

**LAWS**  
**OF THE**  
**STATE OF DELAWARE**

**ONE HUNDRED AND TWENTY-SIXTH**  
**GENERAL ASSEMBLY**

**FIRST SESSION COMMENCED AND HELD AT DOVER**

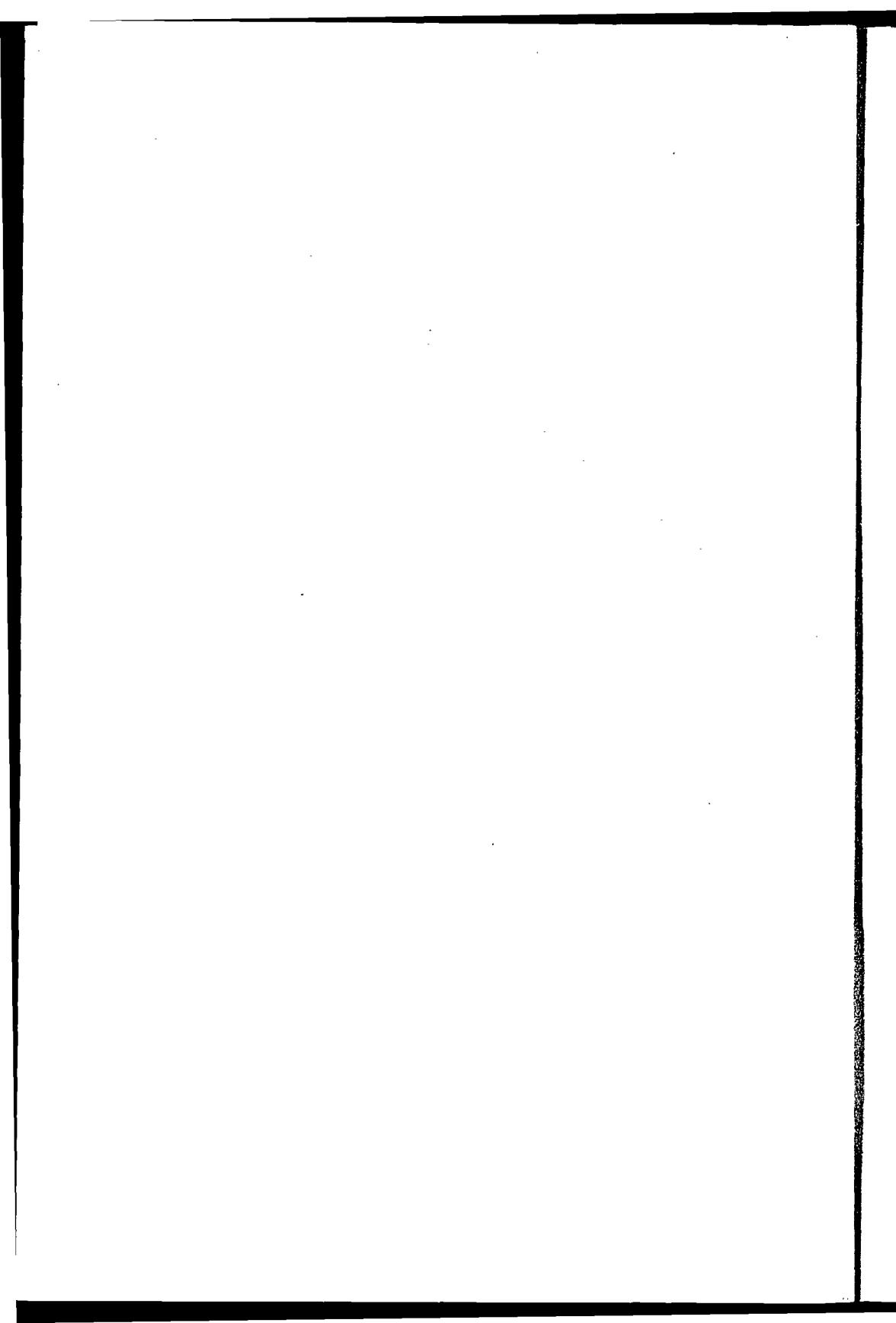
**On Tuesday, January 5, A. D.**  
**1971**

**SECOND SESSION COMMENCED AND HELD AT DOVER**

**On Tuesday, January 11, A. D.**  
**1972**

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**PART II**  
**VOLUME LVIII**



## CHAPTER 403

FORMERLY SENATE BILL  
NO. 612

**AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO INCORPORATE THE TOWN OF OCEAN VIEW IN SUSSEX COUNTY, DELAWARE", THE SAME BEING CHAPTER 649, VOLUME 18, LAWS OF DELAWARE, AS AMENDED, BY INCREASING THE AMOUNT OF MONEY WHICH MAY BE RAISED EACH YEAR BY TAXATION.**

*Be it enacted by the General Assembly of the State of Delaware (two-thirds of all the members elected to each house thereof concurring therein):*

Section 1. Chapter 649, Volume 18, Laws of Delaware, as amended, is hereby further amended by striking the first sentence of Section 23 and inserting in lieu thereof the following:

Section 23. The Council of said town shall have the right to raise by taxation such sums of money as it shall deem necessary, which shall in no single year exceed Thirty Thousand Dollars (\$30,000.00).

