

LAWS

OF THE

STATE OF DELAWARE

ONE HUNDRED AND FOREITH

GENERAL ASSEMBLY

FIRST SESSION COMMENCED AND HELD AT DOVER

**On Tuesday, January 13, A.D.
1999**

SECOND SESSION COMMENCED AND HELD AT DOVER

**On Tuesday, January 11, A.D.
2000**

**VOLUME LXXII
Part II**

CHAPTER 268

FORMERLY

HOUSE BILL NO. 452

AN ACT TO AMEND CHAPTER 258, VOLUME 72, LAWS OF DELAWARE; AND RELATING TO THE
COMMUNITY REDEVELOPMENT FUND.

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

Section 1. Amend §3, Chapter 258, Volume 72, Laws of Delaware by deleting the phrase "Seventy Million Dollars (\$70,000,000)" as it appears therein and substituting in lieu thereof "Seventy Million Six Hundred Twenty Thousand Dollars (\$70,620,000)". Further amend §3, Chapter 258, Volume 72, Laws of Delaware by deleting the amount "\$65,000,000" as it appears therein and substituting in lieu thereof "\$65,620,000", and by recalculating all totals therein.

Section 2. Amend Chapter 258, Volume 72, Laws of Delaware by redesignating Sections 81 through 143 as Sections 82 through 144 and inserting a new Section 81 on page 35 to read as follows:

"Smyrna Readiness Center – Construction. With the exception of architectural design fees, none of the funds appropriated for the Smyrna Readiness Center – Construction may be expended until the appropriate Federal match has been authorized."

Section 3. Amend §3, Chapter 258, Volume 72, Laws of Delaware by deleting the following:

"

<u>Purpose</u>	<u>State Share</u>	<u>Local Share</u>	<u>Total Cost</u>
Milford, Construct New Banneker Elementary, (78/22)	4,000,000	1,128,200	5,128,200"

as it appears therein and by substituting in lieu thereof :

"

<u>Purpose</u>	<u>State Share</u>	<u>Local Share</u>	<u>Total Cost</u>
Milford, Construct New Banneker Elementary, (78/22)	317,742	89,615	407,357
Milford, Renovate Milford High (78/22)	3,682,258	1,038,585	5,128,200"

and further amend the Section 1 Addendum by adjusting the project listing as amended herein.

Section 4. The Metropolitan Wilmington Urban League is hereby deemed to have been operating as a non-profit organization for two years as of July 1, 1999 in order to receive Community Redevelopment funds pursuant to §6102A, Title 29, Delaware Code.

Approved February 04, 2000

CHAPTER 269

FORMERLY

SENATE BILL NO. 282

AN ACT TO AMEND TITLE 1 OF THE DELAWARE CODE BY ESTABLISHING A JUNETEENTH NATIONAL FREEDOM DAY.

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

WHEREAS, more that 130 years old, Juneteenth National Freedom Day is the oldest and only African-American holiday observance in the United States. Also known as "Emancipation Day," "Emancipation Celebration," "Freedom Day," "Jun-Jun" and "Juneteenth." Juneteenth National Freedom Day commemorates the strong survival instinct of African-Americans who were first brought to this country stacked in the bottom of slave ships in a month-long journey across the Atlantic Ocean known as the "Middle Passage."; and

WHEREAS, approximately eleven and one-half million African-Americans survived the voyage to the New World - the number that died is likely greater - only to be subjected to whipping, castration, branding and rape, and forced to submit to slavery for more than 200 years after arrival in the United States; and

WHEREAS, events in the history of the United States which led to the Civil War of 1861 centered around sectional differences between the North and South that were based on the economic and social divergence caused by the existence of slavery; and

WHEREAS, Abraham Lincoln was inaugurated as President of the United States in 1861. As President, Lincoln believed and stated that the paramount object of the Civil War was to save the Union rather than save or destroy slavery. Yet Lincoln has stated his wish that "all men everywhere could be free," thus adding to a growing anticipation by slaves that their ultimate liberation was at hand; and

WHEREAS, in 1862, the first clear signs that the end of slavery was imminent came when laws abolishing slavery in the territories of Oklahoma, Nebraska, Colorado and New Mexico were passed. In September of that same year, President Lincoln warned the eleven rebellious Confederate States that if they did not return to the Union by January 1, 1863, he would declare their slaves "forever free" via the celebrated "Emancipated Proclamation;" and

