

BACKGROUND DOCS
LLCs AND VOTING RIGHTS

Delaware: The State Where Companies Can Vote

BY HAL WEITZMAN

May 23, 2022



University of Delaware Library



HAL WEITZMAN

Hal Weitzman's new book, *What's the Matter with Delaware?* is published on May 24 by Princeton University Press. A former Financial Times editor and foreign correspondent, Hal is executive

director for intellectual capital and Adjunct Associate Professor of Behavioral Science at the University of Chicago Booth School of Business, and editor-in-chief of Chicago Booth Review.

POPULAR THIS WEEK

[Tesla Should Take the Court Decision Seriously, Not Dismissively](#)

[How Has the Affordable Care Act Fared After Ten Years?](#)

[Merger Review Should Incorporate a Role for Unions](#)

[Tesla Directors Took a Big Accounting Bet With No Independent Accounting Advice](#)

Adapted from [What's the Matter with Delaware: How the First State Has Favored the Rich, Powerful, and Criminal—and How It Costs Us All](#), published by Princeton University Press and reprinted here by permission.

Rehoboth Beach is a typical American seaside town. Located on the Atlantic Coast in southern Delaware, the drive down Route 1 from Wilmington, the state's biggest city, is about 100 miles. As you approach Rehoboth, lighthouses on malls and street signs prepare you for the curiosity shops that pepper the town's main street, offering a variety of shells and assorted maritime *tchatchkes*.

The 1,400 or so permanent residents of Rehoboth Beach are a somewhat mixed bunch. Not racially—the town is overwhelmingly white—but they do include retired Midwesterners, assorted beach bums and hippies, middle-aged gay couples, and Tom Larson, imperial wizard of a Ku Klux Klan affiliate organization, the East Coast Knights of the True Invisible Empire.

But some 80 percent of Rehoboth Beach's property owners don't live there, including President Joe Biden and First Lady Jill Biden, who bought a \$2.7 million, six-bedroom oceanfront house there in 2017, after visiting the town for decades. Rehoboth has always been particularly popular with Capitol Hill politicians, their staff, and the lobbyists who work on Capitol Hill, roughly two hours away if you don't get stuck in a weekend traffic jam. One traditional wheeze is for residents of the District of Columbia to avoid the District's 6 percent sales tax by buying cars in Delaware (which has no sales taxes) and registering them in the First State, using their beach houses as their home addresses.

The same year that the Bidens bought their home, Rehoboth Beach’s political leaders came up with an innovative proposal: to allow Limited Liability Companies to vote in elections. The idea demonstrated how mainstream LLCs (a corporate structure of choice for out-of-town property owners) have become in day to-day life in Delaware—not just in business, but in how decisions get made on the ground.

“CORPORATIONS ARE PEOPLE, MY FRIEND,” THE US SENATOR AND FAILED 2012 PRESIDENTIAL CANDIDATE MITT ROMNEY FAMOUSLY TOLD A HECKLER IN IOWA WHO WAS HARANGUING HIM ABOUT CORPORATE TAX POLICY.

Delaware, the US’s second smallest state, has more registered businesses than residents—about 1.6 million companies in a state with a population of less than a million. Some 250,000 businesses register for the first time in Delaware each year—an average of 683 a day. Most of them are LLCs whose owners are not required to identify themselves in any way, meaning towns like Rehoboth Beach can have no idea who owns their real estate, or where on earth they actually live.

Under the US Constitution, companies are considered people, at least when it comes to spending money in elections and refusing to observe federal mandates due to conscience. “Corporations are people, my friend,” the US senator and failed 2012 presidential candidate Mitt Romney famously told a heckler in Iowa who was haranguing him about corporate tax policy. Rehoboth Beach was the first town in the United States to try to extend that concept into political voting.

Delaware is already one of the few states to allow non-US citizens the right to vote in local races. The state has become an expert in drawing business registrations from out of state, and it is also at pains to attract nonresident property owners. An unusual law empowers cities and towns to give these out-of-staters—including those outside the United States—the opportunity to vote in local races. In Newark, Delaware’s third-biggest city, a similar rule allowed one property manager to vote 31 times in a local referendum in 2018, one for each of the LLCs their company owned. Although the circumstances were unusual—such referendums are rare, and the city does not allow LLCs to vote in regular elections—it prompted a backlash from residents.

Rehoboth Beach was proposing to take the principle further, allowing LLCs to vote not just in referendums but also in regular elections. That idea didn't originate in Rehoboth. Several other tiny nearby beachfront communities had already implemented similar measures. But Rehoboth Beach was the first significantly sized town to try it out.

The mayor of Rehoboth Beach at the time, Paul Kuhns, explained the origin of the idea to me as we sat in his office in 2018. Kuhns, a tall, rugged, earnest man with neat gray hair, was decked out in the unofficial uniform of the mayor of a seaside resort: pink t-shirt and shorts. Decades before, Kuhns recalled, the town had given nonresident property owners the right to vote, and in 2008 had extended that right to trusts, a measure that added about 100 new voters to the rolls. Meanwhile, many nonresident owners had bought their properties using LLCs in order to limit their liability from tenants, and they had asked to have a say in local elections, so he thought it made sense to extend the voting right to LLCs also.

But the town's residents threw a wrench in the plan. Jan Konesey, one of the objectors, told me that LLCs are designed precisely to hide the identity of their owners. "A corporation or an LLC is not a person. It's a business entity. And business entities don't vote," she said. "If you look in [the documents filed with] the secretary of state's office, all you have for an LLC is a contact person. Well, that contact person could be the registered agent. It could be the owner of the LLC. It could be their next-door neighbor. It could be anybody." In the face of such objections, Kuhns withdrew the proposal.

For much of the 20th century, Delaware was periodically referred to as "the company state," a moniker that highlighted the outsized role in the state's affairs played by DuPont, the chemicals giant. The corporation and the controlling du Pont family gave their names to the state's fanciest hotel, theatres and banks. They owned the state's two largest newspapers. The governor was a former DuPont executive. Delaware's member of Congress was Pierre Samuel du Pont IV. The conglomerate was so influential that it was referred to locally as simply "the Company" or, more tenderly, "Uncle Dupie." "General Motors could buy Delaware," Ralph Nader observed, "if DuPont were willing to sell it."

But in the 21st century, Delaware solidified its role as what Joe Biden has termed "the corporate state," the legal home of corporations in general. Two-thirds of the

companies included in the Fortune 500—the biggest companies listed on America’s stock market—are registered in the First State, attracted by its business-friendly reputation. About 95 percent of US companies that incorporate somewhere other than their home state choose Delaware. And the collective political influence of these outsiders is no less strong than DuPont’s had traditionally been.

The extent of the phenomenon was illustrated when the COVID pandemic hit the United States in 2020, prompting the federal government’s \$669 billion Paycheck Protection Program. A string of companies registered in Delaware received stimulus funds ostensibly to support workers employed in the state, even though they did not actually employ anyone there, according to an investigation by Delaware’s *News Journal*.

Like the dustup in Rehoboth Beach, this highlighted the outsized role that nonresidents and nonresident companies play in Delaware and its economy. In many cases, what exists in Delaware is nothing more than a shell. The corporate lights are on, but no one’s home.

Rehoboth tables LLC voting

Residency requirement, purging process still on agenda



Rehoboth Beach City Solicitor Glenn Mandalas, left, and Mayor Paul Kuhns discuss a measure that would table a proposal to give owners of LLCs voting rights under certain conditions. Tabling the proposal passed by a 5-0 vote, with two abstentions, and a majority vote is needed to bring the matter back for discussion. RYAN MAVITY PHOTO

Ryan Mavity

December 15, 2017

The Rehoboth Beach commissioners, by a 5-0 vote, agreed to table a proposal that would have allowed property owners who own property through a limited liability company to vote.

By tabling the measure, a majority of the commissioners must vote to bring the item back for discussion.

Removing an agenda topic in this fashion is highly unusual in Rehoboth. Most of the commissioners were not aware of this ever occurring before.

At their Dec. 15 meeting, Commissioners Stan Mills, Patrick Gossett, Toni Sharp, Jay Lagree and Mayor Paul Kuhns all voted in favor of tabling, while commissioners Kathy McGuinness and Lisa

Schlosser abstained. Although the commissioners had agreed to table the measure at their Dec. 4 workshop, McGuinness asked why the commissioners tabled the measure instead of removing it from the agenda.

Mills said while he was fine with tabling the measure, he also didn't mind taking the matter to a vote as a way of killing it once and for all.

City Solicitor Glenn Mandalas said tabling the provision was the most effective way to formalize that the commissioners were no longer going to talk about LLC voting rights for the near future. Sharp said the commissioners heard the community loud and clear, and after the vote was taken, a few members of the small audience applauded.

