

# Senate Elections and Government Affairs Committee Meeting

**Official Minutes**  
**151<sup>st</sup> General Assembly**

**Committee Meeting**  
**Tuesday, May 11, 2021**  
**10:00 a.m.**  
**Virtual Meeting**

## Meeting Attendance

### Committee Members:

#### **Present:**

Senator Kyle Evans Gay	<a href="mailto:Kyle.Gay@delaware.gov">Kyle.Gay@delaware.gov</a>	(302) 744-4137
Senator Darius J. Brown	<a href="mailto:Darius.Brown@delaware.gov">Darius.Brown@delaware.gov</a>	(302) 744-4286
Senator Nicole Poore	<a href="mailto:Nicole.Poore@delaware.gov">Nicole.Poore@delaware.gov</a>	(302) 744-4164
Senator Ernesto B. Lopez	<a href="mailto:Ernesto.Lopez@delaware.gov">Ernesto.Lopez@delaware.gov</a>	(302) 744-4136
Senator Bryant L. Richardson	<a href="mailto:Bryant.Richardson@delaware.gov">Bryant.Richardson@delaware.gov</a>	(302) 744-4298

#### **Absent:**

Senator Stephanie L. Hansen	<a href="mailto:Stephanie.Hansen@delaware.gov">Stephanie.Hansen@delaware.gov</a>	(302) 744-4138
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#### **Attendees:**

Christella St. Juste  
Mary Grace Colonna  
Scott Goss  
Deanna Killen  
Christine Jadach  
Debbie Schrass  
Jacqueline Hugg  
Julie Fedele  
Wayne Emsley  
Susan Zigler  
Mable Gaskins  
Senator Bruce Ennis  
Joanna Adams  
Hugh Scott  
Eleanor Ludwigsen  
Sabrina Quarles

#### **Organization:**

Delaware State Senate  
Delaware State Senate  
Delaware State Senate  
Delaware State Senate  
DRSPA  
  
Delaware State Senate  
CGO  
Delaware Retired School Personnel Association  
  
Delaware Retired School Personnel Association  
  
State of Delaware Office of Pensions  
DRSPA  
Christiana School District

Thomas Sicoli	DRSPA
Jim Lesko	Retired State Employee
Michael Hill-Shaner	Office of Senator Ennis
Dustyn Thompson	Delaware United
Keri Rapa	Delaware General Assembly
Marlene Tribbitt	
Robert Miller	
Ronald Burrows	DRSPA
Pauline Lewis	
Kim Willson	
Cecilia Robinson	DSEA
Christine Tomasetti	
Andrew Haines	Town of Smyrna
David Taylor	
Dee Durham	Delaware State Education Association - Retired
Richard Phillips	New Castle County Council
William Griswold	DRSPA
Joan Yulduzian	DRSPA
Mace Bloom	Colonial School District
George Smith	
Russell Larson	Byrd/Gomes
Carol Antes	DRSPA
Brenda Wise	
William Lescas	Delaware State Senate
Maureen Keeney	DSEA Retired
Deborah Ziegler	
Paul Biery	DRSPA
Shirley Saunders	DRSPA
Nila Hill	
Alexa Adams	Delaware State Senate
Robert Scoglietti	
Nandi Randolph	
Paul Thornburg	General Teamsters Local 326
Arden Knott	
Javonne Rich	ACLU of Delaware
Hafsah Mansoori	Delaware Division of Research
Tom P	
Javier Horstmann	Office of Governor John Carney
Ellen Goldstein	DRSPA
Sara Poore	Delaware State Senate
Councilman David Carter	New Castle County
Chris Haas	Delaware Department of Insurance
John King	
Colleen Thayer	
Jonathan Patterson	House of Representatives
Lisa Hertsenberg	DSEA Retired

Rebecca Scarborough	DRSPA
Sue Moody	
Diana Young	DRSPA
Jayne Marshall	Retired CEA
Delores Price	DSEA Retired
James France	DRSPA
Jean Wylie	DRSPA
Alan Rico	
Julianne Tankersley	
David Pippin	Smyrna School District
Paul Sherman	
Ellen Conway Bellone	DRSPA
Betsey Corrigan	DSEA retired
Sandy Hudson	
Mildred Wiedmann	
Joe Potochney	NCCVTSD
Leon Poliski	Retired Teacher
Larry Gabbert	

**Agenda:**

Consideration of Meeting Minutes (April 21<sup>st</sup>, 2021)  
 SB 14  
 SB 124  
 HB 29  
 SB 122  
 HB 155 w/ HA 1

**Senator Kyle Evans Gay, Chair,** called the meeting of the Elections and Government Affairs Committee Meeting to order at 10:05 a.m. She discussed the details and procedures related to the virtual nature of the meeting, and she took attendance of the Committee members present. She invited her Legislative Assistant, Mary Grace Colonna, to further discuss the logistics of the virtual meeting.

