



DELAWARE GENERAL ASSEMBLY
STATE OF DELAWARE
LEGISLATIVE HALL
DOVER, DELAWARE 19901

New Castle County Local Service Functions Task Force **Tenth Meeting Minutes**

Wednesday, December 18, 2019
10:00am – 12:00pm

Executive Conference Room, New Castle County Government Center
87 Reads Way, New Castle, DE 19720

Task Force Members Present:

Paul Baumbach, 23rd District State Representative, Co-Chair

Tom Coleman, City of Newark Manager

Morris Deputy, Middletown Town Manager

David Gregor, Chief Financial Officer for New Castle County

Karen Sullivan, County Solicitor for New Castle County

Mark Farrall, Deputy Chief of Police for the City of Newark

*This meeting did not meet quorum

Representative Paul Baumbach called the meeting to order at 10:04am and moved to the continued draft legislation discussion.

Deborah Gottschalk, Legislative Attorney for the Division of Research had a colleague look over the draft legislation. Some minor grammatical changes were made, and Karen Sullivan has also made revisions based on county discussions.

¹Deborah's working draft legislation as amended by December 18th is incorporated in the attached documents.

Robert Wasserbach, County Auditor for NCC asked regarding line 41 in the definition of individual LSF tax rate, it says "this calculation may be adjusted to raise sufficient revenues after accounting for the historical county wide level of non-payment of county real property tax", asked if the county can put in an allowance for uncollected funds.

David Gregor, Chief Financial Officer for New Castle County yeah, if you want to fully fund the activity, you need to account for what you will collect. Historically we are only collecting 99.5% of property taxes each year. There is a small half a percent adjustment made.

Karen Sullivan, County Solicitor for New Castle County that concept is already incorporated in the existing code, not through the exact same language, but is saying the same thing.

Robert Wasserbach thank you.

Karen Sullivan on lines 97 and 98 we think we need to omit including the levels of a specific cost of a local service function. One because that doesn't apply to the fire protection rates calculated and it's not necessary in requiring something none of us have contemplated.

Deborah Gottschalk I think that's old language from where we started before we worked out all the different calculations. So that is going to happen, but we don't need to say it here.

Rep. Baumbach asked how Prince George's County addressed county council making changes to the proposed budget to the County Executive.

David Gregor theirs was all looking back when they set the rates, so it wasn't prospective. It would have either been surplus or a deficit situation.

Rep. Baumbach asked if every municipality in Delaware has a fiscal year starting either October 1st or January 1st.

Victoria Ford, Office of Finance for New Castle County they're all different, some March, some July.

Rep. Baumbach clarified that county council currently being able to change things in late May/early June can make things challenging for municipalities who have a fiscal year that begins very shortly after that.

Tom Coleman, City of Newark Manager it doesn't affect Newark's budget.

David Gregor this has been in place for a long time so places like the Ardens understand that they must have sufficient reserves in case something changes.

Robert Wasserbach at the beginning of line 150, by July 1st, the municipality has to provide notice that it will begin, stop, or alter their performing of a local service function. Asked if the municipality can also do this before the September 1st deadline.

Karen Sullivan that is not changing, that is just saying that they feel entitled to x percentage. A matrix will accompany it, so during this period the percentage can be decided. The July 1st deadline is what they are doing, and the September 1st deadline is the percentage of credit they feel entitled to.

Rep. Baumbach thinks that what is called for in 1128 is where the municipality declares what they are going to provide next year. What he believes Karen is asking is do we want to maintain the part that says that if they propose enhancing performances or adding functions, that requires approval by the county as is the case today.

Karen Sullivan correct. The blue language is what the county proposed.

Tom Coleman sees there being two types of services that a town would add. One has a legal aspect, like building permits or inspections. If we add inspection and the county is currently doing inspections, that is an issue. That is something that needs to be agreed upon.

Robert Wasserbach if any municipality decided to reduce a service, and they didn't ask NCC to pick up the slack of that service, the municipality should have every right to do that without asking approval from NCC.

Karen Sullivan they don't right now. Its been on or off.

Deborah Gottschalk as a county resident, they would still have a right to that service.

Karen Sullivan yes.

Deborah Gottschalk that is why the county would have to pick it up if the municipality stops.

Rep. Baumbach wouldn't the county not have to approve it, because they already control the credit for it.

Karen Sullivan as a resident of NCC, you are entitled to a certain degree of service, so if they do not have the capacity to provide, we want to be involved in ensuring that those residents still receive an adequate level of service.

Morris Deputy, Middletown Town Manager what would happen if a municipality decided they wanted to add animal control and they are currently not getting any credit for it now and the county said no. Asked how that would play out.

Karen Sullivan that is what the process is right now, the county can say no. If a town council passes an ordinance saying they want to take over the local service function of animal control, and the county council did not have a similar ordinance, it wouldn't transfer.

Rep. Baumbach it appears we will need to schedule another meeting to complete this.

David Gregor thinks we should consider running two bills considering the time table we are looking at and the need to get the fire service done.

The task force will meet again on Thursday, January 2, 2020 from 1-4pm at the NCC Government Center. The task force will discuss two separate pieces of legislation, the first will deal with fire services and the second will deal with local services functions.

Rep. Baumbach seeing no further comment from task force members or the public, adjourned at 11:55am.

