

Senate Executive Committee Meeting

**Official Minutes
151st General Assembly
Second Session**

**Committee Meeting
Wednesday, January 19, 2022
3:00 p.m.
Virtual Zoom Meeting**

Meeting Attendance

Committee Members Present:

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|---------------------------|--|
| Senator David Sokola | David.Sokola@delaware.gov |
| Senator Bryan Townsend | Bryan.Townsend@delaware.gov |
| Senator Elizabeth Lockman | Elizabeth.Lockman@delaware.gov |
| Senator Stephanie Hansen | Stephanie.Hansen@delaware.gov |
| Senator Gerald Hocker | Gerald.Hocker@delaware.gov |
| Senator Brian Pettyjohn | Brian.Pettyjohn@delaware.gov |

Absent: None

Attendees:

Anthony Albence
Cynthia Ennis
Brenda Wise
Robert Overmiller
Sarah Stowens
Javier Horstmann

Organization:

Department of Elections
Citizen
Office of Management & Budget
RDO Refrigeration
Rodel
Office of Governor Carney

Staff:

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| Valerie McCartan (to Sen. Sokola) | Delaware Senate, Valerie.McCartan@delaware.gov |
| Read Scott (to Sen. Townsend) | Delaware Senate, Read.Scott@delaware.gov |
| Carolyn Martin-Pettaway | Delaware Senate |
| Deanna Killen | Delaware Senate |
| Jesse Chadderdon | Delaware Senate |
| Keri Rapa | Delaware Senate |
| Debbie Gottschalk | Division of Research |
| Scott Goss | Delaware Senate |
| Ruth Jones | Office of the Controller General |
| Robert Scoglietti | Office of the Controller General |
| Taylor Hawk | Delaware Senate |
| Victoria Brennan | Office of the Controller General |
| Jason Smith | Office of the Controller General |
| Julie Fedeles | Office of the Controller General |

Agenda:

HB 281

HB 295

HB 282

SB 215

Senator Sokola convened the meeting at 3:03 p.m. and conducted a roll call. Sens. Lockman, Hansen, Hocker, Pettyjohn, and Sokola were marked present at the time of roll call; Sen. Townsend was marked absent. Sen. Townsend was subsequently marked present at 3:09 p.m.

I. HB 281 – Rep. Schwartzkopf – AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO THE CONTROLLER GENERAL

Synopsis: This Act provides for a Deputy Controller General who is authorized to serve as the Acting Controller General if the Controller General dies, resigns, is removed, or is temporarily incapacitated. This Act codifies the Controller General’s responsibility for staffing the Joint Committee on Capital Improvement and preparing fiscal projections and fee impact statements. This Act also makes technical corrections to conform existing law to the standards of the Delaware Legislative Drafting Manual.

Sen. Sokola reviewed the synopsis of the bill. He said this bill was discussed in Legislative Council. The committee was advised to codify this provision.

Sen. Hansen is surprised this provision is not already in the Code. She is glad this legislation has been introduced.

There was no public comment on HB 281.

HB 281 – Reported out of the Committee: 2 Favorable (Sokola, Hansen); 4 on its Merits (Townsend, Lockman, Hocker, Pettyjohn); 0 Unfavorable

II. HB 295 – Rep. Schwartzkopf - AN ACT TO AMEND TITLE 3, TITLE 4, TITLE 8, TITLE 9, TITLE 11, TITLE 14, TITLE 16, TITLE 18, TITLE 19, TITLE 21, TITLE 24, TITLE 25, TITLE 29, TITLE 30, AND TITLE 31 OF THE DELAWARE CODE, THE CHARTER OF HARTLY, AND THE LAWS OF DELAWARE RELATING TO TECHNICAL CORRECTIONS.

Synopsis: In January 2021, the Code Revisors provided the General Assembly with a list of potential technical corrections that they identified as they revised the Delaware Code to reflect legislation that was enacted by the 150th General Assembly in 2019 or as they reviewed titles of the Code. While technical in nature, these changes are beyond the authority of the Code Revisors to make and can only be done by the General Assembly through legislation. This Act also includes technical corrections identified outside of the list provided by the Code Revisors. This Act requires a greater than majority vote for passage to err on the side of caution because some of the sections of the Delaware Code being revised may require a super-majority vote under the Delaware Constitution. This Act also makes basic technical corrections to conform existing law