**Mary Grace Colonna** detailed the specific process for committee member participation in the Zoom webinar. She detailed that questions from Committee Members would be given first priority, with non-Committee member Senators also having the opportunity to ask questions after.

**Senator Gay** asked if there was a motion to approve the minutes from the previous Committee meeting from April 21<sup>st</sup>, 2021.

**Senator Ernesto Lopez** motioned to approve the minutes; **Senator Bryant Richardson** seconded the motion.

There were no objections, and the meeting minutes were approved at 10:08 a.m.

**Senator Gay** invited Senator Ennis to present SB 14.

**SB 14: AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO THE STATE EMPLOYEES' PENSION PLAN.**

Sponsor: Senator Ennis

***Synopsis:** This bill provides a mechanism to grant pension increases to retired State Employees, retired Judges, and retired "New" State police. This bill dedicates a minimum of 3.0% of payroll to be deposited annually to the Post Retirement Fund. The bill also provides for biennial pension increases beginning July 1, 2021.*

**Senator Bruce Ennis** Thanked Senator Gay and the Committee. He explained that he sent a section of the Budget Act of FY21 to the Committee members to show that the Act had certain language that showed the intent of the last General Assembly. He stated that the Bill provides both retirees and state government a means of addressing the erosion of the pension benefits, particularly for those individuals who had retired more than twenty years ago. He continued that the erosion of these benefits was due to inflation or other factors, and that the Bill would provide for a post-retirement increase policy. He voiced his view that a post-retirement increase policy is fiscally responsible and sustainable for the future. He explained the technical nature of the post-retirement increase policy including its source of funding, the schedule for pension increases, the distinctions between the three pension plans, and the body that would be responsible for determining these increases. He noted that state employees who had retired over twenty years ago would receive a greater increase than those under twenty years. He stated that this differential was a result of the significant effects of inflation. He cited a table that was provided to the Committee members that showed He cited a chart that showed that pensioners have accrued a substantial decrease in their pension purchasing power. He stated several statistics on state pension recipients who retired over 20 years ago. He noted that there was a one-time increase in 2016, but that there was no budgeted increase in the last 6 years. He expressed his view that the Bill was in-line with the language used in the Budget Act of FY21, and he explained that the Bill would provide some finality to the pension plan for state employees. He welcomed questions from the Committee.

**Senator Gay** thanked Senator Ennis for his presentation as well as for the additional materials. She asked if there were any questions from the Committee Members.

**Senator Richardson** voiced his support for the Bill.

**Senator Gay** echoed Senator Richardson support for the Bill, and she praised Senator Ennis for his work on the Bill.

**Senator Lopez** requested that he be added as a co-sponsor.

**Senator Ennis** agreed, and he urged the Committee to support the Bill, so that the Bill could be moved on to the Senate Finance Committee. He thanked the Committee.

**Senator Gay** thanked Senator Ennis, and she welcomed any public comment.

**Ms. Colonna** detailed the procedures for public comment.

**Wayne Emsley** introduced himself as the Executive Director of the Delaware Retired School Personnel Association (DRSPA). He explained the mission of his organization. He stated his organization had presented to the legislature requesting a percentage increase in pensions, which he described as an inefficient process. He voiced his organization's view that the Bill would create a more efficient and forecastable system that would be consistent with the language of existing legislation. He noted that the process would create a more consistent pension plan that would assure regular pension increases and that such a policy would create attractive pension plan and help to recruit and retain staff.

**Joan Yulduzian** introduced herself as the President of DRSPA and a retired special education teacher. She emphasized that the Bill is not a cost-of-living proposal. She explained that a previous proposed legislation for a cost-of-living adjustment failed to be released from committee because the future cost was too unpredictable. She stated that SB 14 is a fair compromise, but she underscored that the Bill will never keep up with the cost of living, and that, even with the Bill, pension purchasing power will decrease over time. She emphasized that the Bill would address the erosion of pension benefits for the longest serving retirees, and that the program will benefit the state, retirees and current employees. She praised Senator Ennis for his efforts and leadership. She noted that many retirees are currently not living a dignified retirement. She thanked the Committee.