The LLC provision would have allowed those who owned at least 50 percent of a property that was 100 percent owned in an LLC to vote. The measure proved highly unpopular at a Dec. 2 town hall meeting, where public opinion was overwhelmingly opposed. Besides letters from citizens, the city also received a letter from the Delaware chapter of the American Civil Liberties Union against the measure. While the organization usually supports expanding the right to vote, the LLC provision would have diluted the voter pool for political purposes, the letter stated.

"We fear this may be an attempt on the part of elected officials to choose their voters, rather than the voters choosing their elected officials," the letter said. "The proposal is to enfranchise only the stakeholders of one kind of artificial entity that owns property."

After tabling LLC voting, the commissioners moved forward with other charter changes related to voting.

For their January workshop, commissioners will begin discussing issues such as entity voting in referendum elections, a change they said would bring the city in line with state law, and term limits. Also part of this package would be changing the residency requirement for voting and changing the process for removing voters from the voter rolls. The city currently purges voters who have not voted in two consecutive elections, and while all the commissioners agree that should be changed, there is disagreement as to what the criteria should be.

SERVING DELAWARE DAILY SINCE 1871

DELAWAREONLINE.COM

MONDAY MAY 15, 2023

\$279 Repair Special
Any Minor Roofing, Siding or Gutter Repair

R.J. Fitzpatrick
WINDOWS · SIDING · ROOFING · DECORS · BATHS

302-231-5837
TrustPJ.com

THE NEWS JOURNAL
PART OF THE USA TODAY NETWORK



Sixers' second-half struggles sink season

SPORTS, 1C

**SWEET SORROW:
ROYAL TREAT
WON'T REOPEN**



The Royal Treat building at 4 Wilmington Ave. on May 8.
SHANNON MARVEL McNAUGHT/DELAWARE NEWS JOURNAL

Rehoboth Beach ice cream parlor latest of city's nostalgic family business losses

Shannon Marvel McNaught
Delaware News Journal
USA TODAY NETWORK

Royal Treat, the go-to ice cream sundae spot in Rehoboth Beach since 1980, will not reopen this year.

It's the latest loss of a longtime family business in a city where nostalgia is part of the draw.

"It's kind of sad for all of us, but it's been a family business and, to be honest, we just kinda aged out," said Royal Treat owner Scott Fornwalt.

The name "Royal Treat" has more than one origin. The Wilmington Avenue building was once the "Royalton" hotel, Fornwalt said, so it's a nod to history. It's also a combination of names. Fornwalt and his father first leased the space from Al Fasnacht, the Funland patriarch. Fornwalt's father's first name is Roy, he said, so they combined "Roy" and "Al" to make "Royal Treat."

Money is not a factor in the decision to close, according to Fornwalt. He sang the Fasnachts' praises and said their



The Dollie's sign was removed from atop 1 Rehoboth Ave. in December 2021. CHUCK SYVITER/SPECIAL TO DELAWARE NEWS JOURNAL

lease remains "very fair." His parents are now 95, he said, and his sister, Deb Zentmeyer, is caring for them in their hometown of Hershey, Pennsylvania.

"I'm the youngest one in the family running the place and I'm pushing 70," he said. "My kids have all graduated from college and are off doing their careers."

See ROYAL TREAT, Page 2A

Voting rights for Delaware corporations being weighed

Bill advanced to allow artificial entities say in Seaford elections

Meredith Newman
Delaware News Journal
USA TODAY NETWORK

Delaware lawmakers voted a bill out of committee Wednesday that would allow artificial entities — limited liability companies, corporations and trusts — to vote in municipal elections in Seaford.

This concept is rare, with nonresident owners of these entities being allowed to vote in just a few other Delaware towns. For many, it represents a larger legal debate about whether corporations should have some of the same rights that are given to the American people.

Seaford, one of the biggest cities in Sussex County,

See SEAFORD VOTING, Page 13A

"I don't want to be put in a position where we have to make a decision that will benefit businesses at the expense of society."

Councilman Jose Santos

Delaware woman tells officials she stabbed boyfriend after he hit her

Isabel Hughes
Delaware News Journal
USA TODAY NETWORK

A 39-year-old man is in critical condition and his girlfriend is behind bars after she stabbed him in the neck during a fight, according to court documents obtained by Delaware Online/The News Journal.

Colette Hayes, 43, was arrested Wednesday and charged with first-degree assault and possession of a deadly weapon during the commission of a felony for the early morning stabbing, which occurred at the Midway Plaza apartments near Stanton a little after midnight.

She is being held on \$40,000 secured bail.

What prompted the stabbing?

According to court documents, police were dispatched to the apartment complex and Christiana Hospital just before 12:30 a.m. after Hayes called 911 to say she'd stabbed her boyfriend. The 911 operator tracked the woman's phone as she drove her boy-

See STABBING, Page 6A

Get the latest news, sports and more

See today's top headlines, local breaking news, area scores, things to do and subscriber exclusives at delawareonline.com.

Subscriber-only eNewspaper

Use your computer or app to access your paper online. Subscribers also get access to USA TODAY's eNewspaper, plus updated news and sports Extra sections.

Volume 145 | No. 5
Subscribe 800-801-3322
©2023 \$3.49



DELAWAREONLINE.COM | MONDAY, MAY 15, 2023 | 13A

NATION & WORLD

Get the latest news: Find more stories in the Nation & World Extra section, a subscriber-only feature in your Newspaper.

Debt talks put new focus on deficit

Expert: 'Appetite' for big spending 'diminished'

Lisa Mascaro
ASSOCIATED PRESS

WASHINGTON — One outcome is clear as Washington reaches for a budget deal in the debt ceiling standoff: The ambitious COVID-19 era of government spending to cope with the pandemic and rebuild is giving way to a new focus on tailored investments and stemming deficits.

President Joe Biden has said recouping unspent coronavirus money is "on the table" in budget talks with Congress. While the White House has threatened to veto House Speaker Kevin McCarthy's debt ceiling bill with its "devastating cuts" to federal programs, the administration has signaled a willingness to consider other budget caps.

The end result is a turnaround from just a few years ago, when Congress passed and then-president Donald Trump signed the historic \$2.2 trillion CARES Act at the start of the public health crisis in 2020. It's a dramatic realignment even as Biden's bipartisan Infrastructure and Inflation Reduction Act are now investing billions of dollars into paving streets, shoring up the federal safety net and restructuring the U.S. economy.

"The appetite to throw a lot more money at major problems right now is significantly diminished, given what we've seen over the past several years," said Shah Akabas, director of economic policy at the Bipartisan Policy Center, a nonpartisan organization in Washington.

The Treasury Department has warned it will begin running out of money to pay the nation's bills as soon as June 1, though an estimate Friday by the nonpartisan Congressional Budget office put the deadline at the first two weeks of June, potentially buying the



House Speaker Kevin McCarthy, R-Calif., and Senate Minority Leader Mitch McConnell, R-Ky., met with President Joe Biden on Tuesday to discuss the debt limit. Staff-level negotiators resumed talks Saturday. SUSAN WALSH/AP FILE

negotiators time. "We've not reached the crunch point yet," Biden told reporters Saturday before flying to Delaware for the weekend. "There's real discussion about some changes we all could make. We're not there yet."

Staff-level negotiators resumed talks Saturday. The contours of an agreement between the White House and Congress are within reach even if the poll will end to end the standard is uncertain. Negotiators are considering clawing back some \$30 billion in unused COVID-19 funds, imposing spending caps over the next several years and approving permitting reforms to ease construction of energy projects and other developments, according to those familiar with the closed-door staff discussions. They were not authorized to discuss the private deliberations and spoke on condition of anonymity.

The White House has been hesitant

to engage in talks, insisting it is only willing to negotiate over the annual budget, not the debt ceiling, and Biden's team is skeptical that McCarthy, R-Calif., can cut any deal with his far-right House majority.

"There's no deal to be had on the debt ceiling," said White House press secretary Karine Jean-Pierre.

McCarthy's allies say the White House has fundamentally underestimated what the new Republican leader has been able to accomplish — first in the grueling fight to become House speaker and now in having passed the House bill with \$4.5 trillion in savings as an opening offer in negotiations. Both have emboldened McCarthy to push hard for a deal.

"The White House has been wrong every single time with understanding where we are with the House," said Russ Vought, president of Center for American Renewal and Trump's former direc-

tor of the Office of Management and Budget. "They're dealing with a new animal."

The nation's debt load has ballooned in recent years to \$31 trillion. That's virtually double what it was during the last major debt ceiling showdown a decade ago, when Biden, as vice president to President Barack Obama, faced the new class of tea party Republicans demanding spending cuts in exchange for raising the debt limit.