to the standards of the Delaware Legislative Drafting Manual. Section 1. House Bill No. 263 (151st General Assembly) increased the registration fees for pet food that is not manufactured by a nonprofit. This Section reorganizes the sentences in § 1706(a)(2) of Title 3 to clarify the applicability of each fee. Section 2. Senate Bill No. 96 (151st General Assembly) increased the inspection fee for commercial fertilizers over the next 3 years, beginning January 1, 2022. The current fee was not included in SB 96 so it is not repealed and it is not clear how many fees are required. This Section revises § 2106 of Title 3 to repeal the fee in place before the enactment of SB 96 when the first increase takes effect on January 1, 2022. This Section also revises § 2106(a) so that the list of fees is not in the middle of a sentence and so that there are no undesignated paragraphs. This Section also corrects a typographical error made when SB 96 was engrossed with Senate Amendment No. 1. Section 3. Senate Bill No. 22 (151st General Assembly) contains a list of plants that must be included on the Invasive Plant list. This Section corrects the scientific name for English Ivy in § 2904(c)(32) of Title 3. Section 4. When drafting the revisions to § 512C of Title 4 in Section 5, technical errors were identified in § 512B of Title 4. This Section makes technical corrections to § 512B, including changing “and/or” to “or” because “and/or” is unclear and in this context, “or” can include 1 or more of the businesses in the sentence. Section 5. Two pieces of legislation were enacted during the 151st General Assembly in 2021 that revise § 512C of Title 4. House Bill No. 46 allows a microbrewery licensee to manufacture and sell fermented beverages and House Bill No. 81 allows licensed microbreweries to share brewing equipment. This Section adds fermented beverages to the list of products microbreweries can manufacture and sell where the list appears in the paragraphs added by House Bill No. 81. Section 6. Senate Bill No. 113 (151st General Assembly) incorrectly repealed language in § 160(c) of Title 8 that provides an important reference for the requirements for voting and quorum. This Section restores that phrase. Section 7. House Bill No. 11 (151st General Assembly) revised the definitions in § 1101A of Title 9. This Section clarifies that the definition of “local service function” is referring to the Delaware Constitution and Delaware Code. Section 8. House Bill No. 9 (151st General Assembly) added the term “adjudication” to § 787 of Title 11 to allow juvenile victims of human trafficking to more easily expunge convictions. House Amendment No. 1 to House Bill No. 9 was incorrectly drafted resulting in the improper format of referenced Code sections. This Section corrects the form of the citations and replaces the vague word “such” to reference an expungement order under paragraph (j)(2) of the section. Section 9. This Section corrects the paragraph designations in § 778A of Title 11 which were incorrectly drafted in Senate Bill No. 229 (145th General Assembly). Section 10. This Section inserts the word “in” where it is missing in the first sentence of § 1206 of Title 11. Section 11. House Bill No. 35 (147th General Assembly) redesignated the subsections in § 1448A of Title 11, including the designation of subsection (j), but did not revise the reference in subsection (m) from subsection (j) to subsection (k). House Bill No. 325 (148th General Assembly) again redesignated the subsections in § 1448A of Title 11 and incorrectly changed the reference in subsection (m) to subsection (k), instead of to subsection (l). The reference to subsection (k) is incorrect because HB 325 redesignated subsection (k) as subsection (l). This Section corrects the reference in § 1448A(m) to subsection (l). Section 12. House Bill No. 204 (149th General Assembly) created a definition for the term “bail” that includes all categories of pretrial release. This Section revises § 2116 of Title 11 so that it is consistent with the rest of Chapter 21 of Title 11 by using the defined term “bail”. Section 13. This Section corrects typographical errors made in § 4101(h) of Title 11 by House Substitute No. 1 for House Bill No. 143 (146th General Assembly). Specifically, the definitions in § 4101(h)(9) should refer only to subsection (h), not