Attendance List:

1. Deborah Gottschalk, Legislative Attorney, Division of Research
2. Chris Norton, Legislative Aide, Delaware House Majority Caucus
3. Robert Wasserbach, County Auditor, New Castle County
4. Russell Morris, Office of Finance, New Castle County
5. Victoria Ford, Office of Finance, New Castle County
6. Michael Smith, New Castle County, Office of Finance
7. Nicholas Brannick, New Castle County, Office of Law
8. Rinku Banerji, New Castle County, Audits Office
9. Lynne McIntosh, New Castle County
10. Conner Dunleavy, Legislative Aide, Senate Minority Caucus



SPONSOR:

HOUSE OF REPRESENTATIVES
150th GENERAL ASSEMBLY

HOUSE BILL

AN ACT TO AMEND TITLE 9 OF THE DELAWARE CODE RELATING TO NEW CASTLE COUNTY PROPERTY TAX RATES AND MUNICIPALITIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Version: 12/17/19 5 pm

1 Black = Current Delaware Code & discussed text for draft legislation

2 Green = Needs discussion

3 Blue = County suggested language or placement

4

5 Section 1. Amend § 1102, Title 9 of the Delaware Code by making deletions as shown by strike through and
6 insertions as shown by underline as follows:

7 § 1102. Transfer of functions.

8 (c) ~~Responsibility~~ Except as provided under subsection (e) of this section, responsibility for a local service
9 function or a distinct activity or portion thereof exercised by a municipality located within New Castle County, may be
10 transferred to the County by the concurring affirmative action in the form of an ordinance of the County Council of New
11 Castle County and of the governing body of the municipality concerned. Responsibility for a local service function or a
12 distinct activity or portion thereof not exercised by New Castle County, or by a municipality located within New Castle
13 County, as of January 3, 1967, or exercised by New Castle County as of January 3, 1967, may be transferred to a
14 municipality located within New Castle County by the concurring affirmative action in the form of an ordinance of the
15 County Council of New Castle County and of the governing body of the municipality concerned.

16 (e) For fire protection that is partially financially supported but not directly provided by New Castle County and
17 that is also partially financially supported but not directly provided by a municipality, New Castle County shall convert the
18 net New Castle County local service function cost into a real property tax rate for each municipality and the unincorporated
19 area that does not directly provide fire protection by calculating all of the following for each municipality and the
20 unincorporated area:

21 (1) The “service area share”, which equals the taxable assessed value of real property within the municipality
22 or the unincorporated area not directly providing fire protection divided by the sum of the taxable assessed value for all
23 real property in the unincorporated area and all municipalities not directly providing fire protection.

24 (2) The “apportioned gross amount”, which equals the service area share multiplied by the net New Castle
25 County local service function cost for fire protection.

26 (3) The “credit percentage”, which equals the municipality’s actual direct contribution of funds or in-kind
27 contributions of goods or services to a volunteer fire company in the previous year, divided by the municipality’s
28 apportioned gross amount. The “credit percentage” may not exceed 100%. The “credit percentage” is 0% for the
29 unincorporated area.

30 (4) The “New Castle County fire protection percentage”, which equals 100% minus the municipality’s or the
31 unincorporated area’s credit percentage. The “New Castle County fire protection percentage” for the unincorporated
32 area is 100%.

33 (5) The “weighted service share”, which equals the municipality’s or the unincorporated area’s service area
34 share multiplied by the municipality’s or the unincorporated area’s New Castle County fire protection percentage.

35 (6) The “total weighted service amount”, which equals the sum of the weighted service shares.

36 (7) The “final service weight”, which equals the municipality’s or the unincorporated area’s weighted service
37 share divided by the total weighted service amount.

38 (8) The “apportioned net LSF cost”, which equals the final service weight multiplied by the net New Castle
39 County local service function cost for fire protection.

40 (9) The “individual LSF tax rate”, which equals the municipality’s or the unincorporated area’s apportioned
41 net LSF cost divided by the taxable assessed value of real property in the respective municipality or the unincorporated
42 area. This calculation may be adjusted to raise sufficient revenues after accounting for the historical County-wide level
43 of nonpayment of County real property tax.

44 (f) [This section applies to the budget process until June 30, 2021.](#)

45 Section 2. Amend Subchapter III, Chapter 11, Title 9 of the Delaware Code by making deletions as shown by
46 strike through and insertions as shown by underline as follows:

47 Subpart A. Local service functions.

48 § 1125. Local service functions; property tax rates in municipalities.

49 (a) In determining the New Castle County property tax rate for real property in a municipality, New Castle County
50 shall consider the degree that a local service function is performed or financially supported by the municipality instead of
51 New Castle County [as recognized and agreed to by New Castle County as set forth under § 1128 of this title.](#)

52 (b) New Castle County shall establish a property tax rate for real property in a municipality based on the degree of
53 any local service function performed or financially supported by the municipality instead of New Castle County as
54 recognized and agreed to by New Castle County under § 1129 of this title.

55 (c) A property tax rate for real property in a municipality does not have to be either of the following:

56 (1) The same as a property tax rate for property located in other municipalities in New Castle County.

57 (2) The same as a property tax rate set in a prior year.

58 § 1126. Local service functions; definitions.

59 For purposes of this chapter:

60 (1) “Chief Financial Officer” means the Chief Financial Officer of New Castle County or designee.

61 (2) “Fire protection” means the prevention and extinguishment of fires; maintenance of apparatus and
62 equipment, including ambulances, rescue trucks, aerial, or platform trucks and rescue boats; provision of basic life
63 support; and operation of stations.

64 (3)a. “Local service function” or “LSF” means a local governmental service, or a group of closely allied
65 governmental services, that is all of the following:

66 1. Performed or financially supported by New Castle County and by a municipality, in whole or in
67 part, instead of New Castle County.

68 2. Funded by New Castle County, in whole or in part, through property tax revenue.

