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HOUSE OF REPRESENTATIVES
153rd GENERAL ASSEMBLY

HOUSE SUBSTITUTE NO. 1
FOR
HOUSE BILL NO. 370
AS AMENDED BY
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO THE DELAWARE ECONOMIC & FINANCIAL ADVISORY COUNCIL TO BE KNOWN AS THE DUPONT-COOK FINANCIAL RESPONSIBILITY ACT.

WHEREAS, the Delaware Economic & Financial Advisory Council (“DEFAC”) was initially established in 1977 by Governor Pierre S. du Pont’s Executive Order No. 5; and

WHEREAS, DEFAC has become as a tool to improve the State’s fiscal management practices and to provide nonpartisan, objective revenue and expenditure estimates to the Governor and General Assembly; and

WHEREAS, a bipartisan commitment to balanced budgets and sound financial planning has fostered Delaware's reputation for fiscal prudence and budgetary restraint which has been further strengthened by the availability of credible, nonpartisan, and expert projections of the State's revenues and expenditures and of important national and state economic trends; and

WHEREAS, DEFAC has for nearly 5 decades provided a sound basis upon which to make determinations regarding the State's operating and capital budgets, and helped ensure that the long-term fiscal implications of administrative, budgetary, and legislative alternatives are considered before those alternatives are adopted as state policy; and

WHEREAS, DEFAC currently exists by executive order; and

WHEREAS, it is in the interest of the State for the General Assembly to codify DEFAC to ensure its continued existence.

NOW, THEREFORE:

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

Section 1. Amend Subchapter IV, Chapter 63, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

Subchapter IV. ~~Office of Information Services [Repealed].~~ Delaware Economic & Financial Advisory Council.

§ 6351. Short Title.

This subchapter is known and may be cited as the “DuPont-Cook Financial Responsibility Act”.

§ 6352. Purpose.

The purpose of this subchapter is to preserve the Delaware Economic & Financial Advisory Council’s structure under executive order, while strengthening continuity, transparency, and clarity.

§ 6353. Delaware Economic & Financial Advisory Council; establishment.

The Delaware Economic & Financial Advisory Council (“DEFAC”) is hereby established.

§ 6354. Membership.

(a) DEFAC consists of at least 25, but no more than 34, members, including all of the following:

(1) Four members of the General Assembly, as follows:

a. One member from each of the House of Representatives’ majority and minority caucuses, who the Speaker of the House of Representatives appoints.

b. One member from each of the Senate’s majority and minority caucuses, who the President Pro Tempore of the Senate appoints.

(2) At least 12, but no more than 21, members who the Governor appoints from both the public and private sectors of the State's economy.

(3) The following ex officio members, who have the same rights, privileges, and duties as other members:

a. The Controller General.

b. The Director of the Office of Management and Budget.

c. The Secretary of Finance.

d. The Secretary of State.

e. The Secretary of Transportation.

f. The Secretary of the Department of Health and Social Services.

g. The Joint Finance Committee Co-Chairs.

h. The State Treasurer.

(b)(1) The Governor shall appoint a Chair from among DEFAC’s members, who serves at the pleasure of the Governor.

(2) The members shall elect a Vice Chair from among DEFAC's members, who serves a term of 2 years. The Vice Chair may call to order a DEFAC meeting that the Chair has scheduled and preside until the Chair arrives at that meeting. The Vice Chair has no other duties or authority under this subchapter.

(c) Each appointed member serves at the pleasure of that member's appointing authority.

(d) If the total number of members drops below 25, the number of members may not remain below 25 for more than 3 months.

(e) An ex officio member may select a designee from the agency the member represents to serve in the member's stead and at the member's pleasure. The ex officio member must provide the designation in writing to the Chair. A designee has the same duties and rights as the ex officio member the designee represents.

(f)(1) A majority of the members must be present at a DEFAC meeting in order to have a quorum and conduct official business. A vacancy on DEFAC is not counted to determine quorum.

(2) A motion is passed upon an affirmative vote of the DEFAC members present at the meeting at which the vote is taken.

§ 6355. Duties.

DEFAC shall do all the following:

(1) Meet in March, May, June, October, and December of each year, and when the Governor or Chair deems necessary.

(2) Serve in a general advisory capacity to the Governor and the Department of Finance.