the entire section, and in § 4101(h)(9)c., the word “or” is missing and the article “a” is incorrect grammatically. Section 14. During the 151st General Assembly, 3 pieces of legislation made revisions to § 4373(b)(1)b. of Title 11: House Bill No. 83, Senate Substitute No. 1 for Senate Bill No. 38, and Senate Bill No. 112. As a result, the word “offense” was omitted from § 4373(b)(1)b. This Section restores the word "offense" and repeals "or violation" because under § 233 of Title 11, the term "offense" includes violations. In addition, SB 112 made some felony convictions eligible for mandatory expungement subject to the existing exceptions based upon the status of the victim. This Section also clarifies that exception. Section 15. Senate Bill No. 85 (150th General Assembly) divided the existing subsection (a) of § 5917 of Title 11 into 3 subsections so it is no longer clear what subsection (b) is referring to when it says “notwithstanding the foregoing”. This Section revises § 5917(b) of Title 11 to reference subsection (a) that section. Section 16. The Section adds a verb that was omitted when House Bill No. 83 (151st General Assembly) revised § 1008(n) of Title 14. Section 17. House Bill No. 202 (151st General Assembly) and Senate Bill No. 169 (151st General Assembly) both revised § 3002A of Title 14. This section repeals the word “the” that was added by HB 202 because it is unnecessary after the revisions to the sentence by SB 169. Section 18. House Bill No. 202 (151st General Assembly) added a reference to the “IDEA Part C lead agency” to § 3004A(a) of Title 14. Section § 3004A(a)(2) takes effect the same day as Chapter 31A of Title 14, which was enacted by Senate Bill No. 136 (151st General Assembly). This Section revises § 3004A(a) so it references the Department of Education’s responsibility as the IDEA Part C lead agency under Chapter 31A of Title 14. Section 19. Section 8001 of Title 14 was enacted by House Bill No. 202 (150th General Assembly) and did not include the form language explaining the applicability of the definitions in the section. House Bill No. 120 (151st General Assembly) incorrectly sought to put the form language in the heading of § 8001. This Section adds the form language to § 8001 of Title 14. Section 20. Section 1131(4)c. of Title 16 contains incorrect references to the Department of Health and Social Services’ authority for licensing hospitals to treat adults with mental conditions. Section 5001 of Title 16 is a definitions section and House Bill No. 346 (147th General Assembly) repealed § 5136 of Title 16 in 2014. In 2019, House Bill No. 91 (150th General Assembly) revised the definition of “hospital” for purposes of the licensing requirement under Chapter 10 of Title 16, to include facilities that provide psychiatric care. Thus, all of the facilities that had been listed in § 1131(4)c. are now included in § 1131(4)d. because they are licensed under Chapter 10 of Title 16. This Section repeals the inaccurate reference in § 1131(4)c. of Title 16. Section 21. Senate Bill No. 55 (151st General Assembly) made a technical correction to how public and charter school nurses are referenced in § 3001E of Title 16 and this Section makes the identical, corresponding correction to § 3003E of Title 16. Section 22. This Section repeals the references in § 4771 of Title 16 to where “drug paraphernalia” is defined for Chapter 47 of Title 16 to conform to the standards of the Delaware Legislative Drafting Manual. Section 4701 defines the term “drug paraphernalia” for Chapter 47 of Title 16 so it is not necessary to reference the definition. Section 23. Senate Bill No. 128 (151st General Assembly) implements the Joint Legislative Oversight and Sunset Committee’s recommendations regarding the Delaware Health Information Network. This Section corrects a typographical error in § 10303 of Title 16 to eliminate a word that repeats unnecessarily. Section 24. This Section corrects the names of the laws referenced in § 1758(c) of Title 18. Section 25. Senate Bill No. 337 (139th General Assembly) enacted § 2317 of Title 18, which prohibits discrimination in insurance based on genetics. This Section corrects § 2317(b) so that instead of unnecessarily referencing where the term "insurance" is defined for the statute, it clearly states