69 b. “Local service function” or “LSF” may include any of the following:

70 1. Planning and zoning, including subdivision regulations.

71 2. Adoption and enforcement of ordinances for the protection of persons and property from hazards
72 in the use, occupancy, condition, alteration, maintenance, repair, sanitation, removal, and demolition of
73 buildings, structures, and appurtenant grounds; the operation of equipment; and outdoor signs, including codes
74 and regulations for any of the following:

75 A. Zoning.

76 B. Building.

77 C. Plumbing.

78 D. Property maintenance.

79 3. Programs for redevelopment, affordable housing, and urban renewal.

80 4. Parks and park related activities and recreational programs.

81 5. Police protection.

- 82 6. Fire protection.
- 83 7. 911 communications.
- 84 8. Animal control.
- 85 9. Public works, including maintenance and operation of sanitary and storm sewers, drainage
- 86 systems, sewage disposal facilities, and refuse disposal facilities, including trash and garbage collection
- 87 disposal.
- 88 10. Lighting of streets, roads, alleys, and other public places.
- 89 11. Maintenance and operation of the water supply system.
- 90 12. Library system.

91 (4) “Municipality” means a municipal corporation located within New Castle County and incorporated by an
92 act of the General Assembly.

93 (5) “New Castle County service percentage” means the degree to which New Castle County provides a local
94 service function within a municipality, determined by subtracting the degree to which a municipality provides the local
95 service function from 100%. The New Castle County service percentage in the unincorporated area equals 100%.

96 § 1127. Local service functions;

97 § 1128. Local service functions; [calculation of net county LSF tax cost and individual LSF tax rates.](#)

98 (a) New Castle County shall calculate the net county LSF cost for each local service function. [The “net county](#)
99 [LSF cost” equals the amount in New Castle County’s budget for the local service function for the next fiscal year. The “net](#)
100 [county LSF cost” is the amount of indirect costs, including fringe benefits, applicable to that local service function, and](#)
101 [excludes service charges, grants, or other revenue or funds that New Castle County directly attributes or otherwise](#)
102 [apportions to that local service function.](#)

103 (b) Except as provided for fire protection under subsection (c) of this section, New Castle County shall convert the
104 net County LSF cost for each local service function into a real property tax rate for each municipality and the
105 unincorporated area by calculating each of the following for each municipality and the unincorporated area:

106 (1) The “share of New Castle County assessment”, which equals the taxable assessed value of all real property
107 within a municipality or the unincorporated area divided by the aggregate taxable assessed value for all real property in
108 the County.

109 (2) The “New Castle County service percentage” [for a municipality, as determined under § 1128 of this title.](#)
110 The “New Castle County service percentage” for the unincorporated area is 100%.

111 (3) The “weighted service share”, which equals a municipality’s or the unincorporated area’s share of New
112 Castle County assessment multiplied by the municipality’s or the unincorporated area’s New Castle County service
113 percentage.

114 (4) The “total weighted service amount”, which equals the sum of all weighted service shares.

115 (5) The “final service weight”, which equals a municipality’s or the unincorporated area’s weighted service
116 share divided by the total weighted service amount.

117 (6) The “apportioned net LSF Cost”, which equals the municipality’s or the unincorporated area’s final
118 service weight multiplied by the net County LSF cost.

119 (7) The “individual LSF tax rate”, which equals the municipality’s or the unincorporated area’s apportioned
120 net LSF cost divided by the taxable assessed value of all real property in the respective municipality or the
121 unincorporated area. The calculations under this paragraph (b)(7) of this section may be adjusted to raise sufficient
122 revenues after accounting for historical county-wide level of nonpayment of New Castle County real property tax.

123 (c) For fire protection that is partially financially supported but not directly provided by the County and that is also
124 partially financially supported but not directly provided by a municipality, New Castle County shall convert the net county
125 LSF cost into a real property tax rate for each municipality and the unincorporated area that does not directly provide fire
126 protection by calculating all of the following for each municipality and the unincorporated area:

127 (1) The “service area share”, which equals the taxable assessed value of real property within the municipality
128 or the unincorporated area not directly providing fire protection divided by the sum of the taxable assessed value for all
129 real property in the unincorporated area and all municipalities not directly providing fire protection.

130 (2) The “apportioned gross amount”, which equals the service area share multiplied by the net county LSF
131 cost for fire protection.

132 (3) The “credit percentage”, which equals the municipality’s actual direct contribution of funds or in-kind
133 contributions of goods or services to a volunteer fire company in the previous year, divided by the municipality’s
134 apportioned gross amount. The “credit percentage” may not exceed 100%. The “credit percentage” is 0% for the
135 unincorporated area.

136 (4) The “New Castle County fire protection percentage”, which equals 100% minus the municipality’s credit
137 percentage. The “New Castle County fire protection percentage” for the unincorporated area is 100%.

138 (5) The “weighted service share”, which equals the municipality’s or the unincorporated area’s service area
139 share multiplied by the municipality’s or the unincorporated area’s New Castle County fire protection percentage.

140 (6) The “total weighted service amount”, which equals the sum of the weighted service shares.

141 (7) The “final service weight”, which equals the municipality’s or the unincorporated area’s weighted service
142 share divided by the total weighted service amount.

143 (8) The “apportioned net LSF cost”, which equals the final service weight multiplied by the net county LSF
144 cost for fire protection.

145 (9) The “individual LSF tax rate”, which equals the municipality’s or the unincorporated area’s apportioned
146 net LSF cost divided by the taxable assessed value of real property in the respective municipality or the unincorporated
147 area. The calculations under this paragraph (c)(9) of this section may be adjusted to raise sufficient revenues after
148 accounting for the historical county-wide level of nonpayment of New Castle County real property tax.