While the politics of the debt limit have intensified, the nation's debt is nothing new. The U.S. balance sheets have been operating in the red for much of its history, dating to before the Civil War. That's because government expenditures are routinely more than tax revenues, helping to subsidize the comforts Americans depend on — national security, public works, a federal safety net and basic operations to keep a civil society running. In the U.S., individuals pay the bulk of the taxes, while corporations pay less than 10%.

As McCarthy's House Republicans now demand budget reductions in exchange for raising the debt limit, they have a harder time saying what government programs and services, in fact, they plan to cut.

House Republicans pushed back strenuously against Biden's claims their bill would slash veterans and other services.

McCarthy, in his meeting with the president, went so far as to tell Biden that's "a lie."

From the White House on Friday, Mitch Landrieu, the infrastructure implementation coordinator, talked up the \$2.2 trillion bipartisan infrastructure bill Biden signed into law 18 months ago. He said it is creating jobs, spurring private investment and showing what can happen when the sides comes together.

"We say once in a generation because it hasn't happened in our lifetimes, and quite frankly it may not happen again in the near future," he said.

Seaford voting

Continued from Page 1A

already allows nonresident property owners to vote in local elections. If that charter passes, city officials estimate it could allow for more than 200 entities to vote.

Those in favor of this type of legislation have argued over the years that business and property owners have a right to vote on issues related to taxes and development. Yet opponents of this type of legislation call it anti-democratic, objecting to the idea that corporate influence should have any type of role in local politics.

Democratic House leadership, who voted House Bill 121 out of the administration committee, vocalized concern about the legislation. Yet these lawmakers were ultimately hesitant to go against Seaford City Council, which passed a city charter allowing for this.

The charter needs to get voted on by the Delaware General Assembly before heading to the governor's desk. The bill needs two-thirds support in the House of Representatives to pass.

The history of this rare Delaware rule

Municipalities in Delaware, according to state code, are governed by home rule charters, allowing towns and cities to determine voter eligibility at the local level.

Two other Sussex County towns, Henlopen Acres and Fenwick Island, have similar provisions to the one proposed in Seaford. Rehoboth Beach in 2017 considered allowing out-of-town owners of LLCs to vote in its local elections, but outrage among residents ultimately led to the legislation being killed.

The beach town does, like a dozen other towns and cities, allow nonresident property owners to cast a ballot in local elections. Delaware is one of the few states in the country to allow these types of voting rights. State laws mandate that once a Delaware municipality allows for this privilege, it cannot be reversed.

House Speaker Pete Schwartzkopf, who represents Rehoboth Beach, explained during the Wednesday committee hearing that these policies first started because some of these towns didn't have enough full-time residents to vote or staff various committees — so they ex-

tended voting rights to nonresident property owners. It soon "morphed" into some towns allowing LLCs to also cast a ballot, he said.

Has this ever been controversial?

These types of provisions have led to backlash.

Newark is one of the more prominent Delaware towns to allow for this in ballot referendums. In 2009, it was revealed that a property owner voted 31 times in a local election.

This was technically allowed at the time because the property manager was in control of 31 LLCs, which owned 31 parcels of land. So this person was able to vote dozens of times.

This revelation led to major changes, particularly that one person is entitled to only one vote.

In the case of the Newark election in 2009, more than 100 LLCs voted in the referendum election and it did not ultimately decide the outcome. Yet in many instances, it was a representative of the entity, not the actual owner, that cast the ballot for the company after signing the necessary affidavit.

Delaware also allows for the owner of the LLC's identity to not be public.

What are people saying about this legislation?

Seaford Mayor David Genshaw is a supporter of the legislation, believing it will help increase voter turnout for people who are "investing money in our city."

"The intent of this is to allow businesses that are invested in our community, that are truly Seafordians and want to take an interest to vote in these elections," he said during a March 14 council meeting.

The Seaford City Council, which consists of five members, faced public backlash in December 2021 when it passed an ordinance to require the burial or cremation of fetal remains from abortions performed or from miscarriages that occur in the city. It led to the Delaware Department of Justice suing the municipality — an incredibly rare move by the state's attorney general.

Not all Seaford council members sup-



Speaker of the House Pete Schwartzkopf, D-Rehoboth, left, and Rep. Danny Short, R-Seaford, who backs the legislation. JASON MINTO/THE NEWS JOURNAL

ported this more recent charter. It passed on April 11, with Genshaw serving as the tie-breaking vote due to a council member's absence.

Councilman Jose Santos voted against the charter, citing the country's principle of "we the people, for the people." He also raised concerns in previous meetings that this ordinance could enable voter fraud.

"I don't want to be put in a position where we have to make a decision that will benefit businesses at the expense of society," he said at the April 11 meeting.

Claire Snyder-Hall, executive director of Common Cause Delaware, an organization that advocates for open government, called this an "outrageous attempt to get wealthy property owners, some of whom don't even live in Delaware, an unfair say in town elections."

"We're seeing attacks on freedom to vote all over the country, and mostly Republicans trying to create barriers to voting," she told Delaware Online/The News Journal. "And this is kind of a different way of getting at the same thing, right?"

"It's like 'Oh, we can't restrict people, but let's empower other people to vote. Let's empower the companies to vote,' she said. "And so it dilutes the votes of everyday people in a different way."

A representative for the ACLU of Delaware, during the House committee hearing, also vocalized opposition to this bill. The organization raised concerns that

this would weaken the vote of minorities and women since white men are overwhelmingly property owners here in Delaware.

'Caught in a pickle'

The vote to send this legislation out of committee was a unanimous bipartisan vote, yet Democratic lawmakers vocalized their hesitation.

"I'm kind of caught in a pickle here," the House speaker said. "I do feel strongly about small-town governments. ... I don't think it's a good idea. But I don't think I want to vote to stop it."

House Majority Leader Valerie Longhurst felt similarly. This bill is backed by Rep. Danny Short, who represents the Seaford area. Though Longhurst didn't agree with this idea, she said mayors, council members and lawmakers are elected to represent the interests of their area.

"If the people don't like how the elected officials are governing, they vote them out of office," Longhurst said.

"You're the representative of the district," she said to Short. "Not me. And so, I honor that."

Before voting, Majority Whip Melissa Minor-Brown said the bill "didn't sit well with me."

"I am going to vote yes to vote it out of committee," she said, "but I can't promise you a floor vote."

8 LOCAL NEWS

CONNECT WITH US



NEWARK POST 3.15.2019

Newark asks state to eliminate LLC voting rights from city charter

By JOSH SHANNON
jshannon@chespub.com

Newark is one step closer to eliminating a provision in the city's charter that allowed a developer to vote 31 times in last year's referendum.

City council on Monday voted unanimously to ask the state legislature to amend Newark's charter to change the voting requirements for a referendum.

The controversy traces back to the June 19 referendum in which voters gave the city permission to borrow \$27.6 million for the Rodney stormwater pond/park and other capital projects.

In Newark's first referendum since 2001, the vote brought to light a little-known provision of Newark's charter, which opens referendum voting to a broader constituency than other elections.

The law gives referendum voting rights to not just city residents, but also non-resident property owners as well as corporations and limited liability companies that own property in the city.

The law allows one vote per entity, not per property, meaning that a company that owns multiple properties only gets one vote. However, a person who represents multiple companies or LLCs can cast multiple votes, one for each entity. For legal liability reasons, housing developers often create a different LLC for

each project they build, meaning those developers have the opportunity to cast multiple votes.

More than a dozen people cast multiple ballots in June. Chris Locke, senior vice president and general counsel for Lang Development Group, cast the most votes at 31. Developer Hal Prettyman cast 10, with other representatives of his companies casting another three. Developer Kevin Heitzenroder cast nine, a representative of Tsonas Management cast eight, developer Todd Ladutko cast eight and developer Kevin Mayhew cast five.

While LLC voting didn't affect the results of the vote — the four questions all passed by wide margins — it drew strong criticism from open government advocates and some members of council.

"Entity voting adds to corporate influence by diluting the votes of registered voters," Nick Wasilecki, president of the Delaware Coalition for Open Government and a Newark resident, said Monday night. "Newark has an opportunity to not only prohibit entity voting but also enforce the principal of one person, one vote."

The proposed charter change takes away the ability of corporations and LLCs to vote in a referendum and dictates than an individual may only cast one ballot.

Notably, though, it retains the provision that allows non-resident property owners to vote.

Amy Roe, another critic of LLC



NEWARK POST FILE PHOTO BY JOSH SHANNON

Newark is seeking a charter change that takes away the ability of corporations and LLCs to vote in a referendum and dictates than an individual may only cast one ballot.

voting, pointed out that the way the proposal is written, a child or foreign national who owns property in Newark could vote in a referendum. She suggested the city limit eligibility to Newark residents who are registered to

vote in normal elections. Council members seemed amenable to Roe's suggestion but decided to move forward with the current proposal while they research the legality of it. "We'll move forward as it is and

fix it later," Councilman Mark Morehead said.