WHEREAS, enforcement of the "Emancipation Proclamation," however, only occurred in Confederate States under Union Army control. Congress subsequently passed the Thirteenth Amendment to the Constitution on January 31, 1865, abolishing slavery throughout the United States and its territories. News of this action reached the states at different times, and it was not until June 19, 1865, that the message of freedom reached the slaves in Texas, Oklahoma, Louisiana, Arkansas and California; and

WHEREAS, spontaneous celebration erupted throughout the country when African-Americans learned of their freedom. Juneteenth National Freedom Day demonstrates that slavery hated slavery and celebrated its abolishment with excitement and great joy. It is a reminder to all Americans of the status and importance of Americans of African descent as American citizens.

NOW THEREFORE:

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

Section 1. Amend Chapter 6, Title 1 of the Delaware Code by adding a new section to read as follows:
"Section 604. Juneteenth National Freedom Day

The following day shall be commemorated in this State by appropriate ceremonies: The third Saturday of June, known as Juneteenth National Freedom Day."

Approved February 18, 2000

CHAPTER 270

FORMERLY

SENATE BILL NO. 283

AN ACT TO AUTHORIZE AND APPROVE THE TRANSFER OF CERTAIN REAL PROPERTY IN THE TOWN OF GEORGETOWN, SUSSEX COUNTY, COMMONLY REFERRED TO AS THE "BRICK HOTEL".

WHEREAS, the State of Delaware acquired property formerly owned by Wilmington Trust Company on the Circle in Georgetown, DE, commonly referred to as the "Brick Hotel", with the intention of developing a new Court of Chancery facility; and

WHEREAS, certain physical characteristics of the "Brick Hotel" are not ideal for conversion for the purposes of the judiciary without extensive modification to the original structure; and

WHEREAS, there has proven to be substantial sentiment within the community toward seeing the structure remain intact; and

WHEREAS, a satisfactory substitute property is available within close proximity; the owners of said property are desirous of exchanging their property for that of the State; and the owners have confirmed their intention of preserving the "Brick Hotel" structure.

NOW THEREFORE:

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

Section 1. Notwithstanding any provisions to the contrary, including those contained in Title 29, Chapter 94 of the Delaware Code relating to surplus property, the Department of Administrative Services is authorized to negotiate the disposition of the former Wilmington Trust property (including all or part of tax parcels 1-35-14.20.154 and 146) in exchange for that of the H.P. Layton Family Partnership (identified as tax parcel 1-35-14.20.197).

Section 2. The Department of Administrative Services is further authorized and empowered to execute and deliver to the H.P. Layton Family Partnership or its designee such documents as shall be necessary to complete the exchange of properties.

Section 3. As a condition of the transaction described herein, the Brick Hotel structure shall be protected by a preservation easement pursuant to the provisions of Chapter 69 of Title 7 of the Delaware Code in a form and substance which is acceptable to the Division of Historical and Cultural Affairs and the Partnership. The preservation easement shall be granted to and held by the State or a qualified non-profit organization.

Section 4. This bill shall become effective upon enactment.

Approved February 18, 2000

CHAPTER 271

FORMERLY

HOUSE BILL NO. 373
AS AMENDED BY HOUSE AMENDMENT NOS. 1 AND 2 AND
SENATE AMENDMENT NOS. 1 AND 2

AN ACT TO AMEND TITLE 19 OF THE DELAWARE CODE RELATING TO POLICE OFFICERS' AND
FIREFIGHTERS' EMPLOYMENT RELATIONS ACT.

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

Section 1. Amend § 1602(h), Title 19 of the Delaware Code by striking this section in its entirety and substituting in lieu thereof the following:

"(h) 'Binding Interest Arbitration' means the procedure by which the Public Employment Relations Board shall make written findings of fact and a decision for final and binding resolution of an impasse arising out of collective bargaining."

Section 2. Amend § 1613(b), Title 19 of the Delaware Code by striking the word "fact-finders" in the first and second sentence and substituting in lieu thereof the words "binding interest arbitrators".

Section 3. Amend § 1614(c), Title 19 of the Delaware Code by striking the word "fact-finding" in the first, second and third sentence and substituting in lieu thereof the words "binding interest arbitration".