149 (d) New Castle County shall adopt policies and procedures to implement this section.

150 § 1129. Local service functions; [determining the New Castle County service percentage.](#)

151 (a)(1) By July 1 of each year, a municipality shall provide notice to New Castle County if the municipality intends
152 to begin performing, stop performing, or change the degree of performance of a local service function [other than fire](#)
153 [protection](#) during New Castle County’s fiscal year beginning the following July 1.

154 (2) In the notice under paragraph (a)(1) of this section, the municipality shall state with specificity the manner
155 in which the municipality intends to modify its performance of the local service function by initiating the [performance](#),
156 ceasing the [performance](#), or changing the degree of performance of a local service function.

157 (3) New Castle County may request, and the municipality must provide, additional information that may
158 reasonably be needed to understand the municipality’s proposed modification.

159 (4) [A municipality may begin performing, stop performing or reduce the degree of performance of a local](#)
160 [service function only if the Chief Administrative Officer agrees in writing to the municipality’s proposed change.](#)

161 (b)(1) By August 1 of each year, New Castle County shall provide to each municipality the forms and instructions
162 under paragraph (b)(2) of this section to submit the municipality’s request that New Castle County recognize the following:

163 a. [The New Castle County service percentage for a local service function is less than 100% based on the](#)
164 [municipality’s performance or partial performance of the local service function.](#)

165 b. [In the case of fire protection that a municipality does not provide directly, the municipality’s direct](#)
166 [contribution of funds or in-kind contribution of goods and services to a volunteer fire company.](#)

167 (2) New Castle County shall provide a copy of each the following:

168 a. [New Castle County’s budget for the current fiscal year.](#)

169 b. A standardized report form listing each local service function and the documentation necessary to
170 support a request that New Castle County recognize the degree to which the municipality performs a local service
171 function instead of New Castle County, including each partial level of local service function.

172 c. Contact information for appropriate policy and fiscal officers and representatives that a municipality
173 may contact to discuss relevant financial information of New Castle County and the municipality, and the scope
174 and nature of services provided by both entities.

175 (c)(1) By September 1 of each year, a municipality shall submit its application and supporting documentation to
176 New Castle County if the municipality is requesting that New Castle County recognize either of the following:

177 a. A New Castle County service percentage less than 100% for any local service function based on the
178 municipality's performance or partial performance of the local service function.

179 b. In the case of fire protection that a municipality does not provide directly, the municipality's
180 contribution of funds or in-kind contributions of goods and services to a volunteer fire company.

181 (2) New Castle County may request, and the municipality must provide, additional information that may
182 reasonably be needed to determine the scope of local service functions provided by the municipality.

183 (d) By November 1 of each year, New Castle County shall notify each municipality of New Castle County's
184 determination regarding the New Castle County service percentage for each local service function. Any disagreement is
185 subject to negotiation between New Castle County and the municipality.

186 (e)(1) By December 1 of each year, a municipality that is unable to reach agreement with New Castle County
187 regarding the New Castle County service percentage for a local service function may provide notice to New Castle County
188 demanding arbitration which includes the municipality's designated member of the arbitration panel under paragraph (e)(2)
189 of this section. If the municipality does not provide such notice by December 1, New Castle County's determination is final
190 and may not be appealed.

191 (2) If arbitration is demanded under paragraph (e)(1) of this section, an arbitration panel will be created which
192 is comprised of 3 members, selected as follows:

193 a. The municipality's designee under paragraph (e)(1) of this section.

194 b. By December 10, the County Executive shall designate a member.

195 b. By December 20, the arbitration panel designees of the County Executive and the municipality shall
196 jointly select the third member. If the two arbitration panel designees cannot agree on the selection of the third
197 member by December 20, the third arbitration panel member is the Chair of the New Castle County Financial
198 Advisory Council or the Chair's designee.

199 d. The arbitration panel may establish rules for the arbitration hearing, including information required to
200 be produced by a party and deadlines for the submission of evidence.

201 (3) The arbitration hearing must occur by January 31. At the hearing, New Castle County and the municipality
202 may present testimony, evidence, and oral argument as to the matters in dispute.

203 (4) The arbitration panel shall issue its decision by February 15. The arbitration panel's decision is binding
204 and may not be appealed.

205 (f) Notwithstanding subsections (a) through (e) and (g) of this section, either of the following may occur:

206 (1) New Castle County and a municipality may enter into an agreement setting different terms or timing for
207 negotiations, calculations, or approval of the New Castle County service percentages.

208 (2) New Castle County may determine New Castle County service percentages for a municipality that does
209 not make a request in the manner required under this section. New Castle County's determination under this paragraph
210 (f)(2) of this section is final, may not be appealed, and is not subject to arbitration under subsection (e) of this section.

211 (g) New Castle County shall adopt policies and procedures to implement this section.

212 § 1130. Local service functions; review committee.

213 (a) New Castle County shall create the Local Service Function Review Committee for the purpose of conducting
214 an annual review of Subpart A of this subchapter. This review must be completed on or before August 31 of each year. The
215 Local Service Function Review Committee must be comprised of the following representatives:

216 (1) The Chief Financial Officer, or a designee *who is chair*.

217 (2) One member of the County Council, *selected by the County Council*.

218 (3) Two members from municipal governments in New Castle County *appointed by the County Council from*
219 *a list of names provided by the Delaware League of Local Governments*.

