



SPONSOR: Sen. Lopez & Sen. Townsend & Rep. Schwartzkopf
Rep. Smyk

DELAWARE STATE SENATE
151st GENERAL ASSEMBLY

SENATE BILL NO. 191

AN ACT TO AMEND THE CHARTER OF THE CITY OF LEWES RELATING TO THE MANNER AND METHOD OF CONDUCTING ANNUAL MUNICIPAL ELECTIONS AND FISHING ALONG THE DELAWARE BAY SHORE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Two-thirds of all members elected to each house thereof concurring therein):

1 Section 1. Amend Section 7 of the Charter of the City of Lewes by making insertions as shown by underline
2 and deletions as shown by strikethrough as follows:

3 Manner of Holding Annual Municipal Elections

4 Section 7.

5 The procedure for holding the Annual Municipal Election ~~shall be~~ is as follows:

6 (a) A municipal election of the City of Lewes must be conducted under Subchapters IV and V, Chapter 75 of
7 Title 15 of the Delaware Code. The Annual Municipal Election ~~shall~~ must be held annually at the City Hall in The City
8 of Lewes on the second Saturday in May ~~of each and every year~~ from 8:00 in the morning, prevailing time, until 6:00
9 in the evening, prevailing ~~time, due notices of which shall~~ time. A notice of the election must be given ~~in compliance~~
10 with under the applicable provisions of 15 Del. C. §7501, et seq., but the City Council may reschedule the election due
11 to a State of Emergency declared by the Governor.

12 (b) The ~~four~~ 4 offices of ~~Council Person~~ Councilperson of Lewes and the office of Mayor of Lewes ~~shall be~~
13 ~~elective.~~ The ~~four~~ offices of Council Person of Lewes ~~shall be for a term of three (3) years except that the two Council~~
14 ~~Persons elected at the 2016 Annual Municipal Election shall serve for a term of two (2) years. The office of Mayor of~~
15 ~~Lewes shall be for a term of three (3) years.~~ are elective and for terms of 3 years each.

16 (c) ~~The Annual Municipal Election shall be conducted by a Board of Election consisting of an Inspector and~~
17 ~~two (2) Judges together with such alternates as are determined by the Mayor to be necessary, all of whom shall be~~
18 ~~appointed by the Mayor with the concurrence of a majority of the members of the City Council no later than March 1~~
19 ~~of each year. The Inspector, Judges, and alternates shall be registered voters in the City. The Inspector, Judges, and~~
20 ~~alternates shall not be an elected official or an immediate family member of an elected official as defined in 15 Del.~~
21 ~~C. §7551(b).~~ [Repealed.]

22 (d)(1) The City may by ordinance choose to use the State's Voter Registration System as the source of its list
23 of registered voters.

24 (2) ~~At such an Annual Municipal Election, every each~~ person, male or female, who ~~shall have attained the~~
25 ~~age of eighteen (18) years~~ is at least 18 years old on the date of the Annual Municipal Election and ~~who shall be~~ is a
26 citizen of the United States and a citizen of The City of Lewes ~~shall have one (1) vote, provided, that he or she has 1~~
27 vote, if the person is registered on the Books of Registered Voters of The City of Lewes Lewes or, if the City has
28 chosen, in the State's Voter Registration System, and shows proof of identity and address. For the purposes of this
29 Section, a citizen of The City of Lewes ~~shall be deemed to include any~~ includes a person who is a qualified voter of the
30 State of ~~Delaware, Delaware~~ and is a bona fide resident domiciliary of the City of Lewes.

31 (3)a. ~~If the City Council has not chosen to use the State's Voter Registration System, the~~ The City Council of
32 The City of Lewes shall provide two (2) 2 registers to be known as the "Books of Registered Voters" which are to must
33 be kept at the office of the City Manager. The Books of Registered Voters shall contain must include all of the
34 following information for each registrant:

- 35 ~~the names of the registered voters~~ 1. The name of each registered voter arranged in alphabetical order, order.
36 ~~the addresses of the voters;~~ 2. The address of each registered voter.
37 ~~the proven age of the voters;~~ 3. The proven age of each registered voter.
38 ~~the dates the registrants became citizens of the United States;~~ 4. The date each registered voter became a
39 citizen of the United States.
40 ~~the date that the registrants~~ 4. The date each registered voter became residents a domiciliary of The City of
41 Lewes Lewes.
42 ~~and any~~ 5. Any other pertinent information.