The charter change now goes to the state legislature for approval. State Rep. John Kowalko personally guaranteed that it would pass.

VISIT NEWARKPOSTONLINE.COM
FOR ALL LOCAL BREAKING
STORIES AND PHOTOS

Out of the Attic

The Scrounge at UD

This week's Out of the Attic item is a photo — believed to be taken in the 1940s or 1950s — of The Scrounge at the University of Delaware.

At the time the photo was taken, the Scrounge was a coffee shop and soda fountain operated by the Student Government Association in the basement of Memorial Hall.

After Perkins Student Center was built in 1958, The

Scrounge moved there. Today, The Scrounge is a food court with several culinary options for students.

Out of the Attic is produced in partnership with the Newark Historical Society. For more info, visit www.newarkdehistoricalsociety.org. Do you have an old photo to share with Newark Post readers? Contact editor Josh Shannon at 443-907-8437 or jshannon@newarkpostonline.com.



LUNCH Specials
Available Monday thru Friday

Home Made Soups
Chilli • Salads
Reubens & More...

Ask about our daily lunch specials...

Guilday's
Just 1 Mile East Rt. 40, just over MD/DE Line
2725 Pultaski Highway, Glasgow, DE

Hours
Monday-Saturday 5:30 am to 3:00 pm
Sunday 7:00 am to 2:00 pm
www.guildays.com
302-366-1241

Buying or Selling a Home?
Don't just take my word for it...

Here's what my customers have to say.

"Bob answered every single question, no matter what time of day or night we called."

Call or text
Direct: (302) **983-0424**

Bob Methvin
Office: 302-239-3000

Dental Insurance

This is real dental insurance from Physicians Mutual Insurance Company that helps pay for over 350 procedures — cleanings, fillings, crowns, even dentures.

- No annual maximum, no deductible
- See any dentist you want — including your own
- Over 50? Coverage as low as \$1 per day

Call now to get this **FREE** Information Kit

1-855-337-5228 dental50plus.com/MDDC

*Individual Plan. Coverage not available in all states. Acceptance guaranteed for new members only. Verify details of this insurance program. For specific plan and available services call 1-855-337-5228 or request to send you the Certificate. CDOR 19, CDOR 19A, CDOR 19B, CDOR 19C, CDOR 19D, CDOR 19E, CDOR 19F, CDOR 19G, CDOR 19H, CDOR 19I, CDOR 19J, CDOR 19K, CDOR 19L, CDOR 19M, CDOR 19N, CDOR 19O, CDOR 19P, CDOR 19Q, CDOR 19R, CDOR 19S, CDOR 19T, CDOR 19U, CDOR 19V, CDOR 19W, CDOR 19X, CDOR 19Y, CDOR 19Z. ©2018 Physicians Mutual Insurance Company. All rights reserved.

Portable Oxygen For The Way You Want to Live **inogen**

Includes Everything You Need to Regain Your Freedom

At just 2.8* lbs., the Inogen One G4 is the ultralight portable oxygen concentrator you have been waiting for. The Inogen One G4 is approximately half the size of the Inogen One G5.

Meets FAA Requirements for Travel

JUST 2.8 LBS.

REQUEST YOUR FREE INFO KIT TODAY!
CALL TODAY! 1-855-893-3632

SERVING DELAWARE DAILY SINCE 1871

DELAWAREONLINE.COM

DECEMBER 3, 2017



Smyrna, Delmar claim state football titles
SPORTS, 1C

COUPONS WORTH
\$193 + \$831
IN OTHER
SAVINGS
INSIDE

IMAGINE DELAWARE SERIES FIGHTING THE OPIOID EPIDEMIC

THE COST OF HEROIN – IN LIVES AND MONEY

Stories by **Brittany Horn** Delaware News Journal | USA TODAY NETWORK



"Once you're addicted, you're not doing it because it's fun. Once you're addicted, you're doing it because you have to."

Dr. Andrew Kolodny, Co-director of The Opioid Policy Research Collaborative

A mother in recovery staying at Connections Women's and Children Sober Living house in Milford feeds a baby of another mother staying at the house to help her with childcare. JENNIFER CORBETT/THE NEWS JOURNAL

Heroin cost Kim Jones nearly everything. Her home. Her family. Her entire 400(s). Even her class ring.

"Nothing was sacred," the Middletown mother of three recalled. "I thought, 'This is going to be the way that I die. ... To me, that sounded like the better option for my family because if I was dead, then they didn't have to worry about where I was or what I was doing.'"

Gone were the days of a steady, professional job at AstraZeneca, which she held nearly 10 years. The now 42-year-old said she lived from one high to another, searching for answers and self-esteem "out of a bottle or out of a needle."

Jones remembers standing in her parents' driveway, looking her 9-year-old son in the eyes as he begged her not to leave. Recently divorced, Jones had already given custody of her three children to her parents and was preparing to move from Delaware to Fort Lauderdale, Florida, to be with a man she called her drug-fueled "Prince Charming."

"He said, 'Mommy, please don't leave me. I looked him in the eye and said, 'You're going to be fine,'" Jones recalled, tears welling up in her eyes. "And then I got in the car and drove away. That was my rock bottom, breaking my son's heart."

See EPIDEMIC, Page 5A

THREE QUIET WORDS SAVED A DELAWARE WOMAN'S LIFE

Madison Gerdis barely remembers stumbling toward the busy South Dupont Highway, clouded in a haze of drugs and alcohol.

Outside of Meadowood Behavioral Health Hospital – where Gerdis was set to be admitted that day five years ago – the then-23-year-old was running. Running from treatment. Running from her family. Running from an addiction with alcohol and drugs that had consumed her life since college at the University of Delaware.

"I had this desire to numb, to seek relief," she said. "I always thought, 'Why not try everything once?'"

But once led to twice, and twice led to years battling cocaine and alcohol, Gerdis said. For a two-year period in her life, the now 28-year-old can't remember a day being sober.

That all came to an end when she woke up on the floor of her Trolley Square apartment with a needle in her left arm. A woman staying with her – addicted to opiates and supplying her with drugs – had shot her up with heroin the night before, at Gerdis's request.

See SURVIVAL, Page 7A

WHAT OPIOID ADDICTION COSTS DELAWARE

TODAY

■ The cost of addiction in Delaware
■ A former addict recalls the day her father saved her life

INSIDE

■ Attorney General Matt Denn's 8-point plan to combat addiction in Delaware
■ Opinion: Forum will bring needed help to opioid fight

ONLINE

Complete coverage of the opioid crisis in Delaware at delon-line.us/1D4y20E

MONDAY

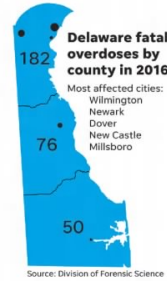
Parents of recovering addicts say a school is needed closer to home

INSIDE

■ Learn more about our Monday forum on addiction and where to find help
■ A list of the vendors participating in our forum

IF YOU GO

The News Journal will host a vendor fair and panel discussion, sponsored by Christiana Care, that focus on the state's heroin and opioid epidemic on Monday from 5 to 8:30 p.m. at Dickinson High School, 1801 Milltown Road, Milltown. This free event is open to all. Learn more at delawareonline.com/imagine.



REHOBOTH BEACH

Proposal to let LLC owners vote creates stir

Margie Fishman, Gray Hughes and Taylor Goebel
Delaware News Journal | USA TODAY NETWORK

For decades, property owners along the Delaware seashore – including those who don't even live in the First State or in the U.S. – have been allowed to vote in and influence local elections.

Delaware is one of only three states in the country that empowers its cities and towns to give nonresident property owners the opportunity to vote in local

elections, according to the National Conference of State Legislatures. State law mandates that once a Delaware municipality extends that privilege, it can't be undone.

But a recent proposal by Rehoboth leaders to extend voting rights to owners of limited liability companies has riled some year-round residents and open government advocates.

See VOTING, Page 8A

USA Today

Trump knew what, when? 1B

Weather

High 55° | Low 33°
Partly sunny. Forecast, 4A

Volume 139 | No. 179
Home delivery pricing inside
Subscribe 800-801-3322
©2017



DELAWARE ADVANCED VEIN CENTER
A DIVISION OF ALFIERI CARDIOLOGY, P.A.

FREE VEIN SCREENING

Thursday, December 7th
4:00 - 6:00 PM

Your First Step to Beautiful Legs!

Painful Procedures covered by some major insurance 302-690-0933
4800 Kings Hwy, Building C1 | Newark, DE 19713
www.delawareadvancedveincenter.com

8A ■ SUNDAY, DECEMBER 3, 2017 ■ SUNDAY NEWS JOURNAL

Voting

Continued from Page 1A

Their main objections: encroaching corporate influence on local politics and the potential for voter fraud by secretive shell companies.