220 (4) One member who is a resident of New Castle County and who owns real property in the unincorporated
221 area of New Castle County, appointed by *the County Council*.

222 (b) *must Issue report*. Reports under this subsection must be made available to municipalities and the public *on*
223 *request* and must be provided to all members of the County Council, all members of the General Assembly who represent
224 New Castle County, and the Division of Research *by September 15 of each year*.

225 Section 3. Further amend Subchapter III, Chapter 11, Title 9 of the Delaware Code by making deletions as shown
226 by strike through and insertions as shown by underline as follows:

227 Subpart B. Budgeting.

228 § 1131. Separate budgeting for local service functions performed by the County outside of the limits of
229 municipalities.

230 (a) The Chief Administrative Officer and the County Executive, in the preparation of the annual operating budget,
231 shall divide and segregate in a separate budget, entitled Local Service Function Budget, all ~~expenditures~~ appropriations for
232 the full or partial performance or funding of local service functions ~~which are performed by the County within the limits of~~
233 ~~municipality~~ by New Castle County within the municipalities and the unincorporated area. The Chief Administrative
234 Officer and the County Executive, in the preparation of the Local Service Function Budget, shall specify separately the total
235 appropriation required for the full or partial performance or funding of each local service function, ~~including appropriations~~
236 ~~for Supporting Services, which is not performed by the County within the limits of any municipality. The County~~
237 ~~Executive, in estimating the revenues necessary for the payment of the cost of each such local service function, shall not~~
238 ~~include in the estimate any estimated revenues to be derived from ad valorem taxation of real property within any~~
239 ~~municipality which performs such function independently for its residents and pays the cost thereof out of its own revenue~~
240 ~~sources~~ by New Castle County.

241 (b) The County Executive shall submit to the County Council a proposed revenue ordinance which will achieve
242 sufficient revenues to balance the total operating budget, including the Local Service Function Budget. Except as permitted
243 under Subpart A of this subchapter. ~~The~~ the County Executive in the preparation of the proposed revenue ordinance shall
244 not, and the County Council and the County Executive in the enactment of the annual revenue ordinance shall not, impose
245 ad valorem taxation on real property within any municipality to pay the cost of New Castle County's full or partial
246 performance or funding of any local service function if ~~such function is performed by the municipality for its residents, paid~~
247 ~~out of municipal revenues and the fact that the service is being provided is validated by County Council~~ in excess of the
248 New Castle County service percentage for that local service function within the municipality.

249 (c) ~~The provisions of subsections (a) and (b) of this section shall not be applicable.~~ The County Executive's
250 proposed budget presented to the County Council shall include tables providing all of the following information:

251 (1) The calculation of the proposed individual LSF tax rate for each local service function for each municipality
252 and the unincorporated area.

253 (2) The proposed aggregate of the individual LSF tax rates for each municipality and the unincorporated area.

254 (d) New Castle County may impose ad valorem taxation on real property within any municipality as follows:

255 (1) In any instance where a municipality initiates or increases the performance of, or exercises responsibility for,
256 a local service function, without the affirmative action in the form of an ordinance of the County Council of New Castle
257 County, and without the consent of New Castle County.

258 (2) ~~To~~ For the cost of operation by the County of park and recreational facilities which are not local in nature and
259 which serve the metropolitan area; ~~and;~~

260 (3) ~~To any municipality not expending funds in the previous fiscal year for the given local service or not~~
261 ~~adequately performing the function.~~

262 (d) (e) The Chief Administrative Officer and the County Executive, in the preparation of the annual operating
263 budget, shall divide and segregate in a separate budget entitled General Operating Budget all expenditures not properly
264 allocable to the Local Service Function Budget or other operating budget fund. The County Council in estimating the
265 revenues which will be necessary for the payment of these expenditures shall include the estimated revenues to be derived
266 from county-wide ad valorem taxation of real property.

267 (e) (f) The County Executive in the preparation of the proposed revenue ordinance, and the County Council and
268 the County Executive in the enactment of the annual revenue ordinance, shall uniformly impose ad valorem taxation on real
269 property within the County to pay the cost of the General Operating Budget.

270 § 1133. Administration and enforcement of the operating budget ordinance; adoption of operating budget;
271 allocations and allotments; approval of allocations and allotments; revisions.

272 (a) (1) The adoption of the operating budget ordinance ~~shall constitute is~~ an appropriation of the sum specified in
273 the budget for the purpose and from the funds indicated. ~~Such appropriation shall be considered~~ The appropriation is valid
274 only for the year for which it is made, and any part of ~~such an~~ appropriation which is not encumbered or expended ~~shall~~
275 ~~lapse lapses~~ at the end of the year.

276 (2) The adoption of the operating budget ordinance is an agreement between a municipality and New Castle
277 County that the municipality will provide local service functions in the municipality at the level determined under §
278 1128 of this title for that fiscal year.

279 § 1134. Preparation of the capital program and the capital budget; preparation by Chief Administrative Officer;
280 recommendation by County Executive; action by County Council.

281 (a) The Chief Administrative Officer shall annually prepare a capital program and a capital budget under the
282 direction of the County Executive. In the course of the preparation of the capital program, the Chief Administrative Officer
283 shall confer with the Department of Land Use to ascertain that the proposed capital program is in accordance with the
284 comprehensive development plan prepared by the Department of Land Use.

285 (b) No later than April 1 of each year, the County Executive shall recommend to the County Council, a capital
286 program for the ensuing 6 years and a capital budget for the ensuing year. Not later than the date that the program is
287 submitted to County Council, the County Executive shall submit it to the Department of Land Use for its review and

288 recommendations to County Council. The County Executive shall also submit it to the Planning Board for the sole purpose
289 of determining if it is in accordance with the comprehensive development plan.