**William Griswold** thanked the Committee and voiced his support for the Bill. He stated that he is a resident of Seaford and a retired teacher and administrator in three New Castle County school districts. He stated that he had lost significant purchasing power under the current retirement pension program. He stated that the Bill seeks to address the erosion of pension purchasing power by providing a post-retirement increase to pension benefits, and he voiced his view that the policy is financially sustainable. He stated that automatic cost-of-living increases are not sound fiscal policy, but he emphasized that the Bill provides equitable and sustainable policy. He noted that retirement benefits had not been increased since 2015, and he thanked the Committee.

**Robert Miller** thanked the Committee. He stated that he began his state service in 1966, and that he retired in 1998. He noted that he suffered substantial decrease in purchasing power since retiring. He explained that he had spoken with others in other states, and he voiced his bewilderment that other states provide more generous pension programs than those offered in Delaware. He thanked Senator Ennis. He noted that the Bill would not provide a cost-of-living adjustment, but that the Bill was a step in the right direction to address the issue. He reiterated his support for the Bill, and he thanked Senator Lopez for his willingness to sign onto the Bill as a co-sponsor. He thanked the Committee.

**Joanna Adams** introduced herself as a State Pension Administrator for the State of Delaware. She noted her familiarity with the Bill. She stated that the Bill has many positive aspects and a well-meaning intent, but she voiced her concern regarding the governmental accounting standards. She explained that a scheduled post-retirement increase increases the State's unfunded liability. She stated that the provisions in the Bill would increase the State's unfunded liability by \$1 billion. She continued that this liability also necessitates the State to make greater contributions to the State pension system. She thanked the Committee.

**David Taylor** echoed the previous public praise for the Bill. He stated that he was a retired teacher and coach at William Penn High School. He noted the importance of a post-retirement pension increase for retirees who have been retired for a significant period of time. He stated some practical examples to highlight the necessity for the Bill. He stated that inflation has been eating into retirees' pensions, and he expressed his belief that public retirees deserve a dignified retirement. He thanked the Committee.

**Senator Gay** thanked the Committee and the public for their participation. She noted that the Bill addresses a very political issue. She praised the service of public employees. She thanked Senator Ennis for his presentation.

**SB 14 – Reported out of the Committee – Favorable = 3, On its Merits = 3, Unfavorable = 0**

**Senator Gay** invited Senator Ennis to present SB 124.

**SB 124: AN ACT TO AMEND THE TOWN CHARTER OF THE TOWN OF SMYRNA.**

Sponsor: Senator Ennis

***Synopsis:** This Act amends the Charter of the Town of Smyrna ("Charter") to clarify the authority of the Town in certain areas and to improve the operations of the Town. Specifically, in this Act: Section 1 clarifies that when property is annexed into Town, included in the annexation are all adjacent streets, roads, and alleys, up to the center line. Section 2 authorized the Town to impose a lodging tax of up to 3% on hotels, motels, and tourist homes. Section 3 authorizes the Mayor to appoint town officers to terms that mirror the remainder of the Mayor's term. Section 4 clarifies the procedures for abandoning and vacating streets and alleys, including the disposition of abandoned or vacated streets or alleys to adjoining property owners. This bill also makes technical corrections to conform existing law to the standards of the Delaware Legislative Drafting Manual.*

**Senator Ennis** thanked Senator Gay and the Committee. He presented the major aspects of the Bill as identified in the synopsis, and he noted that other towns and municipalities are able to impose a lodging tax. He stated that the Bill is supported by the Town of Smyrna, and that the Town officially adopted these changes on April 5<sup>th</sup>, 2021. He thanked the Committee.

**Senator Gay** thanked Senator Ennis, and she noted that Andrew Haines from the Town of Smyrna was present. She asked if there were any questions from the Committee.

There were no questions from the Committee.

**Senator Gay** thanked Senator Ennis for sharing the Smyrna charter information with the Committee. She welcomed any public comment.

There was no public comment.

**Senator Gay** thanked Mr. Haines and Senator Ennis.

**SB 124 – Reported out of the Committee – Favorable = 0, On its Merits = 6, Unfavorable = 0**

**Senator Gay** noted that Representative Baumbach was not able to attend the meeting.

**HB 29: AN ACT TO AMEND TITLE 15 OF THE DELAWARE CODE RELATING TO CHANGING CANDIDACY TO A DIFFERENT OFFICE.**

Sponsor: Representative Baumbach

*Synopsis: This Act eliminates the ability of a candidate to change their candidacy to become a candidate for a different office after the deadline for notification of candidacy has passed. This Act takes effect on January 1 following its enactment into law. This Act also makes technical corrections to conform existing law to the standards of the Delaware Legislative Drafting Manual.*

**Senator Gay** read the long title of the bill and read the synopsis. She welcomed questions from the Committee.

There were no questions from the Committee.