(3) Advise the Governor, the Secretary of Finance, and Legislative Council on all of the following:

a. The overall financial condition of the State.

b. Current and projected economic conditions and trends, particularly as the conditions and trends affect the expenditures and revenues of the State, its citizens, and its major industries.

c. The tax policy of the State and the impact of federal tax policies.

(4) Submit to the Governor, the Secretary of Finance, the Controller General, and the General Assembly, by the dates required under § 6534(a) of this title, all of the following estimates:

a. General Fund and Transportation Trust Fund revenue by major categories for the current fiscal year.

b. General Fund and Transportation Trust Fund revenue by major categories for the succeeding 2 fiscal years.

c. General Fund and Transportation Trust Fund expenditures for the current fiscal year and General Fund expenditures for the succeeding fiscal year.

(5) Submit to the Governor, the Secretary of Finance, the Controller General, and the General Assembly, not later than December 31 of each year, all of the following estimates:

a. General Fund and Transportation Trust Fund revenue by major categories for 5 fiscal years, starting with the current fiscal year and including the next succeeding 4 fiscal years.

b. General Fund expenditures for 4 fiscal years, starting with the current fiscal year and including the next succeeding 3 fiscal years.

(6) Perform other duties and responsibilities assigned to DEFAC under the Delaware Code, including all of the following:

a. The requirements under § 9903(k) of Title 16 and related duties imposed from time to time regarding the Delaware Health Care Spending Benchmark.

b. The requirements under § 7423 of this title regarding statutory limits on the State's indebtedness.

c. The requirements under § 6533(i) of this title regarding the Benchmark Index and reporting of budgetary reserves, including the Budget Stabilization Fund.

d. The requirements under § 6534(b)(3) of this title regarding reviewing tax preferences.

e. The requirements under § 515(a) of Title 30 regarding inflation adjustment factor calculations.

(7) Prepare an annual report summarizing DEFAC's activities throughout the year that the report covers, including forecast accuracy and key fiscal risks identified, no later than December 31, for distribution to the Governor, the Director and the Librarian of the Division of Legislative Services, and the Secretary of the Senate and the Chief Clerk of the House of Representatives for distribution to all members of the General Assembly.

§ 6356. Proceedings.

(a) A majority of DEFAC members must be present at a meeting in order to have a quorum and conduct official business. A quorum consists of a majority of the members. A vacancy in membership is not counted for quorum.

(b) A roll call vote of all DEFAC members on each motion or resolution must be recorded as part of the minutes of the meeting in which the vote is taken, and is considered a matter of public record.

§ 6357. DEFAC Health Care Spending Benchmark Subcommittee.

(a) The DEFAC Health Care Spending Benchmark Subcommittee ("Subcommittee") is established.

(b) The Subcommittee consists of the following:

(1) A Subcommittee Chair and Vice Chair, each of whom must be a DEFAC member and have health care expertise. The DEFAC Chair shall appoint the Subcommittee Chair and Vice Chair.

(2) Three existing DEFAC members, who the DEFAC Chair appoints.

(3) At least 1, but no more than 2, members representing health economists, who the Governor appoints.

(4) At least 1, but no more than 2, members representing quality improvement experts from 2 health care systems or hospitals that operate in the State, who the Governor appoints.

(5) Two members of the General Assembly, or their designee, to include 1 member who the Speaker of the House appoints and 1 member who the President Pro Tempore of the Senate appoints. A designation must be provided in writing to the Chair. A designee has the same duties and rights as the Subcommittee member the designee represents.

(c) Each Subcommittee member serves at the pleasure of that member's appointing authority.

(d) The Subcommittee Chair shall call meetings of the Subcommittee. The Vice Chair shall chair a Subcommittee meeting in the Chair's absence.

§ 6358. Cooperation of state agencies and others; staffing and financial support.

(a) Upon an affirmative vote of DEFAC, the Department of Finance and other State agencies shall provide data, assistance, detailed financial reporting, and analysis support to DEFAC. The data and assistance may include statistics, reports, projections, and testimony.

(b) Upon a request of the Chair and the Secretary of the Department of Finance, the Department of Finance and other State agencies, as appropriate, shall provide staff support and reasonable financial support for the activities of DEFAC.

Section 2. This Act takes effect July 1, 2026, or upon enactment, whichever occurs later.