

CHAPTER 261
FORMERLY
SENATE SUBSTITUTE NO. 1

FOR

SENATE BILL NO. 176

AN ACT TO AMEND THE CHARTER OF THE MUNICIPAL SERVICE COMMISSION OF THE CITY OF NEW CASTLE RELATING TO REDESIGNATING THE GOVERNING BODY OF THE MUNICIPAL SERVICES COMMISSION OF THE CITY OF NEW CASTLE FROM "BOARD" TO "COMMISSION", CLARIFYING THAT THE COMMISSION CAN OBTAIN PRIVATE PROPERTY WITHIN CITY LIMITS FOR SUPPLYING AND DISTRIBUTING ELECTRICITY, REMOVING THE POSITION OF SUPERINTENDENT AND REPLACING IT WITH ONE OR MORE SUPERVISORS, DELINEATING THE POWER OF THE COMMISSION TO BORROW MONEY THROUGH THE ISSUANCE OF REVENUE BONDS OR OTHER DEBT OBLIGATIONS WITH A RESOLUTION OF CITY COUNCIL AND TO HAVE CONTROL OVER SUCH MONEY, CHANGING THE DATE OF THE REQUIREMENT TO PUBLISH FINANCIAL REPORTS FROM JULY TO DECEMBER AND HANDING OVER POSSESSION OF MONEY TO BE USED FOR THE CITY'S WATER AND LIGHT SYSTEMS FROM THE CITY TREASURER TO THE TREASURER OF THE COMMISSION.

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

Section 1. Amend Chapter 121, Volume 32, Laws of Delaware, as amended being the Charter of the Municipal Service Commission of the City of New Castle as follows:

Section 1. Municipal Services Commission; Appointments; Vacancies; Definitions

(a) A Municipal Services Commission for the City of New Castle is hereby created, the business and affairs of which shall be managed by or under the direction of a Commission composed of three Commissioners who shall be residents of and qualified voters of the City of New Castle and who shall have resided in said City for at least three years prior to their appointment.

(d) Definitions. The following words, terms and phrases, when used in this Chapter, shall have meanings ascribed to them in this section:

(i) 'Additional Systems' shall include, but is not limited to, systems for the purpose of furnishing steam, manufactured gas, natural gas, heat, power, and wired and wireless telecommunications or other communication services.

(ii) 'City' shall refer to the City of New Castle;

(iii) 'Commission' shall refer to the Municipal Services Commission of the City of New Castle;

(iv) 'Commissioner' shall refer to a member of the Municipal Services Commission of the City of New Castle;

(v) 'Municipal Corporation' shall refer to the City of New Castle as an incorporated municipality;

(vi) 'Telecommunications' shall include, but is not limited to, internal communications; communication services to the City of New Castle, schools, and non-profit institutions; and commercial and residential voice, data, and video services.

Section 2. Commission Elections and Appointments; Secretary and Treasurer

(a) The Commissioners, in April of each year, shall elect one of their number as President, and shall appoint a Secretary and a Treasurer, neither of whom need be a Commissioner.

(b) The Treasurer of the Commission shall hold the funds of the Commission in one or more separate accounts at such banks and trust companies and upon such terms and conditions as the Commission may by resolution from time to time prescribe, and shall pay the same out on orders signed by the President and Secretary. The Treasurer shall give such additional bond as the Commission may require.

Section 3. Commission Authority; Water, Light and Additional Systems

(a) The Commission shall have control of the water and electric light supply in the City of New Castle, and the management and operation of the City water system and the City light system shall be entirely under its control, direction and supervision.

(i) The Commission, in addition to the power and authority which it now has to supply and distribute water within the corporate limits of the City of New Castle, may, in its discretion, supply and distribute water throughout all of that territory included within three miles of the corporate limits of said City.

(ii) The Commission shall determine the person or persons, firm or firms, corporation or corporations, to which it shall supply and distribute water throughout said territory included within three miles of the boundary of said corporate limits; shall fix the rates therefor; shall regulate the use of said water; and shall supply the same upon such terms and conditions as may be agreed upon by such person or persons, firm or firms, corporation or corporations, and the Commission.

(iii) The Commission shall have and exercise all the power and authority necessary to the accomplishment of said supplying and distributing of water throughout the territory included within three miles of the boundary of said corporate limits as it now has and exercises in the installation, operation and maintenance of its systems for supplying and distributing water in the City of New Castle.