The draft ordinance has attracted the attention of lawyers at the American Civil Liberties Union of Delaware, who warned recently that such laws flout the Constitution and could precipitate a flurry of lawsuits.

"We fear this may be an attempt on the part of elected officials to choose their voters, rather than the voters choosing their elected officials," Kathleen MacBae, executive director of the local ACLU, wrote in a stern letter to Rehoboth officials Thursday.

In an interview, MacBae said that by allowing nonresident property owners to vote while excluding other nonresidents who might have a vested interest in local politics, Delaware's coastal towns are disregarding the Equal Protection Clause of the 14th Amendment.

Such practices harken back to a dark time in our country's history, she said, when property qualifications tied to voting excluded African-Americans and women.

MacBae stopped short of threatening to sue Rehoboth. The ACLU will wait for a response to the letter, she said.

Delaware election officials don't keep track of how many municipalities have expanded suffrage to nonresident property owners. A News Journal check found nine Delaware cities and towns hugging Delaware's coast that allow it. Of those, only two, Henlopen Acres and Fenwick Island, extend the privilege to artificial entities, such as LLCs, trusts, partnerships and corporations.

Jan Konesey, who serves as an officer for a local LLC and divides her time between her Dover and Rehoboth homes, said people who use LLCs to shield their personal assets and their identities from the public need to accept the consequences.

"It's not one artificial entity, one vote," said Konesey, who also chairs Common Cause Delaware. "It's one person, one vote. That's what the Constitution says."

Proponents counter that they are simply looking out for their neighbors who own second homes at the beach, pay taxes and use LLCs for estate planning purposes. They, too, deserve a voice on issues like taxation, development, parking and more.

"This is focused on people who own their houses and use their houses," Rehoboth Mayor Paul Kuhns said, noting that the city already extends voting rights to people involved in revocable trusts.

"Most people are blowing this way out of proportion," he said.

But every vote counts in Rehoboth, where the year-round population of 1,400 swells to 20,000 in the summer months. In August, Kuhns, who co-owns a local deli and campaigned on a pro-business platform, beat out longtime Mayor Sam Cooper by only 238 votes.

Rehoboth has 300 to 600 LLCs, depending on who you talk to, and many are tied to real estate development interests, according to Sussex County property records. LLCs aren't required to divulge their ownership structure to the secretary of state, yet they appear before local zoning and planning boards to win variances and approvals on lucrative, hotly contested projects.

Given the high stakes, ordinance opponents have urged Rehoboth commissioners not to make any rash decisions during the busy holiday season.

"LLCs see Rehoboth as a profit center, not as a place to live," Rehoboth resident Donna Mabry said. "They do their business here, then go to their hometowns to get committee bids that don't allow either nonresident voting or LLC voting."

LLCs also have a reputation nationwide for skirting transfer taxes on property sales, Mabry noted, which deplete local and state coffers. When a property is sold, an LLC can simply switch the owners' names of the LLC without changing the LLC's name on real estate documents. That transfer is supposed to be self-reported to tax officials, but it doesn't always happen that way, according to local business lawyers.

Rehoboth ordinance backers say claims of LLC tax evasion are exaggerated.

"The dialogue has descended into mudslinging and accusations that are wildly inaccurate," said John Blossom, a Wilmington real estate attorney, who owns a Rehoboth property with his wife under an LLC.

Blossom said many property owners who rent out their homes for part of the year use the LLC business structure to protect their personal assets from personal injury lawsuits.

Asked how many LLCs own property in Rehoboth and how much money they paid this year in taxes, the city told The News Journal to file a Freedom of Infor-



Sturges Dodge holds one of her paintings that she has made of the trees in Rehoboth Beach. She fears allowing LLCs to vote would lead to cutting down more trees in Rehoboth. MEGAN RAYCHOR/SALISBURY DAILY TIMES

mation Act request. That request is pending.

After undergoing several revisions, Rehoboth's latest draft ordinance allows a maximum of two owners of each Rehoboth LLC to vote in municipal races.

Each owner must own at least 50 percent of the company and is entitled to one vote only, regardless of the number of LLCs owned. The LLC must own 100 percent of a Rehoboth property and have purchased it at least 30 days before the local election to be eligible. Rehoboth residents who own LLCs aren't allowed to vote twice.

Nearly 100 people attended a public meeting on the issue at the Rehoboth Beach Volunteer Fire Company on Saturday; the majority of speakers said they opposed the change.

One question lingered in the audience: "Why are we doing this?" Former commissioner Lorraine Zellers said she did not hear from one LLC interested in voting during her nine years on the board.

Part-time Rehoboth resident Joe Wagman likened the town hall to a eulogy, saying it symbolized a shift in power "from residents to commercial investors."

"Once the genie is out of the bottle, the folks who live here will never have the power to let that genie back in," the contractor and developer said.

LLC owner and attorney Richard Perry accused ordinance opponents of "arguing for an oligarchy, not a democracy." "Everybody is skipping over why nonresidents were given the right to vote," he said. "It's because of the unique nature of this resort town."

A vote on the proposal could happen as early as Dec. 15. If approved, it would head to the General Assembly, which must vote on all changes to municipal charters.

So far, Rehoboth representative and Speaker of the House Peter Schwartzkopf and Sen. Ernie Lopez of Lewes have declined to weigh in.

"This is an issue specific to the town of Rehoboth," Schwartzkopf, a Democrat, said in a statement, after refusing an interview request.

In an interview, Lopez, a Republican, said he wasn't bothered by the ACLU's concerns because he "can't imagine" Rehoboth approving an ordinance that doesn't pass constitutional muster.

Legal precedent

For the last two centuries, voting has followed residency; citizens vote in the districts in which they live. After all, "no taxation without representation" was the rallying cry of the colonists, ushering in the American Revolution.

But voter entitlements get messy when you're taxed on a property in one place but live somewhere else. There's conflicting case law on the subject.

Before the mid-1990s, nearly 20 municipalities in Maryland, including those on the Eastern Shore, permitted nonresident property owners to vote in local races, according to the Maryland Municipal League.

That all went away after the Maryland ACLU began suing towns to abide by an earlier court decision. In 1986, a U.S. District Court judge in Maryland, citing the equal protection clause, ruled that it was unconstitutional for the town of North Beach to grant voting rights to nonresidents solely on the basis of property ownership. Doing so "diluted" the power of actual residents, Judge Norman P. Ramsey wrote.

More recently, in 1997, the U.S. Court of Appeals for the 10th Circuit upheld the right of the resort town of Mountain Village, Colorado, to let nonresident property owners vote in local elections. At the time, the court noted that nonresident landowners owned the majority of property in the town and paid more than eight times the amount of property tax compared with year-round residents.

That leaves Delaware in legal limbo, according to legal experts. Delaware code, which dates to the 1960s, says municipalities are governed by home rule charters. That means they can determine voter eligibility at the local level, such as permitting nonresident property owners to cast ballots and run for office even if they're otherwise excluded from participating in county and state elections.

WHO CAN VOTE

Delaware municipalities that allow nonresident property owners to vote in local elections:

- Bethany Beach
- Dewey Beach
- Fenwick Island
- Henlopen Acres
- Milford
- Rehoboth
- Seaford
- South Bethany Beach
- Slaughter Beach

Towns that give artificial entities, including LLCs, the right to vote:

- Fenwick Island
- Henlopen Acres

But it's trickier when a property is owned by an LLC or corporation. If something goes wrong, Shulman said, it's "almost impossible" to collect from an artificial entity.

Backers unclear

Former Vice President Joe Biden, who snapped up a six-bedroom vacation home in Rehoboth Beach last summer, didn't go through an LLC.

But Dogfish Head owners Sam and Mariah Calagone did for their multi-million-dollar Dogfish Head Brewings & Eats restaurant in Rehoboth Avenue. Rehoboth's Board of Adjustment initially turned down the project in Delaware's most popular resort, before greenlighting it.

"We have invested brick and mortar into the town," explained Mariah Calagone, who lives in Lewes and co-owns another Rehoboth LLC with her husband. "So I do not see that being dissimilar from a property owner in the town."

While Calagone supports extending voting rights to LLC owners, she said she didn't push for the change.

Ditto for real estate developer Dave McCarthy, who lives full-time in Rehoboth and co-owns five LLCs here.

"I don't really have an opinion," McCarthy said recently, noting that he was one of several developers who donated to Kuhns' 2008 campaign, the last time the candidate filed a campaign finance report with the state Department of Elections. During a three-week period that year, Kuhns raised \$17,000, \$12,000 of which came from real estate interests.