Approved May 24, 1972.

CHAPTER 404  
FORMERLY SENATE  
BILL NO. 630

**AN ACT EXTENDING THE REVERSION DATE OF STATE FUNDS USED FOR SALARIES IN THE THREE-YEAR PERIOD OF EXPERIMENTAL EDUCATIONAL PROGRAMS WHICH WERE AUTHORIZED BY CHAPTER 202, VOLUME 57 LAWS OF DELAWARE.i,**

WHEREAS, Chapter 202, Volume 57, decreed that all unexpended funds are to revert on June 30, 1972; and

WHEREAS, State funds for salaries cannot ordinarily be carried over from one fiscal year to the next; and

WHEREAS, some school personnel hired to work in this program may choose to receive an annual salary based on 20 or 24 payments per year and thus some salaries could be paid through August 31, 1972.

NOW, THEREFORE:

*Be it enacted by the General Assembly of the State of Delaware:*

Section 1. Amend Section 11 of Chapter 202, Volume 57, Laws of Delaware, by striking said section in its entirety and substituting a new Section 11 to read as follows:

Section 11. Any funds remaining unexpended on September 15, 1972 shall revert to the General Fund of the State. No unexpended funds remaining beyond June 30, 1972 shall be expended except for salaries to be paid in accordance with Section 1317, Title 14, Delaware Code.

Approved May 24, 1972.

## CHAPTER 405

## FORMERLY SENATE

## BILL NO. 634

**AN ACT TO AMEND CHAPTER 90, PART VIII, TITLE 16 OF THE DELAWARE CODE RELATING TO HOSPITAL CONSTRUCTION AND IMPROVEMENTS, AND PROVIDING A METHOD OF REPAYMENT FOR HOSPITAL CONSTRUCTION LOANS.**

*Be it enacted by the General Assembly of the State of Delaware:*

Section 1. Amend Subsection (c), Section 9005, Chapter 90, Title 16 of the Delaware Code, by adding the following sentence at the end of said subsection (c):

The repayment schedules shall provide the hospitals with the option of amortizing the principal and the interest of the loan in equal annual installments over the life of the loan, and the repayment of any loans heretofore granted may be renegotiated in accordance with the provisions of this Section.

Approved May 24, 1972.

CHAPTER 406

FORMERLY SENATE BILL  
NO. 635 AS  
AMENDED BY SENATE  
AMENDMENT NO. 1

**AN ACT TO AMEND PART II, TITLE 9, DELAWARE CODE,  
RELATING TO THE GOVERNMENT OF NEW CASTLE  
COUNTY.**

*Be it enacted by the General Assembly of the State of Delaware:*

Section 1. Section 1166 (b), Title 9, Delaware Code, is amended to read as follows:

(b) In order to stagger the term of the county councilmen, the councilmanic districts are divided into three categories. One category shall consist of Councilmanic Districts 1, 2, and 3; and the second category shall consist of councilmanic districts, 4, 5, and 6, and the third category shall consist of councilmanic district 7.

Section 2. Section 1166, (c), Title 9, Delaware Code, is amended to read as follows:

(c) The first councilmen elected in councilmanic districts 1, 2, and 3 after the redistricting following the 1970 federal decennial census shall serve until the first Tuesday in January, 1977. Councilmen elected in said districts other than those elected immediately following redistricting shall serve a term of four years, except as provided in Sections 1147 and 1165. The first councilmen elected in said councilmanic districts after the redistricting following each odd numbered federal decennial census shall serve a term of four years. The first councilmen elected in said councilmanic districts after the redistricting following each even numbered federal decennial census shall serve a term of two years.

Section 3. Section 1166 (d), Title 9, Delaware Code, is amended to read as follows:

(d) The first councilmen elected in councilmanic districts 4, 5 and 6 after the redistricting following the 1970 federal decennial census shall serve until the first Tuesday in January, 1975. Councilmen elected in said districts other than those elected immediately following a redistricting shall serve a term of four years, except as provided in Sections 1147 and 1165. The first councilmen elected in said councilmanic districts after the redistricting following each odd numbered federal decennial census shall serve a term of two years. The first councilmen elected in said councilmanic districts after the redistricting following each even numbered federal decennial census shall serve a term of four years.

Section 4. Section 1166, Title 9, Delaware Code, is amended by changing the designations of subsection (e), (f), and (g) to read (f), (g), and (h), respectively and by inserting a new subsection (e) as follows:

(e) The councilman in councilmanic district seven (7) shall be elected at the general election in November, 1972, and shall serve until the first Tuesday in January, 1977, and the councilmen subsequently elected to district seven (7) shall serve a term of four years and shall be elected in even numbered and presidential election years.