43 ~~No person shall be registered upon~~ b. A person may not be registered on the Books of Registered Voters
44 ~~unless he will have acquired the qualifications~~ the person is qualified to vote in the Annual Municipal Election for the
45 year in which he the person registers. A person ~~shall be~~ is required to register only ~~one (1) time; provided, however,~~
46 ~~that 1 time, but~~ if a registered voter fails to vote in ~~two (2) 2~~ consecutive annual municipal elections in which there is a
47 contest for ~~any an~~ office, ~~his name shall~~ the registered voter's name must be removed from the Books of Registered
48 Voters and notice must be sent to ~~said the~~ the registered voter at his the registered voter's last known address by registered
49 mail with return receipt requested advising that ~~his the registered voter's~~ the registered voter's name has been removed from the Books of
50 Registered Voters and that ~~it will be necessary to~~ the registered voter must register again ~~in order~~ to vote in the Annual
51 Municipal Election.

52 (4) A person may register at ~~the office of the City Manager during the regular business hours of such office~~
53 ~~until the close of business of such office~~ City Hall during City Hall's regular business hours until the close of business
54 on the 15th day prior to before the date of the Annual Municipal Election by completing such forms as may be
55 provided by the City Election, by completing a form the City may provide. The City Council may provide by
56 resolution for the Office of the City Manager to be open on ~~one (1) 1~~ Saturday within the ~~thirty-day~~ 30-day period
57 immediately preceding the date of the Annual Municipal Election ~~for the purpose of permitting persons to register~~
58 Election, to permit registration to vote in such the Annual Municipal Election.

59 (e) The City Council of The City of Lewes may, by ordinance, ~~provide for any~~ permit a qualified registered
60 voter to cast an absentee ballot if ~~such person~~ the registered voter is unable to appear and cast ~~his or her~~ the registered
61 voter's ballot.

62 (f) ~~In the event that~~ If no person files or is nominated for ~~each an~~ an office for which an election is to be held
63 within the time set forth under in Section 6 of this Charter, the incumbent ~~shall be~~ is deemed to be re-elected for a full
64 term if the incumbent agrees to serve, and it ~~shall not be~~ is not necessary to hold an election. If the incumbent does not
65 agree to serve, the vacancy must be filled under Section 12 of this Charter.

66 (g) ~~In the event that only one (1) person files or is nominated for each office for which an election is to be~~
67 ~~held within the time set forth in Section 6 of this Charter, the person who files or who is nominated shall be deemed to~~
68 ~~be elected for a full term and it shall not be necessary to have an election.~~ [Repealed.]

69 (h) ~~Voting machines shall be utilized during Annual Municipal Elections in compliance with the applicable~~
70 ~~provisions of 15 Del. C. §7501, et seq.~~ [Repealed].

71 (i) ~~All municipal elections of the City of Lewes shall be conducted in conformity with Subchapter IV, Chapter~~
72 ~~75 of Title 15 of the Delaware Code.~~ [Repealed.]

73 (j)(1) Upon the close of ~~the an~~ an election, the votes ~~shall~~ must be read and counted ~~publicly~~ publicly.

74 ~~and in (2) In~~ the case of an election of ~~Council Persons~~ a Councilperson, the ~~persons~~ person having the highest
75 number of votes ~~shall~~ must be declared to be ~~elected~~ elected.

76 ~~and in (3) In~~ the case of the election of a Mayor, the person having the highest number of votes ~~shall~~ must be
77 declared to be elected.

78 ~~Such (4) In~~ the case of the election of either a Councilperson or a Mayor, the person shall continue in Office
79 during the term for which ~~they were~~ the person was elected or until ~~their successors shall be~~ the person's successor is
80 duly elected or appointed and qualified.

