



SPONSOR: Rep. Heffernan & Sen. McDowell

HOUSE OF REPRESENTATIVES
148th GENERAL ASSEMBLY

HOUSE BILL NO. 101

AN ACT TO AMEND THE CHARTER OF THE TOWN OF BELLEFONTE.

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 4.9 of the Charter of the Town of Bellefonte by making deletions as shown by strike
2 through and insertions as shown by underline as follows:

3 4.9 Forfeiture of Office

4 4.9.1 ~~Forfeiture Proceedings~~

5 A forfeiture of office shall occur when a Town Commission member:

6 ~~(a)~~ is convicted of a felony.

7 ~~(b) failure to attend three (3) consecutive regular monthly meetings at any time or failure to attend four (4) regular~~
8 ~~monthly meetings in any twelve-month period.~~

9 4.9.2 Forfeiture Determination

10 ~~Determinations concerning forfeiture of office shall be made by the Town Commission, but the affected party shall~~
11 ~~not have a vote in any such decision. The Town Commission determines by a simple majority vote, that a forfeiture has~~
12 ~~occurred, it shall, within forty-eight hours of that determination, provide him/her written notice thereof, stating specific~~
13 ~~reasons.~~

14 Section 2. Amend Section 5.1 of the Charter of the Town of Bellefonte by making deletions as shown by strike
15 through and insertions as shown by underline as follows:

16 5.1 Organizational Meeting

17 At the next regularly scheduled monthly meeting following the annual election and before the newly elected
18 Commissioners take office, the current Commissioners will hear and if necessary vote upon, previous month's minutes,
19 bills, and reports from the Treasurer/Tax Collector, Inspectors, Board of Adjustment, Planning Commission, and Town
20 Commissioners. The Town Commission will report and if possible act upon, any other business that commenced under said
21 Town Commission. Upon dispensing of the current Town Commission business, the first new business addressed shall be

the seating of newly elected Commissioners. Before entering upon the duties of their offices, the newly elected members of Town Commission shall be sworn to the oath in Article XIV, Section 1 of the Delaware Constitution by a holdover Town Commission member, Notary Public, a Justice of the Peace, or any judge of the State of Delaware to faithfully and impartially perform the duties of their respective offices.

~~"I do solemnly swear (or affirm) that I will support the Constitution of the United States; the Constitution of the State of Delaware; and the Charter and Ordinances of the Town of Bellefonte, Delaware; and that I will faithfully and impartially discharge the duties of the office of _____ according to the best of my ability."~~

The first action of the newly seated Town Commission shall be the election of a President and Secretary from their number to serve in that position for a term of one year. The Town Commission will further organize by assigning each Town Commissioner specific responsibilities as deemed necessary. The Town Commission will then proceed with the hearing of new business.

Section 3. Amend Section 5.6.5 of the Charter of the Town of Bellefonte by making deletions as shown by strike through and insertions as shown by underline as follows:

5.6.5 Quorum

Three (3) members of the Town Commission shall constitute a quorum to do business. No ordinance shall be valid unless it shall have the affirmative vote of three (3) or more members of the Town Commission. Resolutions, orders, and motions shall be valid upon the affirmative vote of a majority of the members of the Town Commission present. ~~No member shall be excused from voting on ordinances, resolutions, orders, or monies, except where~~ Where a member of Town Commission has a conflict of interest, ~~in which event,~~ said member shall disqualify himself from voting. ~~The other members of the Town Commission shall, by majority vote, be the sole judge as to whether a conflict of interest exists.~~

Section 4. Amend Section 11 of the Charter of the Town of Bellefonte by making deletions as shown by strike through and insertions as shown by underline as follows:

11 This Charter may be amended by any of the following methods:

Revision of the Charter ~~must be initiated by a simple majority vote of the Town Commissioners~~ shall be proposed either by a resolution of the Town Commission, 3/4 of all members elected thereto concurring, or by a Charter Commission of 7 members elected by the qualified voters of the Town pursuant to petition for such an election bearing the signatures of at least 10% of the qualified voters of the municipal corporation and filed with the Secretary of the Town Commission. The Charter Commission candidates who receive the most votes shall constitute the Commission. On the death, resignation or inability of any member of a Charter Commission to serve, the remaining members shall elect a successor. The Commission shall have authority to propose the amendment of the Charter as specified in the petition, to hold public

52 hearings thereon and to arrange for putting the proposed amendment on the ballot or voting machine to be used at the next
53 referendum election.

54 Following a decision by resolution of the Town Commission to revise the Charter, the Town Commission will
55 appoint at least seven members of the community to a Charter Commission; of the seven members, at least two thirds must
56 be residents, and the remaining members may be property owners. All meetings of the Charter Commission must be duly
57 noticed and open to the public, and minutes must be kept of proceedings. The Charter Commission will, from among its
58 members, select a chair and secretary. The chair shall report monthly to the Town Commission on the progress of the
59 Charter Commission. Once the Charter amendment is formulated and approved by the Charter Commission by simple
60 majority vote, the Amendment will be referred to the Town Commission for action;

61 The Town Commission shall hold at least two public hearings, to be held at least 30 days apart, noticed as required
62 by Delaware Code, and printing the amendment in its entirety in a newspaper of recognized circulation. At these public
63 hearings, the amendment may have its first and second public hearings and the public shall be afforded the opportunity to
64 present verbal or written arguments for or against the revision. Public comments may be limited in length by agreement of
65 the Town Commissioners and advertised in the public notice and at the public hearing itself. After the second public
66 hearing, the Town Commissioners may vote to approve the amendment, provided there is a quorum of Town
67 Commissioners under their regular meeting rules; or the vote of approval may be held at the next regular monthly meeting
68 of the Town Commissioners. Before the vote takes place, Commissioners may request review of public comments from the
69 minutes or from written arguments presented. After discussion, the Town Commission will take a simple majority vote to
70 close the discussion and vote. From among the Commissioners, a motion must be made to approve the amendment as
71 written, and seconded. As the Commissioners vote, they must state the reasons for their decision to vote for or against the
72 amendment. This will become part of the permanent record of the amendment proceedings. Once approved, the Town
73 Commission may:

74 Vote to refer the amendment to the Delaware Legislature for approval, as provided for in Delaware Code; or

75 Vote to hold a public referendum to gain approval of the amendment, (pursuant to the authority granted Bellefonte
76 by the Home Rule Act of Delaware. In this election, copies of the amendment may be required to be mailed to all residents
77 and landowners by first class mail. On the day chosen and advertised as required by Delaware Code, a vote must be held
78 under provisions of the Delaware Municipal Election Act; requiring the use of electronic voting machines. This referendum
79 of the amendment requires that at least ten percent (10%) of the registered voters in Bellefonte participate in the vote.

80 Once approved by one of these methods, the Town Attorney, is compelled to provide the results of the process as
81 well as the revised Charter or amendment (or both) to the Secretary of State.

SYNOPSIS

This bill amends the Charter of the Town of Bellefonte, which was reincorporated last year. Specifically, the bill removes forfeiture of office by a Commissioner for attendance, as well as the Commission's ability to vote on such a forfeiture. The bill also removes a provision authorizing the Commission to vote on the existence of a Commissioner's conflict of interest. Finally, the bill removes a provision that could be interpreted to prohibit Council members to abstain or be absent. Also, the bill corrects the Charter to comport with the Delaware State Constitution regarding the oath of office, as well as to comport with provisions in Title 22, Section 811 of the Delaware Code for home-rule charter amendments.