(iv) Whenever the Commission shall deem it necessary or expedient to obtain private property either within the limits of the City of New Castle for the purpose of constructing facilities for supplying and distributing water and/or electricity or without such limits to a distance not exceeding three miles for the purpose of constructing facilities for the supplying and distributing of water and shall advise the Council of the Mayor and Council of New Castle, in writing, of the location, description and estimated fair value for which such property is deemed necessary or expedient, the said Council shall be empowered to acquire such property by agreement with the owner thereof or if such agreement cannot be reached, the said property or land may be acquired by condemnation proceedings as prescribed and fully set forth in Section 25 of an Act entitled "An Act Amending, Revising and Consolidating the Charter of the City of New Castle" being Chapter 216 of Volume 27, Laws of Delaware, and all Acts amendatory thereof and supplemental thereto for condemning and taking land for the purpose of laying out, opening, extending or widening of any street, road, lane or alley in the City of New Castle.

(d) The Commission may appoint one or more supervisors and regulate their duties, and shall provide for such other employees as may from time to time be necessary, and shall fix the salary or pay of all employees.

(e) The Commission shall provide for all supplies and work that may from time to time be necessary, and in general shall have full charge of the maintenance and operation of the City water and light system and the Additional System managed and operated by it.

(g) Notwithstanding anything in this Chapter to the contrary, the Commission, upon unanimous approval of the Commissioners, and following approval by resolution of the Council of the City of New Castle, is authorized and empowered to borrow sums of money through the issuance of revenue bonds or other debt obligations in the name of the Commission in accordance with the following provisions:

(i) The revenue bonds or other debt obligation shall not be backed by the full faith and credit of the City of New Castle.

(ii) The revenue bonds or other debt obligations shall be backed by the revenue generated by the Commission.

(iii) The Commission shall provide the Council of New Castle and the Mayor of New Castle with thirty (30) days' advance written notice of its intention to issue such revenue bonds or other debt obligations.

(iv) The maximum amount of outstanding revenue bonds or other debt obligations issued under this Section shall not exceed the annual gross revenues of the Commission for the year preceding the year of the issuance of such revenue bonds or other debt obligations.

(v) The proceeds from the revenue bonds or other debt obligations shall be used solely for expansion of the existing water and electric systems of the Commission, and the upgrade and maintenance of such systems, and other capital expenditures for real or personal property deemed by the Commissioners as reasonably necessary to the operations of the Commission.

(vi) Revenue bonds or debt obligations may be issued in one or more service, shall bear such date or dates, shall mature at such time or times, shall bear interest at such rate or rates, shall be payable at such time or times, at such place or places, shall be in such denominations and shall contain such other provisions as the Commissioners, by unanimous consent, may provide and shall be set forth in such revenue bonds or other debt obligations. Revenue bonds may or may not be coupon bonds and may be registered or otherwise as the Commissioners, by unanimous consent, deem advisable.

(vii) The Commissioners shall direct and effect the preparation and sale of said revenue bonds or other debt obligations at such time or times, at such price or prices and upon such terms as the Commissioners, by unanimous consent, deem advisable and all net monies raised from the issuance of such proceed shall be used in accordance with the terms of this Act.

(viii) The form of the revenue bonds or other debt obligations shall be as prescribed by the Commissioners and all such bonds shall be signed by a duly authorized commissioner. A facsimile signature may be imprinted on the bonds in lieu of signature of the aforementioned Commissioner.

(ix) Bonds shall be exempt from all state, county and municipal taxes.

(x) A statement appearing on the bond that the bonds have been duly authorized shall be deemed and held to be conclusive evidence in favor of the lawful holder of any such bonds that the terms and conditions of this Section have been fully met and complied with.

Section 4. Commission Meetings; Promulgation of Rules and Regulations; Collection of Sums Due

(a) The Commission shall meet at least once every month, and shall have power to make all needful rules and regulations for their meetings and for the regulation of the employees.

(b) The Commission shall have the power to make rules regulating the use and supply of water and light by and to consumers, and the goods and/or services furnished by any Additional System(s).

(c) The Commission shall establish regulations for the payment of bills for water and light, and any Additional System(s), and may cause suit to be brought in the name of the Municipal Corporation for all bills overdue. All sums due for water shall be a lien upon the property to which such water was furnished in the same ways as the taxes due the City of New Castle.

(d) The Commission shall arrange for the prompt collection of all sums due for water and light, and for services and/or goods furnished by any Additional System(s), and shall have power to make rules for cutting off the service when bills are overdue.

Section 5. Quarterly Statement; Annual Statement and Report

(b) The Commission, in December of each year, shall publish an annual statement and report for the benefit of the Citizens of the City of New Castle.

Section 6.

Intentionally omitted.

Section 10. Expenditures for Alteration or Improvement of Water and Light Systems; Control

(a) The Commission shall have full control and direction of all money borrowed pursuant to Section 3(g) above or borrowed by the City, by bond issue or otherwise, for the improvement or alteration of the City's water and light systems.

(b) All money borrowed pursuant to Section 3(g) above or borrowed by the City, by bond issue or otherwise, for the alteration or improvement of the City's water and light systems, shall be held by the Treasurer of the Commission subject to the direction of the Commission.

Approved June 19, 2012