81 (k) The Board of Election shall enter in a book to be provided for that purpose minutes of the election
82 containing the names of ~~the persons so~~ each person elected. ~~They~~ The Board of Election shall subscribe the same and
83 shall make and deliver to the person elected certificates of ~~their~~ the person's election. The book containing ~~such~~ the
84 minutes, the ~~ballots~~ ballots, and the list of those persons who voted shall ~~shall~~ must be delivered to the City ~~Manager~~
85 Manager, who shall preserve the ~~same and shall be evidence in any Court~~ book. The book may be evidence in a court
86 of law or equity.

87 (l) If ~~two~~ (2) 2 or more candidates for the office of ~~Council Person~~ Councilperson or for Mayor shall receive
88 an equal number of votes so that there ~~shall not be~~ is not an election of a ~~Mayor or Council Person~~ Councilperson or
89 Mayor, the incumbent ~~Mayor or Council Person~~ Councilperson or Mayor continues in Office until ~~the~~ a
90 run-off election as ~~herein provided~~ is held under this Charter. The Board of Election shall declare the election a tie and
91 shall report that result to the Mayor and the City ~~Council~~ which shall, within twenty (20) days thereafter, hold a
92 Council. A Special Election between those candidates where a tie resulted must be held under the same rules as
93 ~~hereinbefore set forth~~ under this Charter. ~~No person shall be permitted to~~ A person may not register to vote following
94 the Annual Municipal Election and before the Special Election ~~in order~~ to vote at the Special Election.

95 Section 2. Amend Section 12 of the Charter of the City of Lewes by making insertions as shown by underline
96 and deletions as shown by strikethrough as follows:

97 Vacancies

98 Section 12.

99 (a) If ~~any vacancy shall occur~~ a vacancy occurs in the office of Mayor or ~~Council Person~~, Councilperson by
100 death, resignation, loss of residence in The City of Lewes, refusal to serve, failure to elect, or otherwise, the ~~same~~
101 vacancy may be filled by a majority vote of the members of the City ~~Council~~, the person or persons so Council. The
102 person chosen to fill ~~such vacancy or vacancies shall~~ the vacancy must be qualified as in the case of a newly elected
103 ~~members~~, member.

104 (b) A person chosen to fill a vacancy under this Section is considered elected for purposes of this Charter, and
105 shall hold office for the remainder of the unexpired term, except that when term. However, if the remainder of the
106 unexpired term is greater than ~~two years~~ such person or persons 2 years, the person shall hold office until ~~they or their~~
107 ~~successors have been~~ the person or the person's successor is duly elected and qualified at a Special Election held
108 contemporaneously with the Annual Municipal Election immediately following the filling of ~~such vacancy or~~
109 ~~vacancies~~, the vacancy, and subject to the same rules as ~~hereinbefore set forth~~. When under this Charter. If the
110 remainder of the unexpired term is greater than ~~two~~ 2 years, requiring that a person be duly elected and qualified at a

111 Special Election to fill the ~~two-year~~ 2-year remainder of the unexpired term, ~~every candidate desirous of filling such~~
112 ~~two-year remainder of the unexpired term shall so declare in their notification of candidacy, and such declaration shall~~
113 ~~prevent a candidate who wishes to file a 2-year remainder of the unexpired term must declare the candidate's wishes in~~
114 ~~the candidate's notification of candidacy. The declaration prevents the candidate from also being a candidate in the~~
115 Annual Municipal Election.

116 Section 3. Amend Section 33 of the Character of the City of Lewes by making deletions as shown by strike
117 through and insertions as shown by underline as follows:

118 Powers over Public Land

119 Section 33.

120 (d)(1) The City Council of The City of Lewes ~~is hereby vested with~~ has full and exclusive authority and
121 control over the Great and Beach Marshes, Cape and Cape Marshes, near Lewes, and may sell and dispose of the grass
122 and hay thereof in the month of July ~~in each and every year, at each year. The sale must be a public sale, giving notice~~
123 ~~by printed advertisements, posted in five 5 of the most public places in Lewes and Rehoboth Hundred ten 10 days~~
124 ~~before the day of sale, to the highest and best bidder or bidders for the same; the notices shall~~ of the sale. The notice
125 must specify the place where and the time when the grass or hay will be sold; the sold.