A former Rehoboth commissioner, Kuhns said the ordinance change has more to do with helping "moon-and-pop" LLC owners than well-heeled developers. He said his proposal has received support from both stakeholders, and he's not surprised if more than 100 voters were added to the rolls if it passes.

While other commissioners still remain on the fence, Rehoboth Commissioner Kathy McGuiness, a small-business owner who lives in Henlopen Acres, has tried to assuage resident fears.

Previously, McGuiness made an unsuccessful bid for lieutenant governor. LLCs contributed \$2,500 of the more than \$2,000 her political committee during a three-month period last year, according to campaign finance records. Business interests, such as construction companies, restaurateurs and utilities, made up the bulk of the remainder.

During a six-month period in 2015, McGuiness' political committee raised more than \$21,000. LLCs contributed nearly \$4,000 of that amount. Other donors included Friends for Pete Schwartzkopf (\$1,200); Sam Calagone (\$500); Chris Schell, CEO of Schell Brothers home builders in Rehoboth (\$1,200); his wife, Lori (\$1,200); and father, Joe (\$1,200); and the late Derrick Lingo, an associate broker with Rehoboth's Jack Lingo Realtor (\$1,200) and his wife, Ann (\$1,200). Lingo Brothers LLC donated an additional \$1,200, according to the campaign finance report.

Jack Lingo Realtor did not return a phone call seeking comment. Preston Schell, co-owner of Schell Brothers and co-founder and president of Ocean Atlantic Companies real estate investment firm, said his family was not involved in backing the LLC proposal.

In a recent interview, McGuiness, who is the founding president of Rehoboth Beach Main Street, stressed that the voting change would benefit couples and families who own LLCs and who can pay it through a paper trail.

"This is not corporation voting," she said.

Homegrown Rehoboth resident Sturges Dodge says she's left with many unanswered questions.

The senior worries that her charming town is being handed on a platter to investors. She frets about taller buildings, fewer trees and noise pollution.

"I see that as a change — and not a positive change — that will reduce the quality of life," she said.

Contact Margie Fishman at (302) 324-2832, on Twitter @MargieTrende or mfishman@delawareonline.com

Rehoboth denies voting rights for LLC owners

Maddy Lauria Delaware News Journal
USA TODAY NETWORK

Out-of-town owners of limited liability companies in Rehoboth Beach will not have a say in local elections any time soon.

After significant pushback from residents, Rehoboth Beach city commissioners voted on Friday night to table a draft ordinance that would have given voting rights to LLC owners, even if they do not live in town.

"Some of us want this gone, forever dead," City Commissioner Stan Mills said.

Mills said he considered forcing a vote on the topic so it could be defeated, but instead motioned to table the measure because it would require a majority of the seven-member board to revive the proposal.

City Commissioner Toni Sharp said if anyone decides to bring it back, they need to be ready for public resistance.

"It is a new day," Sharp said. "If this is the most appropriate way to acknowledge that we have heard the opposition of the community, then that opposition is not necessarily going to go away."

Four city commissioners and the mayor voted in favor of tabling the topic of extending voting rights to artificial entities, which would include LLCs. Two commissioners, Kathy McGuinness and Lisa Schlosser, abstained.

If the draft ordinance had passed, it would have allowed up to two owners of each local LLC to cast ballots in town elections. Under the proposal, they would have needed to own at least 50 percent of an LLC that owns a Rehoboth Beach property purchased at least 30 days before the local election.

LLC owners who also live in Rehoboth would not have been allowed to vote twice.

Delaware is one of three states that allows municipalities to extend voting rights to nonresident property owners, according to the National Conference of State Legislatures.

Rehoboth is already one of 11 First State towns and cities that allow nonresident property owners to vote in local elections. Only two — Fenwick Island and Henlopen Acres — give artificial entities such as LLCs the right to vote.

The City Commission is still considering other voting-related changes that

have not sparked as much controversy. The city commissioners on Friday talked about possibly changing how long someone must be a resident of Rehoboth before they can vote in town elections. One change being debated would shorten the residency requirement from six months to 30 days.

The board also is considering reducing the time a nonresident must own property in city limits by the same amount.

And commission members want to provide notification to registered voters before taking their names off the voter roll after they fail to cast ballots in two consecutive elections.

All of those changes require amending Rehoboth's charter, which would need to be approved by the General Assembly and Gov. John Carney before taking effect.

The city commissioners said they plan to further discuss proposed charter changes at a meeting in January.

Rehoboth Beach Mayor Paul Kuhns, also a co-owner of Arena's Deli & Bar chain, said in a phone interview days before the Friday meeting that the idea to let LLCs have a say in local elections

came from voter feedback.

"If you look at our voter base, it's about 1,700 registered voters right now," he said. "Probably of those 1,700, close to 60 percent are registered voters who own property here but reside somewhere else. They're given that right. So, over the years, people that didn't have that right were wondering why they can't vote."

Kuhns said he is glad to hear people voicing their opinions.

"Listening to what the constituents have had to say, speaking with our solicitor and different people around town, I saw this is not something that's going to work," he said.

Rehoboth's LLC voting proposal initially caught the attention of the American Civil Liberties Union in Delaware, which warned that such laws may violate the U.S. Constitution and could result in lawsuits.

"We fear this may be an attempt on the part of elected officials to choose their voters, rather than the voters choosing their elected officials," Kathleen MacRae, executive director of the local ACLU, wrote in a letter to Rehoboth officials in November.

Stuart Kingston JEWELERS



Looking to Sell Your Jewelry?

Stuart Kingston Jewelers & Pook and Pook Auctioneers are teaming up for another major jewelry auction.

We are looking for Jewelry Consignments Now!

(302) 652-7978

New Location!

3704 Kennett Pike Suite 450, Greenville, Delaware

Expert Care. Technology. Close to Home.



Keeping Athletes of All Ages and Abilities Active

Patrick Kane, MD
Orthopaedic Sports Medicine Surgeon

Focusing on Orthopaedic Sports Medicine Surgery, Arthroscopic Procedures and Joint Preservation Surgeries Medical Consultant/Provider for the US Olympic and National Ski and Snowboarding Team

Fellowship, Steadman Philippon Research Institute, Vail, CO
Residency and Internship, Thomas Jefferson University Hospital, Philadelphia, PA
Medical School, Thomas Jefferson University, Jefferson Medical College, Philadelphia, PA

Author | Leader | Presenter



(844) 316-3332 | beebhealthcare.org

stfrancishealthcare.org

Wilmington's first verified Level III Trauma Center

We treat emergencies like emergencies.

Average ER wait time: 30 minutes or less.



A Member of Trinity Health

Medical emergencies are never expected, they just happen. And when they do, it's important to know where to go for expert care and fastest treatment. Ask to be taken to Saint Francis Hospital where emergency wait times are the shortest in New Castle County, often 30 minutes or less, and medical treatment is the most personal of any hospital in the Wilmington region. From serious emergencies like heart attacks to less acute injuries like cuts or sprains, the team at Saint Francis will get you seen, treated, and back to your normal routine in record time. Another reason Saint Francis Healthcare is *caring for you through life*.

Saint Francis Hospital • 701 N. Clayton Street • Wilmington, DE • 302-421-4100

Just off Pennsylvania Ave in Wilmington

NEIGHBORING TOWNS VOTING RIGHTS

74 Del. Laws, c. 251

Section 5. Designation Of Persons To Serve On Town Council Until The First Regular Municipal Election

Until the first regular municipal election and until their successors are duly elected and qualified the following persons shall serve as members of the Town Council: Vollie M. Lynch, George J. Schulz, Vance A. McCabe, Charles D. Thompson, John R. Furman, Cecil Fisher, William W. Clark, Helen West, Adah McCabe and Virgil Wiley, Virgil B. Wiley is hereby designated President of the Council, Adah McCabe Secretary of the Council and Helen West Treasurer.

Section 6. Elections

On the first Saturday in August each year, a municipal election shall be held between the hours of 1:00 o'clock P.M. and 5:00 o'clock P.M., at such place within the limits of the Town as shall be designated by the Town Council. Each member of the Town Council shall be elected to serve for a term of two years or until his or her successor is elected and qualified. Four members of the Town Council shall reside within fifty miles of the Town of Fenwick Island. No employee of the Town of Fenwick Island, either part-time or full-time, shall serve as a member of Town Council. A member of the Town Council shall only be qualified to hold office so long as he or she holds the requirements to be a candidate in the Town of Fenwick Island; he or she shall no longer be eligible to serve as a member of the Town Council from the date of the act or event causing the member to be ineligible. 63 Del. Laws, c. 371; 65 Del. Laws, c. 85; 65 Del. Laws, c. 321; 76 Del. Laws, c. 363;

Section 7. Nominations To Elective Offices

At least 45 days before the day of the election, nominations for the Council shall be filed with the Secretary of the Council. The nominations shall be in writing signed by the nominees or by five citizens of the Town, which nominations shall be presented to the Council by the Secretary at a meeting of the Council to be held at the usual meeting place which shall be held not later than 9:00 o'clock in the evening of the last day for filing nominations. Voting machines shall be utilized during Annual Municipal Elections in compliance with the applicable provisions of 15 Del. C. § 7501, et seq.

