



SPONSOR: Rep. Mulrooney & Rep. J. Johnson & Sen. Poore & Sen. Henry

HOUSE OF REPRESENTATIVES
148th GENERAL ASSEMBLY

HOUSE BILL NO.

AN ACT TO AMEND THE CHARTER OF THE MUNICIPAL SERVICE COMMISSION OF THE CITY OF NEW CASTLE.

6BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Two-thirds of all members
7elected to each house thereof concurring therein):

9 Section 1. Amend the Charter of the Municipal Service Commission of the City of New Castle by making
10deletions as shown by strike through and insertions as shown by underline as follows:

THE MUNICIPAL SERVICE COMMISSION

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
14which shall be managed by or under the direction of a Commission composed of three Commissioners who shall be
15residents of and qualified voters of the City of New Castle and who shall have resided in said City for at least three years
16prior to their appointment.

(b) The Commissioners shall serve until their successors shall have been appointed and qualified. One of said
18Commissioners shall be appointed by the Mayor of the City, one by the Council of the City, and one by the Trustees of the
19New Castle Common of said City. In the month of March in each year a successor to the Commissioner whose term expires
20on April 1 in that year shall be appointed for the term of three years by the power who appointed the member whose term is
21to expire.

(c) Any vacancy during a term shall be filled for the remainder of the term by appointment of the power who made
23the original appointment. In exercising the above appointing power, the Mayor shall not appoint himself, the Council shall
24not appoint one of its own members, and the Trustees of the Common shall not appoint one of its own members.

(d) Definitions. The following words, terms and phrases, when used in this Chapter, shall have meanings ascribed
26to them in this section:

27 (1) 'Additional Systems' shall include, but is not limited to, systems for the purpose of furnishing steam,
 28 manufactured gas, natural gas, heat, power, and wired and wireless telecommunications or other communication
 29 services, all as may be approved by resolution of the Council for the City of New Castle, which approval shall not be
 30 unreasonably withheld. However, any Additional Systems operated by the Commission shall not interfere with
 31 franchise rights granted by the City Council to third parties, nor shall any franchise right granted by the City Council to
 32 third parties interfere with the rights, duties, obligations, and responsibilities of the Commission as herein provided.

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

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

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

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

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

40 Section 2. Commission Elections and Appointments; Secretary and Treasurer

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

43 (b) The Treasurer of the Commission shall hold the funds of the Commission in one or more separate accounts at
 44 such banks and trust companies and upon such terms and conditions as the Commission may by resolution from time to
 45 time prescribe, ~~and shall pay the same out on orders signed by the President and Secretary.~~ Checks and other transfer of
 46 monies may be signed by such persons as are authorized by the Commission from time to time. The Treasurer shall give
 47 such additional bond as the Commission may require.

48 (c) No Commissioner shall hold any office of profit under the Commission, except as otherwise provided in
 49 Section 11, or contract with it for work or supplies.

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

51 (a) The Commission shall have exclusive control of the water and electric light supply in the City of New Castle,
 52 and the management and operation of the City water system, ~~and the City light system shall be entirely under its control,~~
 53 ~~direction and supervision,~~ and any other Additional Systems approved by City Council and operated by the Commission,
 54 which shall be entirely under its exclusive control, direction, and supervision.

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

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

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

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

79 (b) The Commission may, in its discretion and with the advance approval of the Council of the City of New Castle,
 80 manage and operate, as the sole provider or in conjunction with any person, firm, association, corporation, or entity, one or
 81 more Additional Systems within the corporate limits of the City of New Castle. Notwithstanding the foregoing, the
 82 Commission's operation of any Additional Systems shall not abridge the rights of the holder of any franchise granted by the
 83 Council of the City of New Castle, nor shall any franchise right granted by the City Council to third parties interfere with
 84 the rights, duties, obligations, and responsibilities of the Commission as herein provided.

85 (c) For the purposes set forth in Section 3(a) and Section 3(b) of this Chapter, the Commission shall have the
86 power to enter into contracts on behalf of the City and in the name of the Municipal Corporation. The Commission shall
87 have exclusive charge of the collection of and shall receive revenue due for water and light and any other Council-approved
88 Additional System managed and operated by it, and shall fix the rates for water and light and for goods and/or services
89 furnished by any such Additional System from time to time.

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

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

95 (f) The Commission shall have the power to borrow temporarily from time to time on the faith and credit of the
96 City in order to provide for the expenses of maintenance, replacement and operation of the water and light system, as well
97 as any Additional System that the Commission, in its discretion, chooses to manage and operate; but the Commission shall
98 have no power to enlarge or extend the water and light system, plant, mains, lines, or apparatus, or Additional System,
99 except out of surplus earnings, without the authority and approval of the Council of the City first had and obtained.

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

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

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

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

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

112 (5) The proceeds from the revenue bonds or other debt obligations shall be used solely for expansion of the
113 existing water and electric systems of the Commission, and the upgrade and maintenance of such systems, and other

114 capital expenditures for real or personal property deemed by the Commissioners as reasonably necessary to the
115 operations of the Commission.

