapter 11 of Title 9 to remove the interim provisions and provide for all of the following:

1. Revises and clarifies how to determine if performance of a LSF should be used to calculate the property tax rate in a municipality. There are no changes to current law regarding how responsibility for starting or stopping a specific LSF is transferred between a municipality and New Castle County. This Section updates whether a municipality or New Castle

County is responsible for all or part of a LSF by setting the baseline as how responsibility is set forth in New Castle County's approved budget for FY 23 Budget, which is based on agreement between New Castle County and each municipality or the arbitration panel's determination of any dispute. Future changes in whether a municipality or New Castle County perform all or part of a LSF, other than fire protection which is financially supported but not directly performed by a municipality, are handled as follows:

A. If New Castle County performs the LSF under the FY 23 Budget and a municipality subsequently begins performing the LSF, then the municipality and New Castle County may pass ordinances transferring responsibility for performance of the LSF to the municipality.

B. If a municipality performs the LSF under the FY 23 Budget and later desires to stop performing the service, then the municipality and New Castle County may pass ordinances transferring responsibility for performance of the LSF to New Castle County.

C. If a municipality performs the LSF under the FY 23 Budget and later desires to increase or decrease its degree of performance, then the municipality provides notice to New Castle County by August 1 to be effective for New Castle County's next fiscal year.

D. If a municipality performs a service that is included in the New Castle County General Operating Budget, the municipality may request that the service be classified as a LSF and the municipality may demand arbitration if New Castle County and the municipality cannot reach agreement.

E. If New Castle County establishes a new LSF, the annual negotiation and dispute resolution process will apply if a municipality performs that service.

2. Transfers the fire service provisions from § 1102(e) of Title 9 to § 1126(c) of Title 9 so that all local service function calculations are in the same section.

3. Revises deadlines in § 1128 of Title 9. The deadlines enacted in Section 3 of this Act reflect the additional time needed to transition to the new process. This section revises the deadlines so they are appropriate for the budget process once this new process is established. This section also revises §§ 1101A, 1125, 1126, and 1128 of Title 9 to repeal the language providing that provisions are effective beginning for the FY 2023 budget that was necessary to keep current law in effect for the FY 22 Budget process while allowing the development and implementation of the new process.