The Town may, by ordinance, provide for any qualified voter to cast an absentee ballot if such person is unable to appear and cast his, her, or its ballot.

The Town Council shall make fair and adequate provision for casting of such ballot and notice thereof shall be included in the posted and printed notice calling for such election.

The procedures enacted by the General Assembly as Subchapter IV, Municipal Elections except for the City of Wilmington and Subchapter V, Absentee Voting in Municipal Elections except for the City of Wilmington, Chapter 75, Title 15, Del. C., are included and incorporated herein by reference. 59 Del. Laws, c. 65; 65 Del. Laws, c. 321; 76 Del. Laws, c. 363;

Section 8. Election card

Every election shall be held under the supervision of an Election Board, consisting of three qualified voters of the Town, to be appointed for that purpose by the Council, but if at the time of the opening of the election the three qualified voters appointed by the voters as the Election Board are not present, a quorum or greater number of the Town Council shall appoint a qualified voter or voters to act in place of the absentee members of the Election Board. Compensation of the members of the Election Board shall be fixed by the Town Council. 62 Del. Laws, c. 410

Section 9. Qualification of Voters

A. Voter qualifications.

(1) Resident:

- (a) Every natural person, who is a citizen of the State of Delaware and the United States, age 18 on or before the date of the election, a bona fide resident of the Town prior to the annual municipal election, and registered to vote 30 or more days prior to the annual municipal election, if provided by ordinance, shall have 1 vote.
- (b) For purposes of this Section 9, "bona fide resident" means a permanent, full-time resident of the Town. The following documentation may be considered by a registrar in determining whether a person is a bona fide resident of the Town under this section. The registrar does not need to be presented with all of the following documentation in order to conclude that a person qualifies to vote in the annual municipal election as a bona fide resident of the Town:

- (i) A current State of Delaware driver's license or identification card showing a Town address that is not a post office box.
 - (ii) An official government uniformed service ID card showing a Town address that is not a post office box.
 - (iii) A voter registration card issued by the State of Delaware showing a Town address that is not a post office box.
 - (iv) Other current photo identification issued by the State of Delaware; U.S. Government; or the voter's employer, high school, or higher education institution showing a Town address that is not a post office box.
 - (v) Any motor vehicle operator's license, whether or not it is a conventional driver's license, showing a Town address that is not a post office box.
 - (vi) Any motor vehicle registration, if the registration shows that the motor vehicle is owned by the person in question and the registration shows a Town address that is not a post office box.
 - (vii) Any other documentation that a person can reasonably and commonly accept as proof of address.
- (2) Non-residents. Every property owner as of March 1 prior to the annual municipal election, whether a natural person or artificial entity, including but not limited to corporations, partnerships, trusts, and limited liability companies, and who is registered to vote, if provided by ordinance, shall have one (1) vote. A natural person shall be a citizen of the United States and age 18 on or before the date of the election. An artificial entity shall be a domestic entity in the State of Delaware.
- (3) These provisions shall be construed in accordance with the principle of 'one-person/entity, one vote'. Where a voter is entitled to vote by virtue of being both a resident and as an owner of real property, that voter shall be entitled to only one (1) vote; where a voter is entitled to vote by ownership of two (2) or more parcels of real property, that voter shall be entitled to only one (1) vote.
- (4) Any legal entity, other than a natural person entitled to vote, must cast its vote by a duly executed and notarized power of attorney from the legal entity granting the authority to cast its vote to its designated attorney-in-fact. Such power of attorney shall be surrendered to the election officials who shall file the same in the office of the Town. Such power of attorney so filed shall constitute conclusive evidence of the right of said person to vote in the election on behalf of the legal entity granting the power. The person casting the ballot for such entity shall be age 18 on or before the date of the election and a citizen of the United States.
- B. Candidate qualifications.
- (1) A natural person who is a citizen of the United States, age 21 on or before the date of the election, and a qualified voter for at least one (1) year prior to the election for which nominated; and
 - (2) Either:
 - [a] A bona fide resident of the Town; or
 - [b] A property owner in the Town.
 - (3) A candidate shall not have been convicted of a felony.
- C. Registration.

The Town Council may, by ordinance, provide for a registration procedure. 62 Del. Laws, c. 3; 64 Del. Laws, c. 53; 65 Del. Laws, c. 321; 76 Del. Laws, c. 363; 81 Del. Laws, c. 258;

Section 10. Duties of election board

Upon the close of the election the vote shall be read and counted publicly, and the person having the highest number of votes for each office shall be declared duly elected and continue in office for the term stated, or until his or her successors shall be duly elected and qualified. In case a tie vote is declared by the Election Board a runoff election between the candidates so tied shall be held. 62 Del. Laws, c. 410

The Election Board shall enter in a book to be provided for that purpose a minute of the election, containing the names of the persons chosen, shall subscribe to the same and shall give to the persons elected certificates of election, which book, containing such minutes, shall be preserved by the Council and shall be evidence in any Court of Law or Equity. All ballots cast and the records of the election shall be preserved in the custody of the Election Board for a period of ten days.

Section 11. Organization

§ C-5. Qualifications of Mayor and Commissioners and voters.

[Amended 59 Del. Laws, c. 18; 73 Del. Laws, c. 159; 75 Del. Laws, c. 165; 76 Del. Laws, c. 346; 2002 Del. Laws, c. 361; 79 Del. Laws, c. 248]

A. The qualifications for Mayor and Commissioners shall be as follows:

- (1) Each of the seven Commissioners of Henlopen Acres, at the time of the approval of their qualifications by the Town Commissioners, as hereafter provided or at the time of their appointment, as the case may be, and throughout his or her term of office, shall have attained the age of 21 years of age, and shall be eligible to vote under the provisions of this section.
- (2) Each shall be a nondelinquent taxable of the Town, as to all property taxes levied or assessments made by the Town.
- (3) At least four of the seven Commissioners must be bona fide residents of the Town, but all may be residents of the Town. The Commissioner with the title of Mayor of the Town of Henlopen Acres shall be a bona fide resident of the Town for at least one year prior to the date of the annual election.
 - (a) Any person who, on the date of the filing of notice of intention to run (or on the date of his or her appointment to fill a vacancy), has been a bona fide resident of the Town for at least one year prior to the date of the annual election and certifies his or her intention of remaining a bona fide resident of the Town, shall be deemed to be a "resident" Commissioner upon taking office, whether or not such person is also a real property owner in the Town; and if such person subsequently fails to remain a bona fide resident of the Town, that person shall be deemed to have vacated his or her office by reason of that fact alone, except that if such person continues to be a real property owner in the Town, during his or her term of office, that person shall be deemed a "nonresident" Commissioner so long as at least four Commissioners are bona fide residents of the Town of Henlopen Acres.
 - (b) Any person who, on the date of filing of the notice of intention to run (or on the date of his or her appointment to office in the case of a vacancy) is not a bona fide resident of the Town but is a real property owner for at least one year prior to the date of the annual election shall be deemed to be a "nonresident Commissioner." If such "nonresident" Commissioner subsequently becomes a bona fide resident of the Town during his or her term of office, that person shall continue to be deemed to be a "nonresident" Commissioner; provided, however, that if any nonresident Commissioner shall, during his or her term of office, cease to be a real property owner in the Town, that person shall be deemed to have vacated his or her office by reason of that fact alone, unless that person has subsequently become a bona fide resident of the Town.
- (4) The Commissioners shall be judges of the qualifications of their members.
- (5) For purposes of this Charter, a "real property owner" shall be deemed to include any person or artificial entity that holds at least a 50% fee simple interest in real property in the Town as an individual owner, a joint tenant, a tenant by the entireties, or a tenant in common.

B. The qualifications for voter eligibility shall be as follows:

- (1) Every citizen of the United States, State of Delaware, and Town of Henlopen Acres who is a bona fide resident of the Town of Henlopen Acres for 30 days prior to the date of the annual election of the Town of Henlopen Acres, and is over the age of 18, shall be entitled to one vote, provided such person is registered on the Books Of Registered Voters.
- (2) Every nonresident real property owner, whether a person, or artificial entity, qualifying as a real property owner for a period of 30 days immediately preceding the date of the Annual Municipal Election of the Town of Henlopen Acres shall have one vote.
 - (a) A nonresident shall be a citizen of the United States and at least 18 years old or an artificial entity established under the laws of the United States, provided such person or artificial entity is registered on the Books of Registered Voters.