that the discrimination being prohibited is based on any genetic characteristic or genetic information, which is consistent with the legislative intent stated in the Synopsis for SB 337. The terms "genetic characteristic", "genetic information", and "insurance" are defined for this section in subsection (a) of this section. Section 26. This Section corrects a drafting error in House Bill 95 of the 151st General Assembly by adding a comma to clarify that Medicare supplement and long-term care are distinct categories of policies included in the exception in § 3370D(e) of Title 18. Sections 27 through 29. House Bill No. 160 (151st General Assembly) which revised the law governing the practice of telehealth and telemedicine made the word "state" lowercase in § 3570 and § 3571R of Title 18 and § 6001 of Title 24. When the word "state" is lowercase in the Code, it refers to any state but the intent of HB 160 was to require health-care providers to be allowed to practice in Delaware. These Sections change the word "state" to "Delaware" for both accuracy and clarity. Section 30. This Section corrects a typographical error in Senate Substitute No. 1 for Senate Bill No. 36 (151st General Assembly) so that § 6906(c)(2) of Title 18 is consistent with paragraph (a)(2) in the same section. Section 31 and Section 32. The federal health insurance providers fee under § 9010 of the Affordable Care Act [P.L. 111-148, § 9010] was repealed for calendar years beginning after December 31, 2020, under the Further Consolidated Appropriations Act, signed into law on December 20, 2019. These Sections repeal references in §§ 8702 and 8703 of Title 18 to this repealed fee. Section 33. Executive Order No. 36, February 6, 2020, reestablished and reconstituted the Workforce Investment Board ("WIB") and made the WIB responsible for the activities required under the federal Workforce Innovation and Opportunity Act. This Section updates § 3402 of Title 19 to reflect the WIB's responsibility for this program. Section 34. This Section corrects a drafting error in House Bill No. 432 of the 143rd General Assembly which failed to repeat the revised list of subsections the second time these subsections are referenced in subsection § 2751(j) of Title 21. Section 35 and Section 36. In 2003, House Bill No. 301 (142nd General Assembly) changed the name of the Department of Public Safety to the Department of Safety and Homeland Security. Some references to this agency in the Delaware Code were not included in HB 301, so these Sections correct the agency name. Section 37. The penalty provision of § 4189(g) of Title 21 is written so that the maximum amount of a fine only applies to a second offense, not a first offense and does not impose a fine on a subsequent offense after the second offense. This Section applies the maximum amount of a fine to the first offense and allows the fine for a second offense to also be imposed for subsequent offenses. Section 38. Senate Bill No. 89 (151st General Assembly) contained an incorrect internal reference to a subsection in § 4505 of Title 21. This Section corrects and clarifies the internal references in § 4505 of Title 21. Section 39. This Section makes form language and punctuation corrections to § 1770A of Title 24. Section 40. The Section corrects an internal reference in § 7026 of Title 25. Chapter 70 of Title 25 was revised, and reorganized, by House Bill No. 45 (150th General Assembly), which was the result of the work by the Manufactured Housing Task Force, created by HR 24 (149th General Assembly). Before HB 45, the sections in Subchapter IV of Ch. 70 were all under § 7026 and the Synopsis of HB 45 clearly explains that the changes to § 7026 were technical, not substantive. HB 45 moved the sentence that had been § 7026(l) to § 7026(b) but did not make the corresponding change to internal reference to "this section", which is necessary because what had been a section is now Subchapter IV. Section 41. Section 1002(b)(3) of Title 29 references Chapter 16 of Title 29. However, Senate Bill No. 198 (137th General Assembly) repealed Chapter 16 of Title 29 and enacted Chapter 58 of Title 29. This Section corrects the reference in § 1002(b)(3) to Chapter 58. Section 42 and Section 43. Senate Bill No. 107 (147th General Assembly) added a new

paragraph (2) to subsection (f) of § 5501 of Title 29, the definition of “employee” for the State Employees Pension Plan, and redesignated the numbers of the existing paragraphs accordingly. The new paragraph (f)(2) of § 5501 of Title 29 requires that an individual be employed on a full-time or annual basis or “regular part-time basis.” When SB 107 was enacted § 8351(6)a. of Title 11 and § 5600(6)b. of Title 29 referred to § 5501(f)(1) and (2) of Title 29 so when SB 107 changed the paragraph designation of § 5501(f)(2) of Title 29 to (f)(3), a corresponding change was made to the referenced paragraph in § 8351(6)a. of Title 11 and § 5600(6)b. of Title 29. This Section corrects the reference in § 8351(6)a. of Title 11 and § 5600(6)b. of Title 29 to include paragraphs (f)(1) through (f)(3) of § 5501 of Title 29. Section 44. This Section repeals the remaining sentence in § 6960(l) of Title 29, which was omitted when House Bill No. 83 (151st General Assembly) repealed the Prevailing Wage Advisory Committee that sunset in 2019. Section 45. This Section corrects a verb tense in § 6960A(a)(2) of Title 29, which was enacted by Senate Bill No. 184 (151st General Assembly). Section 46. This Section repeals the phrase “in any event” from § 8061(d)(6)c., which was added by Senate Bill No. 54 (151st General Assembly), because it is redundant and confusing. Section 47. This Section removes a duplicate sentence from § 1106 of Title 30. Section 48. This Section repeals Chapter 13 of Chapter 31, which requires the Department of Labor (DOL) to provide a displaced homemaker program. DOL provides the services required under this chapter as part of other case managed training services but there is no longer a distinct eligibility category for displaced homemakers. Section 49. House Substitute No. 1 for House Bill No. 134 (151st General Assembly) revised the Charter of Hartly (Charter). This Section inserts the word “with” which was omitted from § 9.5.2 of the Charter. HS 1 for HB 134 correctly spelled the plural of the word “money” as “moneys” when revising the Charter. This Section corrects the spelling of “monies” to “moneys” where it is incorrectly spelled in preexisting sections of the Charter. Section 50. Senate Substitute No. 1 for Senate Bill No. 24 (151st General Assembly) prohibits the intentional release of balloons but delayed the effective date of the penalties for individuals. This Section corrects the Title of the Code that contains the penalty provisions and adds the actual effective date for SS 1 for SB 24. This bill makes the definitions of sexual orientation, gender identity, and disability consistent throughout the Delaware Code and with federal law.