290 (c) The proposed capital program, and the proposed capital budget, shall have such content and be in such form as
291 to enable action to be taken thereupon by the County Council as required by § 1159 of this title.

292 (d)(1) Except as permitted under Subpart A of this subchapter, The the County Executive, in the preparation of the
293 capital budget, ~~shall~~ may not include in the revenue estimates any estimated revenues to be derived from ad valorem
294 taxation of real property within a municipality for any capital expenditure including debt service which is related to the
295 performance or partial performance by the County of a local service function ~~which is performed by the municipality for its~~
296 ~~own residents and for which the cost is paid out of municipal revenues~~ in excess of the New Castle County service
297 percentage for that local service function within the municipality.

298 (2) Except as permitted under subpart A of this subchapter, The the County Council, in the adoption of the
299 capital budget by ordinance, ~~shall~~ may not impose ad valorem taxation on real property within a municipality for the
300 payment of the cost of any capital expenditure, including debt service, which is related to the performance or partial
301 performance by the County of a local service function ~~which is performed by the municipality for its own residents and~~
302 ~~for which the cost is paid out of municipal revenues.~~ in excess of the New Castle County service percentage for that
303 local service function within each municipality.

304 (3) The provisions of this subsection ~~shall~~ are not ~~be~~ applicable to capital expenditures, including debt service,
305 for the acquisition by the County of park and recreational facilities which are not local in nature and which serve the
306 metropolitan area.

307 (e) The County Executive and the County Council, in the adoption of a capital budget by ordinance, shall
308 uniformly impose ad valorem taxation on real property within the County for the payment of the cost of any capital
309 expenditure, including debt service, which is not related to the performance or partial performance by the County of a local
310 service function ~~exclusively performed by a municipality for its own residents and for which the cost is paid out of~~
311 ~~municipal revenues.~~ in excess of the New Castle County service percentage for that local service function within each
312 municipality.

313 § 1155. Consideration and adoption of the annual operating budget ordinance.

314 (a) The County Council, upon receipt of the operating budget, shall immediately publish a notice in a
315 newspaper of general circulation in the County, setting ~~forth:~~ all of the following:

316 (1) A summary of the estimated revenues and ~~expenditure;~~ expenditures.

317 (2) The detail of recommended new sources of revenue or increased rates of existing taxes, licenses, ~~fees~~
318 ~~fees,~~ or other ~~revenue;~~ revenue.

319 (3) The Uniform Resource Locator address where a copy of the budget may be located and identification
320 of the pages of the budget on which a listing of all individual LSF tax rates for each municipality may be found.

321 (4) That copies of the budget are available upon request at the office of the Clerk of County ~~Council;~~
322 Council.

323 ~~(4)~~ (5) The date, time, and place at which the County Council will commence its public hearings upon the
324 proposed budget, which shall not be less than 10 days after the date of publication of such notice.

325 (b) The County Council, upon conclusion of its public hearings but not later than June 1, shall enact the operating
326 budget ordinance. The County Council may increase, decrease, or delete any item of appropriation recommended by the
327 County Executive, and may add new items of appropriation.

328 (c) No amendment to the operating budget ordinance shall increase the aggregate of authorized expenditures to an
329 amount greater than the estimate of revenue for the corresponding period.

330 (d)(1) The County Council, in the adoption of the annual operating budget ordinance, shall divide and segregate in
331 a separate budget, entitled Local Service Function Budget, all expenditures for the performance or partial performance of
332 local service functions ~~which are not performed within the limits of any municipality by New Castle County within the~~
333 municipalities and unincorporated area.

334 (2) The County Council, in estimating the revenues for the payment of the cost of each such local service
335 function, ~~shall may~~ not include in the estimate any estimated revenues to be derived from ad valorem taxation of real
336 property within any municipality ~~which performs such function independently for its residents and pays the cost~~
337 ~~thereof out of its own revenue sources.~~ related to the performance or partial performance by the County of a local
338 service function in excess of the New Castle County service percentage for that local service function within that
339 municipality. The provisions of this subsection shall not be applicable.

340 (e) New Castle County may impose ad valorem taxation on real property within any municipality:

341 (1) In any instance where a municipality initiates or increases the performance of ~~or exercises responsibility~~
342 ~~for~~ a local service function ~~or a distinct activity without the affirmative action in the form of an ordinance of the~~
343 ~~County Council of New Castle County; and without notifying New Castle County and obtaining its consent as required~~
344 under § 1128 of this title.

345 (2) ~~To~~ For the cost of operation by the County of park and recreational facilities which are not local in nature
346 and which serve the metropolitan area.

347 ~~(e)~~ (f) County Council, in the adoption of the annual operating budget ordinance, shall divide and segregate in a
348 separate budget, entitled General Operating Budget, all expenditures not properly allocated to the Local Service Function
349 Budget or other operating budget funds. County Council, in estimating the revenues necessary for the payment of these
350 expenditures, shall include the estimated revenue to be derived from county-wide ad valorem taxation of real property.

351 § 1158. Budget of revenues.

352 (a) The County Council, at the meeting at which the annual operating budget ordinance is adopted, and within the
353 limits of its power and subject to other provisions of this title, shall ordain such taxes and other revenue measures as will
354 yield sufficient revenue, which, together with any available surplus, will balance the budget.

355 (b) ~~Revenues~~ The County Council shall ~~be estimated~~ estimate revenues only upon the basis of the cash receipts
356 anticipated for the fiscal year.