126 (2) The City Council ~~is further authorized to~~ may sell sand and gravel by measure or otherwise, as ~~may be~~
127 ~~deemed by the City Council~~ may deem to be ~~is~~ to the best interest of the City, wherever ~~such~~ the sand and gravel ~~may~~
128 ~~be~~ is located within the limits of the vested lands of The City of Lewes; ~~and the~~ Lewes.

129 (3) The City Council ~~is further authorized to~~ may sell the wood and timber on the Cape and Cape Marshes ~~at~~
130 ~~any time that~~ whenever it may be necessary or desirable for ~~any~~ an improvement made in or near ~~said~~ the City, by and
131 with the concurrence of a majority of the members of the City ~~Council;~~ Council.

132 ~~and the~~ (4) The proceeds arising from the sale of the sand, gravel, grass, hay, wood and timber ~~shall~~ must be
133 paid over to the Treasurer of the City, ~~to be applied by the City Council to such improvements of the City as they may~~
134 ~~deem~~ City. The City Council may apply the proceeds to improvements of the City that the City Council deems proper.

135 ~~If any person or Persons~~ (5) If a person, without first obtaining permission from the City Council, ~~shall fell,~~
136 ~~cut, cart or convey any green timber or wood, or any timber on or from said Cape~~ falls, cuts, carts, or conveys green
137 timber or wood, or timber on or from the Cape or Cape Marshes for any private use whatsoever, except wood cut from
138 dead timber for fuel, ~~he or they shall~~ the person must forfeit and pay ~~any sum not exceeding fifty dollars, a sum of not~~
139 more than \$50, with costs, to be recovered by the City ~~Council,~~ Council. The City Council may use the
140 sum for the City, in the same manner as debts of that amount are ~~recoverable; and persons so offending shall also be~~

141 recoverable. A person who violates this Section is subject to a fine, not exceeding ten dollars, fine of not more than
142 \$10, to be enforced as other fines and penalties provided for in this Act; under this Charter.

143 and the (6) The City Council may seize any timber or wood so cut, from any person or persons so off ending
144 cut without permission from the City Council from the person who cut the timber or wood, and may dispose of the
145 same the wood or timber to the highest bidder, for the use of said City, and the City. The City Council may pass any
146 rules, regulations rules, regulations, and ordinances regarding the cutting of said the timber as they may deem the City
147 Council deems proper for the interest of said City; the City.

148 provided that nothing in this Section or Act shall authorize (7) Nothing in this Section or Charter authorizes
149 the City Council to pass any ordinances to prevent any an ordinance preventing a citizen of The City of Lewes or State
150 of Delaware from fishing along said the Delaware Bay Shore. Shore. However, the City Council may restrict fishing
151 northwest of the Ferry terminal and for 300 feet from the mean higher high water line therefrom, if the City Council
152 deems the public health and welfare is served by the restriction.

SYNOPSIS

This Act amends the Charter for the City of Lewes by doing all of the following:

- Permitting the City of Lewes to utilize the State's Voter Registration System in connection with municipal elections, as authorized by Subchapters IV and V of Chapter 75 of Title 15 of the Delaware Code.
- Updating and clarifying the appointment process for an incumbent Councilperson or the Mayor in the event there is no challenger at the time of the Lewes municipal elections.
- Deleting provisions that are redundant or in conflict with provisions of State law relating to municipal elections, specifically Chapter 75 of Title 15.
- Providing that, if a vacancy occurs in the Office of Mayor or City Councilperson, the person chosen to fill the vacancy is deemed to have been elected.
- Permitting the City Council to restrict fishing on the Delaware Bay shore, northwest of the Ferry terminal.
- Conforming existing law to the standards of the Delaware Legislative Drafting Manual, including using gender-neutral language and using singular tense to include the plural, as provided in § 304, Title 1 of the Delaware Code.

Author: Senator Lopez