- (b) An artificial entity shall vote by a person named in a certificate, filed for each election with the Town of Henlopen Acres, providing legal authorization for the person to vote on behalf of the artificial entity in the Annual Municipal Election. The person authorized to vote on behalf of an entity shall be a citizen of the United States and at least 18 years old.
- (3) These provisions shall be construed in accordance with the principle of "one person, one vote": If a voter is entitled to vote by virtue of being both a resident of the Town of Henlopen Acres and a real property owner, the voter is entitled to only one vote; if a voter is entitled to vote by ownership of two or more parcels of real property, the voter is entitled to only one vote. One may not vote as an individual and again as an agent for one or more artificial entities. Additionally, one may not vote as an agent for multiple entities.
- (4) The Commissioners may, by ordinance, provide for a voter registration procedure.



SPONSOR: Rep. D. Short & Sen. Richardson

HOUSE OF REPRESENTATIVES
152nd GENERAL ASSEMBLY

HOUSE SUBSTITUTE NO. 1
FOR
HOUSE BILL NO. 121

AN ACT TO AMEND THE CHARTER OF THE CITY OF SEAFORD RELATING TO THE CITY'S ABILITY TO AUTHORIZE ARTIFICIAL ENTITIES, LIMITED LIABILITY CORPORATIONS' PARTNERSHIPS AND TRUSTS TO VOTE IN MUNICIPAL ELECTIONS HELD IN SEAFORD.

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 7 of the City of Seaford Charter by making deletions as shown by strike through and
2 insertions as shown by underline as follows:

3 **Manner Of Holding Annual Elections.**

4 **Section 7.**

5 (A) The annual municipal election shall be held on the Third Saturday in April of each and every year. The polls
6 shall be opened at Seven (7) a.m. and shall close at three (3) p.m. prevailing time unless only one (1) candidate has been
7 nominated for each office which has expired and for which nominations have been received. If there is only one (1) official
8 candidate for any office and no formal opponent, the official candidate shall assume office without the holding of a formal
9 election for that office. All voting shall take place in the City Hall of the City of Seaford.

10 (A) Voter Qualifications.

11 ~~(B)~~ At such Annual Election, the following shall be permitted to vote:

12 (1) Residents. ~~every~~ Every natural person, male or female who shall have attained the age for voting as
13 established by the State of Delaware for voting in a General Election and who shall be a bona fide resident of the City of
14 Seaford as of the day of final registration next preceding the Annual Election and each non-resident natural person of the
15 City of Seaford who shall have obtained the age for voting established by the State of Delaware for voting in a General
16 Election shall have 1 vote. For purposes of this provision, "bona fide resident" means a permanent full-time resident of the
17 City. ~~and who shall have been a freeholder of property in the City of Seaford for a period of six (6) months immediately~~
18 ~~preceding the date of the Annual Election shall have one (1) vote provided he or she is registered according to at least one~~
19 ~~(1) of the following methods:~~

20 (2) Non-residents . Every owner of property in the City as of the day of final registration next preceding the
21 Annual Election , whether a natural person or artificial entity, including but not limited to corporations, partnerships, trusts,
22 and limited liability companies, and who is registered to vote in the book of registered voters maintained at City Hall, shall
23 have one (1) vote. An artificial entity shall be a domestic entity in the State of Delaware and be in good standing.

24 (3) These provisions shall be construed in accordance with the principle of “one person/entity/one vote.” Where a
25 voter is entitled to vote by virtue of being a resident or an owner of real property, that voter shall be entitled to only one (1)
26 vote; where a voter is entitled to vote by ownership of two (2) or more parcels of real property, that voter shall also be
27 entitled to only one (1) vote.

28 (4) Any legal entity, other than a natural person entitled to vote, must cast its vote by a duly executed and
29 notarized power of attorney, _ corporate resolution, or authorization affidavit duly executed from the legal entity granting
30 the authority to cast its vote to its designated attorney-in-fact. Such power of attorney shall be surrendered to the election
31 officials as of the day of final registration next preceding the Annual Election and the election officials shall file the same at
32 City Hall. Such power of attorney, corporate resolution, or authorization affidavit duly executed so filed shall constitute
33 conclusive evidence of the right of said person to vote in the election on behalf of the legal entity granting the power. The
34 person casting the ballot for such entity shall be age 18 on or before the date of the election and a resident of the State of
35 Delaware. In order for the City of Seaford to eliminate incidence of opportunities for violations of the “one
36 person/entity/one vote principle and in accordance with The Federal Corporate Transparency Act after January 1, 2024,
37 artificial entities shall be required to provide the City of Seaford with a completed CERTIFICATION OF BENEFICIAL
38 OWNER(S) pursuant to Section 1020.230 of Title 31 of the United States Code of Federal Regulations (31 CFR 1020.230).
39 All beneficial owners listed on the submitted CERTIFICATION OF BENEFICIAL OWNER(S) shall be cross-referenced
40 with the voter registration listing provided by the State of Delaware and the Book of Registered Voters of the City of
41 Seaford. Any related entities with common ownership shall be eliminated from voting more than once in Municipal
42 Elections.

43 (B) Voter Registration

44 Registration of qualified voters shall be as follows:

45 (i) Commencing with the ~~2022~~ 2024 municipal election, voter registration for ~~residents~~ natural persons
46 residing inside the City of Seaford limits shall be done through the State of Delaware, Department of Elections and by
47 electronic registration pursuant to the Online Registration System of the State of Delaware; and:

48 (ii) Non-resident property owners and artificial entities shall be registered in the “Book of Registered Voters” of
49 the City of Seaford. The City Council of the City of Seaford shall provide one (1) register to be known as the “Book of

50 Registered Voters” which is to be kept at City Hall. ~~The~~ For all Non-resident property owners, the Book of Registered
51 Voters shall contain the following ~~information for each registrant~~: the name of the registered voter ~~arranged in alphabetical~~
52 ~~order~~, the permanent address of the voter, ~~the date the registrant became a resident of the City of Seaford~~, the date the
53 registrant became a freeholder of the City of Seaford, the birth date of the voter and any other pertinent information. For all
54 artificial entities, the Book of Registered Voters shall contain the following: the name of the entity, the name of the
55 Beneficial Owner(s) associated with the eligible entity, and the date the entity became a freeholder of the City of Seaford.
56 No person shall be registered upon the Book of Registered Voters unless such person or entity will have acquired the
57 qualifications to vote in the Annual Election for the year in which such person or entity registers. A person or entity shall be
58 required to register only one (1) time; provided, however, that the name of a registered voter shall be removed from the
59 Book of Registered Voters by the City Manager upon the ~~death of the registered voter, removal from the City of a~~
60 ~~registered voter, or~~ loss of any other qualification to vote as prescribed herein, and notice sent to said registered voter or
61 agent authorized to vote on behalf of an artificial entity’s ~~at his last known address by certified mail with return receipt~~
62 requested advising such registered voter ~~that his name has been removed~~ of their removal from the Book of Registered
63 Voters and that it will be necessary to register again in order to be eligible to vote in the Annual Election except that no
64 notice be sent when removal is caused by the death of the registered voter. The Book of Registered Voters shall be
65 maintained in the in the office of the City Manager and shall be conclusive evidence of the right of any ~~person non-resident~~
66 or artificial entity to vote in the Annual Election. ~~A person~~ Any qualified non-resident or artificial entity may register at
67 City Hall during the regular business hours of such office until the close of business of such office on the Fourth Friday in
68 the month of March by completing such forms as may be required by the City. For all purposes of this Charter, a freeholder
69 shall be deemed to include any natural person or artificial entity who holds fee simple title to real property to his own name
70 or who holds title to an undivided interest in real property, or who holds title to real estate as a joint tenant or as a tenant by
71 the entirety.

72 (C) Absentee voting shall be permitted in all municipal elections in conformity with Chapter 75 of Title 15 of the
73 Delaware Code.

74 (D) The Mayor shall submit to the City Council, for its approval, the names of three (3) individuals to serve as the
75 City’s Board of Elections pursuant to 15 Del.C. § 7551. The purpose of the Board of Elections shall be to oversee the
76 municipal election in conformity with Chapter 75 of Title 15 of the Delaware Code. The Mayor shall also submit to the
77 City Council, for its approval, the names of five (5) individuals to serve as the City’s Election Officers pursuant to 15 Del.
78 C. § 7556. The Election Officers and the members of the Board of Elections shall serve for such term as determined by the
79 City Council.

80 (E) All municipal elections of the City of Seaford shall be conducted in conformity with Chapter 75 of Title 15 of
81 the Delaware Code.

SYNOPSIS

This bill would allow the City of Seaford to authorize artificial entities, limited liability corporations' partnerships, and trusts to vote in Municipal elections held in Seaford following the principle of "one person/entity/one vote".