357 (c) The County Executive shall certify the estimated yield from each item of revenue and of the amounts of surplus
358 to be used in the balancing of the budget ~~shall be certified~~ to the County Council ~~by the County Executive~~.

359 (d) The annual operating budget ordinance ~~shall is~~ not ~~become~~ effective until the County Council ~~shall have~~ has
360 adopted revenue measures which, together with the available surplus, ~~shall are~~ in the opinion of the County ~~Executive be~~
361 Executive, estimated to yield sums at least sufficient to balance the proposed expenditures. The Office of Finance ~~shall may~~
362 not approve any expenditure under any portion of an annual operating budget ordinance until such balancing shall have
363 been provided.

364 (e) Except as permitted under subpart A of this subchapter, County Council, in the enactment of the annual
365 revenue ordinance or other revenue measures, ~~shall may~~ not impose ad valorem taxation on real property within any
366 municipality to pay the cost of ~~any local service function if such function is performed by the municipality for its residents,~~
367 ~~paid out of municipal revenues and the fact that the service is being provided is validated by County Council.~~ New Castle
368 County's performance or partial performance of any local service function in excess of the New Castle County service
369 percentage for that local service function within that municipality. ~~The provisions of this subsection shall not be applicable:~~

370 (f) New Castle County may impose ad valorem taxation on real property within any municipality as follows:

371 (1) In any instance where a municipality initiates or increases the performance of, ~~or exercises responsibility~~
372 ~~for~~, a local service function ~~or a distinct activity without the affirmative action of an ordinance of the County Council~~
373 ~~of New Castle County; and~~ without notifying New Castle County and obtaining its consent as required under § 1128 of
374 this title.

375 (2) ~~For~~ For the cost of operation by the County of park and recreational facilities which are not local in nature
376 and which serve the metropolitan area.

377 (f) Except as provided under subpart A of this subchapter, County Council, in the enactment of the annual revenue
378 ordinance or in the enactment of other revenue measures, shall uniformly impose ad valorem taxation on real property
379 within the County and pay the cost of the General Operating Budget.

380 § 1159. Capital program and capital budget.

381 (a) County Council shall adopt a capital program and adopt a capital budget before, or at the same meeting as, it
382 adopts the annual operating budget.

383 (b) The capital program shall detail all permanent physical improvements, including the acquisition of real estate,
384 that are planned to be financed, in whole or in part, from funds that are, or may become, subject to control or appropriation
385 by the County Council during each of the ensuing 6 years. For each separate project there shall be shown the amount and
386 the source of money that has been expended or encumbered, or is to be expended or encumbered before the next fiscal year,
387 and also the amount and the sources of money planned to be expended during each of the ensuing 6 years.

388 (c) The County Council may not amend the capital program as submitted to it by the County Executive, until it has
389 received from the County Executive recommendations with respect to the proposed amendment. The County Council ~~shall~~
390 ~~is not be~~ bound by ~~such~~ the County Executive's recommendations and may act without them if they are not received within
391 15 days from the date they are requested.

392 (d) The Capital Budget Ordinance shall show the total capital appropriations.

393 (e) Amendments to the Capital Budget Ordinance must conform to the pertinent portions of the capital program in
394 its original or amended form.

395 (f) The County Council, in the adoption of the Capital Budget Ordinance, ~~shall may~~ not include in the revenue
396 estimates, any estimated revenues to be derived from ad valorem taxation of real property within a municipality for any
397 capital expenditure, including debt service, which is related to the performance or partial performance by the County of a
398 local service function ~~which is performed by the municipality for its own residents, paid out of municipal revenues and the~~
399 ~~fact that the service is being provided is validated by County Council.~~ in excess of the New Castle County service
400 percentage for that local service function within that municipality.

401 (2) The County Council, in the adoption of the Capital Budget Ordinance, ~~shall may~~ not impose ad valorem
402 taxation on real property within a municipality for the payment of the cost of any capital expenditure, including debt
403 service, which is related to the performance or partial performance by the County of a local service function ~~which is~~
404 ~~performed by the municipality for its own residents, paid out of municipal revenues and the fact that the service is~~
405 ~~being provided is validated by County Council.~~ in excess of the New Castle County service percentage for that local
406 service function within that municipality.

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~~This subsection shall not be applicable.~~

(3) New Castle County may impose ad valorem taxation on real property within any municipality:

(1) In any instance where a municipality initiates or increases the performance of, ~~or exercises responsibility for,~~ a local service function ~~or a distinct activity without the affirmative action in the form of an ordinance of the County Council of New Castle County; and~~ without notifying New Castle County and obtaining its consent as required under § 1128 of this title.

(2) ~~To~~ For capital expenditures, including debt service, for the acquisition by the County of park and recreational facilities which are not local in nature and which serve the metropolitan area.

(g) ~~The~~ Except as provided under subpart A of this subchapter, County Council, in the adoption of a capital budget by ordinance, shall uniformly impose ad valorem taxation on real property within the County for the payment of the cost of any capital expenditure, including debt service, which is not related to the performance or partial performance by the County of a local service function ~~which is performed by a municipality for its own residents, paid out of municipal revenues and the fact that the service is being provided is validated by County Council.~~ in excess of the New Castle County service percentage within each municipality.

§ 1160. ~~Unrestricted use of present revenues.~~ [Repealed.]