**Senator Gay** welcomed any public comment.

There was no public comment.

**HB 29 – Reported out of the Committee – Favorable = 0, On its Merits = 4, Unfavorable = 1**

**Senator Gay** invited Senator Poore to introduce SB 122.

**SB 122: AN ACT TO AMEND TITLE 9 OF THE DELAWARE CODE RELATING TO THE APPOINTMENT OF THE COUNTY ATTORNEY OF NEW CASTLE COUNTY.**

Sponsor: Senator Poore

*Synopsis: This Act provides that the County Attorney of New Castle County, consistent with other department directors of New Castle County government, is appointed by the County Executive with the advice and consent of the New Castle County Council. Pursuant to § 1391 of Title 9, the Office of Law provides legal advice to the County Executive, County Council, and County departments, boards, offices, and agencies. This amendment would require the advice*

*and consent of the County Council in the appointment of the County Attorney. Consequently, this proposed amendment would safeguard against unequal preference to either branch of government when advice is provided.*

**Senator Nicole Poore** thanked Senator Gay and the Committee. She stated that, in March 2021, the New Castle County Council unanimously passed a resolution requesting that the General Assembly allow the Council to provide advice and consent to the appointment of the County Attorney by the County Executive. She continued that in 1965, the General Assembly had originally included the provision, but that the provision was subsequently removed. She stated that the Office of Law currently provides legal advice to not only the County Executive, but also to the County Council, County Departments, Boards, Offices, and Agencies. She explained that the Council already provides advice for a variety of appointment, and she listed several examples. She explained that the Bill adds the County Attorney to the list of appointments. She stated that the Bill would restore checks and balances to safeguard against potential unequal preferences to either branch of government when advice is provided. She urged the Committee to support the Bill, and she welcomed any questions from the Committee.

**Senator Gay** thanked Senator Poore, and she asked if there were any questions from the Committee.

There were no questions from the Committee.

**Senator Gay** welcomed any public comment.

**Councilman David Carter** thanked Senator Poore and the co-sponsors for moving the Bill forward. He stated that the Bill is part of a review of county government. He voiced his belief that the previous change was the result of an omnibus approach, and he expressed his hope that the changes in the Bill are just a clerical cleanup. He voiced his appreciation for the Committee, and he welcomed any questions from the Committee.

**Senator Gay** thanked Councilman Carter for joining the meeting.

**SB 122 – Reported out of the Committee – Favorable = 1, On its Merits = 5, Unfavorable = 0**

**Senator Gay** introduced HB 155 w/ HA 1.

**HB 155 w/ HA 1: AN ACT TO AMEND TITLES 6, 11, 19, AND 25 OF THE DELAWARE CODE RELATING TO DEFINITIONS.**

Sponsor: Representative Johnson

***Synopsis:** This bill makes the definitions of sexual orientation, gender identity, and disability consistent throughout the Delaware Code and with federal law.*

**Senator Gay** explained that HB 155 comes from the House, and that the goal of the bill is to make uniform the definitions of sexual orientation, gender identity, and disability throughout the

Delaware Code and with federal law. She noted that H.A.1 inserted the word ‘includes’ into the definition of sexual orientation to further make clear the intent of the Bill. She welcomed questions from the Committee.

**Senator Richardson** asked how the Bill improves the safety of the general population.

**Senator Gay** stated that this is not a public safety bill. She explained that the Bill intended to ensure the standardization of terms within the Delaware Code to enable legislators to speak uniformly and consistently when using terms throughout the Code. She emphasized that this would clarify ambiguities in the Code, and it would allow legislators to be intentional about the meaning of words, and that the Bill would allow for more discernable interpretation of the intent of laws.

**Senator Richardson** asked Senator Gay if she could explain why this lack of uniformity is a problem. He asked for a recent example of an instance where the lack of uniformity has been a problem.

**Senator Gay** explained that the overarching problem is that inconsistencies in regard to definition make it more difficult to create and interpret laws. She voiced her view that inconsistent definitions are, in of themselves, problematic. She continued that inconsistent definitions do not allow legislators to show clear intent in the drafting of laws. She stated that from her experience as an attorney, she has encountered many instances where there was ambiguity present in the Code. She emphasized that uniform definitions would allow legislators to be more intentional with their words.

**Senator Richardson** stated that he did not understand the necessity of the Bill. He asked for clarification as to the specific changes that the Bill would make regarding public policies. He asked if the changes were solely from a legal standpoint, or if the Bill would affect public policy or change public behavior.