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

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

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

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

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

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

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

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

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

142 (d) The Commission shall arrange for the prompt collection of all sums due for water and light, and for services
 143and/or goods furnished by any Additional System(s), and shall have power to make rules for cutting off the service when
 144bills are overdue.

145 Section 5. Quarterly Statement; Annual Statement and Report

146 (a) The Commission shall furnish to the Mayor, the Council of the City and the Trustees of the Common, quarterly,
 147a full statement of their receipts and expenses.

148 (b) The Commission, in December of each year, shall publish an annual statement and report for the benefit of the
 149Citizens of the City of New Castle.

150 Section 6. Superintendent

151 Intentionally omitted.

152 Section 7. Sufficiency of Revenue; Fixed Rental to City; Payment of Expenses Relating to Water and Light
 153Systems

154 ~~(a) In lieu of water and light rental for the water and light supply to the City itself, the Council of the City shall
 155turn over from time to time to the credit of the Commission such sums as may be necessary to meet any deficiency for
 156current bills of the Commission. In July of each year, or oftener in their discretion if the revenue warrants, the Commission
 157shall turn over to the Council of the City such sum in their hands as may not be required to provide for current expenses and
 158operation, which sums shall be used by the Council of the City for the payment of interest on the water and light bonds and
 159for a sinking fund for the payment of said bonds.~~

160 ~~(b) The Council of the City and the Commission may, by mutual agreement if deemed desirable, arrange that the
 161City shall pay a fixed rental to the Commission for the water and light supplied to the City in lieu of the above payments to
 162meet a deficiency.~~

163 (e) The Commission shall aim, in the operation of the water and light systems and in fixing the rates therefor, to
 164produce revenue at least sufficient, when supplemented by fair allowances by the City for the water and light furnished for
 165public purposes, to pay the operating expenses of the system and the interest on ~~the~~ any water and light bonds as well as
 166provide for ordinary maintenance.

167 Section 8. Municipal Services Commission as Agency of the City of New Castle

168 ~~(a)~~ The Commission is intended to be a separate agency of the City created pursuant to 72 Del. Laws c. 116 for the
 169operation of the water and light systems and City Council-approved Additional Systems. All contracts and bills may be in
 170the name of and on behalf of the Commission or in the name of the Municipal Corporation, through the agency of the
 171Commission.

172 Section 9. Removal of Commissioners

173 ~~(a)~~ The Council of the City shall have the power to remove any Commissioner upon proper cause shown, but such
174 removal shall be only after charges made and hearing thereon and by vote of two-thirds of all the members of the Council
175 of the City.

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

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

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

182 Section 11. Rates; Compensation of Commissioners

183 ~~(a) The Commission annually, when making its estimates and budget and fixing the rates for water and electric~~
184 ~~current, shall fix such rates for water and electric current as will produce an annual sum of at least Three Thousand Dollars~~
185 ~~to provide a sinking fund for the payment of all the water and light bonds of the City when the same shall become due, such~~
186 ~~fund so raised to be turned over to the Treasurer of the City and held as a sinking fund for the payment of said bonds and~~
187 ~~used for no other purpose, and such sum shall be annually raised until adequate provision has been made for the payment of~~
188 ~~all of the water and light bonds at maturity.~~

189 ~~(b) The President of the Commission shall receive an annual salary of Two Thousand Five Hundred Dollars~~
190 ~~(\$2,500.00) Three Thousand Six Hundred Dollars (\$3,600.00) and each other ~~Commissioner, Commissioner~~ shall receive~~
191 ~~an annual salary of Two Thousand Four Hundred Dollars (\$2,400.00) Three Thousand Dollars (\$3,000.00) for their~~
192 ~~services, payable monthly out of the funds of the Commission, and in addition to their necessary expenses in the~~
193 ~~performance of their duties.~~

194 Section 12. ~~Discretionary~~ Annual Payments to the City ~~Mayor and Council~~ of New Castle

195 ~~(a) Anything in this Act to the contrary notwithstanding, the Commission is hereby authorized, from time to time~~
196 ~~and in the Commissioners' sole discretion, to make payments out of surplus earnings to the Mayor and Council of New~~
197 ~~Castle. The Commission shall pay to the City of New Castle an appropriation of six percent (6%) of the Commission's~~
198 ~~previous fiscal year's audited annual user charges, whether or not collected (the "MSC Contribution"). Quarterly payments~~
199 ~~of the MSC Contribution shall be made on or before June 30, September 30, December 31, and March 31 of each year. The~~
200 ~~City Council shall pay monthly out of the general fund of the City to the Commission for electric services, including street~~
201 ~~lighting. The electric service shall be charged at a rate equal to the purchase of power rate paid by the Commission. The~~

202City of New Castle shall not be charged for water consumption. In the event that the MSC Contribution drops below
203\$500,000 in any fiscal year (computed on an annual basis), the Commission and the City of New Castle shall meet and
204discuss in good faith an adjustment to the MSC Contribution for that year.

205 Section 2. This Act shall take effect 30 days after enactment.

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SYNOPSIS

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This Act modifies the existing Charter for the Municipal Services Commission for the City of New Castle.