(a) ~~The government of New Castle County may use the proceeds derived from ad valorem taxation of real property within the County, including real property within municipalities, at the tax rate imposed by the Levy Court of New Castle County as of July 1, 1965, for any purpose including the payment of the cost of services included in the Local Service Function Budget.~~

(b) ~~The provisions of §§ 1131, 1134(d), 1155(d) and (e), 1158(e) and (f), and 1159(f) and (g) of this title shall be subject to the provisions of subsection (a) of this section.~~

Section 4. Amend § 2515, Title 9 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 2515. Exceptions.

This chapter ~~shall~~ does not apply to ~~buildings~~ any of the following:

(1) A building or ~~structures~~ structure devoted to agricultural use as defined in Chapter 26 of this ~~title, nor to~~ title.

(2) A properties, buildings or structures property, building, or structure located within ~~any incorporated city or town in New Castle County~~ a municipality unless ~~the responsibility~~ New Castle County is responsible for the local service function ~~has been duly transferred to New Castle County.~~ under §§ 1128 and 1133(a)(2) of this title.

437 Section 5. Amend § 2910, Title 9 of the Delaware Code by making deletions as shown by strike through and
438 insertions as shown by underline as follows:

439 § 2910. Exceptions.

440 This chapter ~~shall~~ does not apply to ~~properties, buildings or structures~~ a property, building, or structure located
441 within ~~any incorporated city or town in New Castle County~~ a municipality unless ~~the responsibility~~ New Castle County is
442 responsible for the local service function ~~has been duly transferred to New Castle County. under §§ 1128 and 1133(a)(2) of~~
443 this title.

444 Section 6. Amend Chapter 11 of Title 9 of the Delaware Code by repealing § 1102 in its entirety and inserting in
445 lieu thereof the insertions as shown by underline as follows:

446 § 1102. [Repealed.]

447 Section 7. Section 1 of this Act is effective immediately.

448 Section 8. Sections 2 through 5 of this Act are effective immediately but are not to be implemented until June 30,
449 2020, for the fiscal year 2022 budget process.

450 Section 9. Section 6 of this Act is effective July 1, 2021.

SYNOPSIS

This Act represents the recommendations of the Local Service Functions Task Force created by House Concurrent Resolution No. 54. This Act revises the process by which the New Castle County tax rate for owners of real property in municipalities is calculated to reflect the local services provided by the municipality instead of New Castle County. This Act is modeled on the process that has been used successfully in Prince George's County Maryland for several decades.

This Act creates two processes to determine the degree that a local service function ("LSF") is performed or financially supported by a municipality instead of New Castle County and to calculate the property tax rate for real property in each municipality based on that determination. There is one process for fire company contributions and one process for all other local service functions. The new process for fire company contributions is effective immediately for New Castle County's fiscal year 2021. The new process for all other local service functions will be implemented for New Castle County's fiscal year 2022, to allow time for the necessary calculations and the development of forms and procedures.

Specifically, this Act does all of the following:

Section 1. Implements a new process to calculate the property tax rate for real property in municipalities for fire company contributions. In order for the current process to continue in fiscal year 2021 for all other local service functions, Section 1 of this Act adds the new process for fire company contributions in § 1102 of Title 9. The process created by this Act requires New Castle County to perform several specific calculations to determine the property tax rate in a municipality in proportion to the amount that the municipality contributes to fire protection relative to what New Castle County contributes.

This process does not consider as an in-kind contribution from New Castle County or a municipality the property tax that a fire company does not pay because real property owned by fire companies is exempt from taxation. Because no property tax is due, it is not an amount that either New Castle County or a municipality is waiving.

Section 2. Creates a new process to calculate the property tax rate for real property in municipalities for all local service functions, including fire company contributions, and places the new Code sections in Budgeting, Subchapter III of Chapter 11 of Title 9. The range of services that can be local service functions is substantively unchanged, but where current law anticipates that a municipality provides all or none of a service, this Act recognizes that there are different levels of a service, some of which may be provided by a municipality, and some which are provided by New Castle County. The new process to calculate the property tax rate for local service functions is similar to the process for fire protection but is based on New Castle County's cost to provide the local service function, reduced by fees, grants, and other revenue that supports the specific service and increased by applicable indirect costs. This Act creates specific calculations that New Castle County will use to determine the county property tax for real property in a municipality based upon the municipality's performance of a level of a service that New Castle County would provide if the municipality did not. This

Act also creates a specific process, with deadlines, that New Castle County and municipalities will use during each budget cycle to determine the individual LSF tax rate for real property in municipalities. While current law requires an ordinance from a municipality and New Castle County to transfer performance of a local service function, this Act creates a more flexible process where, annually, the municipality may provide notice of its intent to stop, start, or change the degree of performance of a local service function, subject to the written agreement of New Castle County's Chief Administrative Officer and the County Council's adoption of budget and revenue ordinances reflecting that agreement. This Act also creates a binding, non-appealable dispute resolution process for disputes regarding New Castle County's level of service determinations and a Local Service Function Review Committee. The Local Service Function Review Committee will meet annually to review the LSF calculations and process and prepare a report.

Sections 3 through 5. Revise current sections of Title 9 to be consistent with the new process and terminology enacted in Section 2 of this Act. Under this Act, New Castle County must adopt the individual LSF tax rates for real property in municipalities as part of the annual operating budget. The adoption of the budget ordinance represents agreement between New Castle County and each municipality that the municipality will provide the service at the level established through the process enacted under Section 2 of this Act.

Section 6. Repeals § 1102 of Title 9. The fire company contributions process is included in the new § 1129 of Title 9 enacted in Section 2 of this Act.

Sections 7 through 9. Provide effective dates and implementation requirements for this Act.

This Act also makes technical corrections to conform existing law to the standards of the Delaware Legislative Drafting Manual.