Sen. Sokola reviewed the synopsis of the bill and called on Deborah Gottschalk, Senior Legislative Attorney to comment on HB 295.

Debbie Gottschalk said that like prior technical corrections bills, this bill makes changes that are beyond the authority of the code revisors and so can only be made by the General Assembly through legislation. Almost half of the sections in this year’s bill correct errors in legislation enacted in 2021. Twenty-six sections correct errors from earlier sessions that were identified throughout the year. As with prior bills, the proposed revisions are shared with agencies, and she works with them on any revisions that they suggest. She confirms that the correction is technical and that it will be a correction. This legislation requires a supermajority vote to err on the side of caution. It does include one charter change and clarification of misdemeanor offenses, but no new offenses.

There were no questions or comments from committee members.

There was no public comment on HB 295.

HB 295 – Reported out of the Committee: 2 Favorable (Sokola, Hansen); 4 on its Merits (Townsend, Lockman, Hocker, Pettyjohn); 0 Unfavorable

III. HB 282 – Rep. Schwartzkopf – AN ACT TO AMEND TITLE 1 OF THE DELAWARE CODE RELATING TO THE DELAWARE CODE REVISORS.

Synopsis: This Act authorizes Legislative Council to determine the compensation to be paid to the Delaware Code Revisors.

Senator Sokola reviewed the synopsis of the bill. He said this something that has not been changed in the Code for decades.

Debbie Gottschalk said it allows for more flexibility and modernizes the approach to determining compensation for the code revisors.

Sen. Sokola said this was discussed at Legislative Council.

Sen. Hansen asked how far out of line the current Delaware Code is on this provision. How big of a change will this be?

Sen. Sokola said the compensation figure will more than double, although it is not a large figure even if it doubles.

Sen. Hansen asked when this compensation provision was last reviewed.

Debbie Gottschalk said she would research and provide that information to the committee.

[Note: following the committee meeting, Ms. Gottschalk provided that after researching the history of § 202 of Title 1, the last time the amount of compensation paid to the Code Revisors was increased was in 1971, when it was increased to the current \$5,000. Before that increase, the amount of compensation had been \$2,400 since 1953.]

HB 282 – Reported out of the Committee: 2 Favorable (Sokola, Hansen); 4 on its Merits (Townsend, Lockman, Hocker, Pettyjohn); 0 Unfavorable

IV. SB 215 – Sen. Sokola – AN ACT TO AMEND TITLE 15 OF THE DELAWARE CODE RELATING TO ELECTIONS.

Synopsis: This Act extends the deadline for the Department of Elections to designate all election districts from “before March 1” to “before April 1,” but only for the 2022 election year. The delay in the delivery of the 2020 U.S. Census data to the States has necessitated this change for the 2022 election year.

Sen. Sokola reviewed the synopsis of the bill. All subdivisions already have their districts drawn except for Sussex County Council, so that’s why we want to push back this deadline for one month. Senator Sokola called on Commissioner Anthony Albence to provide more detail.

Commissioner Albence said because of the delay this cycle with the delivery of census results and how it moved the redistricting schedule back for the General Assembly as well as other bodies, the Department of Elections is still working very closely with those bodies, including Sussex County Council. The Council is slated to finalize its plan in February. Then, the Department would be prepared to revisit potential “clean up” legislation, if that is the pleasure of the various bodies, to make corrections or slight modifications to align districts. SB 215 will give the Department of Elections a little extra time to finalize the election districts after the bodies have settled on their boundary lines.

Sen. Sokola asked if the Department of Elections is close to completion with respect to New Castle and Kent Counties?

Commissioner Albence said yes, Elections has made a lot of progress on New Castle and Kent Counties.

There were no questions from committee members.

Sen. Sokola called for public comment.

Robert Overmiller said he’s happy proper time is being given to make sure all the districts are correct before moving forward.

SB 215 – Reported out of the Committee: 2 Favorable (Sokola, Hansen); 4 on its Merits (Townsend, Lockman, Hocker, Pettyjohn); 0 Unfavorable

Senator Lockman motioned to adjourn the meeting, and Senator Hocker seconded the motion.

Senator Sokola adjourned the meeting at 3:17 p.m.

Meeting Minute Preparation

Minutes completed by Valerie McCartan, 1/25/2022

Approval of Meeting Minutes

*Meeting Minutes approved on Wednesday, March 9, 2022 on a motion by Sen. Pettyjohn, seconded by Sen. Lockman, and with no objection from members of the committee.