Section 5. Section 1165 (e) Title 9, Delaware Code, is amended to read as follows:

(e) The terms of councilmen elected in councilmanic districts 1,2,3,4,5, and 6 shall terminate on the first Tuesday in January following the election of councilmen immediately following each redistricting pursuant to this section. As used in this section, the phrase "odd numbered federal decennial census" shall refer to the decades whose first digit is an odd number, for example, 1970, 1990, 2010; and the phrase "even numbered federal decennial census" shall refer to the decades whose first digit is an even number, for example 1980, 2000, 2020.

Section 6. The foregoing provisions shall be effective on the first Tuesday of January, 1973, except that those provisions relating to the election of councilmen shall be effective for the general election in November, 1972.

Approved May 24, 1972.

CHAPTER 407

FORMERLY SENATE BILL  
NO. 640

**AN ACT TO AMEND CHAPTER 182, VOLUME 58, LAWS OF DELAWARE ENTITLED "AN ACT MAKING APPROPRIATIONS FOR THE EXPENSE OF THE STATE GOVERNMENT FOR THE FISCAL YEAR ENDING JUNE 30, 1972" BY AUTHORIZING A TRANSFER OF FUNDS BY THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES.**

*Be it enacted by the General Assembly of the State of Delaware:*

Section 1. Amend Chapter 182, Volume 58, Laws of Delaware, by authorizing the transfer of funds by the Department of Health and Social Services so as to reduce the item entitled "(16.85) Salaries and Wages of Employees (23)" under "Social Service Payments" by \$5,516 and to increase the item entitled "Salary of Secretary" under "Office of the Secretary" by \$5,516.

Approved May 24, 1972.

## CHAPTER 408

FORMERLY HOUSE BILL  
NO. 423 AS AMENDED BY  
SENATE AMENDMENT NO. 2**AN ACT TO AMEND SECTION 6913, TITLE 29, DELAWARE  
CODE BY PROVIDING PROVISIONS FOR THE FAILURE  
TO PAY PREVAILING WAGE RATES.**

*Be it enacted by the General Assembly of the State of Delaware:*

Section 1. Section 6913, Title 29, Delaware Code, is amended by designating the first paragraph as (a) and by adding new paragraphs (b), (c) and (d) as follows:

(b) The Department of Labor shall investigate all claims that the prevailing wage rates as provided for under this section are not being or have not been paid. Upon his finding that a contractor or subcontractor has not paid nor is not paying the prevailing wage rates, the Secretary of Labor shall notify the contractor or subcontractor thereof and make an effort to obtain compliance. Upon failure to obtain compliance, the Secretary of Labor shall notify the contractor or subcontractor by registered mail that the said contractor or subcontractor has violated the provisions of this Section. If the contractor or subcontractor does not comply within fifteen days of receipt of said registered mail, then thereafter the Secretary may terminate all rights of the contractor or subcontractor to proceed with the work under the public construction contract, and the contractor or subcontractor shall be responsible for all damages resulting therefrom.

(c) Any contractor or subcontractor who wilfully fails or refuses to pay the prevailing wage rates provided for under this section shall for each such failure or refusal, upon conviction thereof, be fined not less than \$500 or not more than \$2,000, and upon such conviction no public construction contract in this State shall be awarded to or received by such contractor or subcontractor, or to any person, firm, partnership, or corporation in which such contractor or subcontractor has an interest, until three years have elapsed from the date of such conviction. The Superior Court shall have exclusive jurisdiction of offenses under this section.

(d) Any laborer or mechanic employed by any contractor or subcontractor who is paid in a sum less than the prevailing wage rates provided for under this section shall have a right of action against the contractor or subcontractor in the Superior Court to recover the difference between the amount so paid and the prevailing wage rate plus interest at six percentum per annum. Such action shall, at the request of the laborer or mechanic, be brought by the Department of Justice acting for the Department of Labor in the name and for the benefit of the laborer or mechanic. It shall not be a defense to such action that the underpayment was received by the laborer or mechanic without protest, either oral or in writing, against the amount thereof, and the lack or failure of protest shall not be a bar to recovery. In the event that there is a wilful failure or refusal by the contractor or subcontractor to pay the prevailing wage rate, the contractor or subcontractor shall pay treble the difference between the amount so paid and the prevailing wage rate and shall pay, in addition, a reasonable attorney's fee in an amount to be set by the Superior Court for services rendered in that court and on any appeal. Upon the filing of an action under this section, the contractor or subcontractor shall post suitable bond approved by the Superior Court for the damages which may be recoverable hereunder. The party bringing in action under this section shall not be required to pay court costs.

Approved May 24, 1972.