**Senator Gay** stated that this is a matter of consistency of definition. She stated that she felt that she answered the question, but she offered to address a specific aspect of the Bill in regard to the impact on specific public policy.

**Senator Richardson** stated that he would discuss his concerns with Senator Gay at a later time.

**Senator Gay** welcomed any public comment.

**Dustyn Thompson** introduced himself as a member of the Delaware United Policy Committee, and he thanked the Committee. He voiced his organization’s support for the Bill. He stated his view that inclusive language is critical to ensuring that the LGBT community is supported and represented for all the needs that they have in the State. He cited survey data on the statistics of LGBT communities in Delaware; however, he noted that the study does not cover all possible identities, but that it does provide a good cross section. He stated that the definition of the Code can be a great concern, and he explained how definitions could negatively impact different

communities in Delaware. He explained that this is a great step forward. He praised Representative Johnson for the Amendment. He thanked the sponsors of the Bill.

**Nandi Randolph** voiced her opposition to the Bill. She stated that the current language, which the Bill seeks to redefine, was penned in 2013 to be inclusive without creating potential safety issues. She stated that gender identity is something which society has come to determine should be defined by the individual on how they feel they should be recognized. She voiced her view that the discrepancy between identity and biological sex can potentially be exploited by individuals for negative ends. She expressed her view that the current language protects vulnerable individuals and limits the ability for predators to take advantage of inclusive intentions. She continued that the definitions included in the Bill makes the definitions more ambiguous. She urged the Committee to oppose the Bill and allow for the current definitions to remain.

**HB 155 w/ HA 1 – Reported out of the Committee – Favorable = 1, On its Merits = 3, Unfavorable = 1**

**Senator Gay** thanked the attendees and Committee members. She stated that the Bills will circulate via email, and she requested that the Committee members respond with their vote on each Bill as soon as possible.

**Senator Gay** adjourned the meeting at 10:45 p.m.

### **Written Public Comment**

Dear Sen. Kyle Evans Gay and Members of the Election and Government Affairs Committee,

HB 155 opens the door for much confusion and privacy concerns. Do NOT remove "exclusively" or "consistent and uniform assertion" or "any other evidence that gender identity is sincerely held as part of a person's core identity". That 2013 language was deliberate and created by the LGBT lobbyist and agreed upon in the Senate, by your colleagues in 2013 to address legitimate and reasonable concerns. This language was a compromise to protect women. Please vote NO on HB 155.

Sincerely,

Frances Jones  
Wilmington, DE 19810



## Delaware Retired School Personnel Association

P.O. Box 7262  
Wilmington, DE 19803

(302) 674-8252  
email@drspa.org  
www.drspa.org

Good morning,

My name is Wayne Emsley. I'm the Executive Director of the Delaware Retired School Personnel Association. Founded in 1956, our organization advocates for former public school workers who dedicated their careers to helping future generations lead successful lives. For most of those 65 years we came to the legislature and asked for a percentage increase in pensions. We haven't had much success lately.

If you think about it, this is an extremely inefficient process. We make the same appeal every year, and you legislators spend your valuable time either trying to figure out a pension increase the state can afford, or trying to figure out the best way to say "no".

SB 14 provides a better way and it does it based on "intent" language that was included in legislation passed in both 2019 and 2020. First, it would provide an easily forecastable expense to budget planners. The state already pays about 12% in payroll costs, SB 14 would simply add an additional 3% to that figure.

Second, it would remove the legislature's – and governor's - need to consider a pension adjustment each and every year because SB 14 establishes a pension adjustment process outside the legislature.

SB 14 would benefit state pensioners because these retirees would be assured of a pension adjustment every other year. We believe that the post retirement increase policy established under SB 14 would also help in hiring and retaining state workers because it will create a more attractive pension plan. It will also provide greater pension increases to those who retired more than 20 years ago.

I'd like to talk about what SB 14 is not. SB 14 is not a Cost-of-Living proposal. Our members watched the legislature consider Senate Bill 62 nearly two years ago, which, if passed, would have provided a cost-of-living adjustment to state pensioners. The bill died in committee because its future cost was too unpredictable. SB 14 is a fair compromise. We pensioners realize that SB 14 will never keep up with the cost-of-living. We recognize that even with SB 14, every year that we live means our pension will decrease in purchasing power.

DRSPA members are asking that committee release and then support SB 14. It addresses the erosion of pension benefits for the longest serving retirees and establishes a post retirement increase process that benefits both the state, present retirees, and active employees who will, someday, become pensioners.

Thank you.