Section 4. Amend § 1615, Title 19 of the Delaware Code by striking it in its entirety and substituting in lieu thereof the following:

"§ 1615. Binding Interest Arbitration.

"(a) Within 7 working days of receipt of a petition or recommendation to initiate binding interest arbitration, the Board shall make a determination, with or without a formal hearing, as to whether a good faith effort has been made by both parties to resolve their labor dispute through negotiations and mediation and as to whether the initiation of binding interest arbitration would be appropriate and in the public interest; except that any discretionary subject shall not be subject to binding interest arbitration.

(b) Pursuant to Section 4006(f), Title 14 of this Code, the Board shall appoint the Executive Director or his/her designee to act as binding interest arbitrator. Such delegation shall not limit a party's right to appeal to the Board.

(c) The binding interest arbitrator shall hold hearings in order to define the area or areas of dispute, to determine facts relating to the dispute and to render a decision on unresolved contract issues. The hearings shall be held at times, dates and places to be established by the binding interest arbitrator in accordance with rules promulgated by the Board. The binding interest arbitrator shall be empowered to administer oaths and issue subpoenas on behalf of the parties to the dispute or on the binding interest arbitrators' own behalf.

(d) The binding interest arbitrator shall make written findings of facts and a decision for the resolution of the dispute; provided however, that the decision shall be limited to a determination of which of the parties' last, best, final offers shall be accepted in its entirety. In arriving at a determination, the binding interest arbitrator shall specify the basis for the binding interest arbitrator's findings, taking into consideration, in addition to any other relevant factors, the following:

(1) The interests and welfare of the public.

(2) Comparison of the wages, salaries, benefits, hours and conditions of employment of the employees involved in the binding interest arbitration proceedings with the wages, salaries, benefits, hours and conditions of employment of other employees performing the same or similar services or requiring similar skills under similar working conditions in the same community and in comparable

communities and with other employees generally in the same community and in comparable communities.

(3) The overall compensation presently received by the employees inclusive of direct wages, salary, vacations, holidays, excused leaves, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment and all other benefits received.

(4) Stipulations of the parties.

(5) The lawful authority of the public employer.

(6) The financial ability of the public employer based on existing revenues, to meet the costs of any proposed settlements; provided that, any enhancement to such financial ability derived from savings experienced by such public employer as a result of a strike shall not be considered by the binding interest arbitrator.

(7) Such other factors not confined to the foregoing which are normally or traditionally taken into consideration in the determination of wages, hours and conditions of employment through voluntary collective bargaining, mediation, binding interest arbitration or otherwise between parties, in the public service or in private employment.

In making determinations, the binding interest arbitrator shall give due weight to each relevant factor. All of the above factors shall be presumed relevant. If any factor is found not to be relevant, the binding interest arbitrator shall detail in the binding interest arbitrator's findings the specific reason why that factor is not judged relevant in arriving at the binding interest arbitrator's determination. With the exception of paragraph (6) of this subsection, no single factor in this subsection, shall be dispositive.

(g) Within 30 days after the conclusion of the hearings but not later than 120 days from the day of appointment, the binding interest arbitrator shall serve the binding interest arbitrator's written determination for resolution of the dispute on the public employer, the certified exclusive representative and the Board. The decision of the binding interest arbitrator shall become an order of the Board within five (5) business days after it has been served on the parties.

(h) The cost of binding interest arbitration shall be borne equally by the parties involved in the dispute.

(i) Nothing in this chapter shall be construed to prohibit or otherwise impede a public employer and certified exclusive representative from continuing to bargain in good faith over terms and conditions of employment or from using the services of a mediator at any time during the conduct of collective bargaining. If, at any point in the impasse proceedings invoked under this chapter, the parties are able to conclude their labor dispute with a voluntarily reached agreement, the Board shall be so notified, and all impasse resolution proceedings shall be forthwith terminated."

Section 5. Amend § 1609 of Title 19 of the Delaware Code by inserting 'or § 1615' after '1608' and before 'of' in the first sentence of that section.

Section 6. Amend § 1609(a) of Title 19 of the Delaware Code by inserting the words "or party" after the word "person" and by inserting "or § 1615" between "1608 and "of" in the first sentence thereof.

Section 7. Amend § 1609(b) of Title 19 of the Delaware Code by inserting the words "or § 1615" between "1608" and "of" in that section.

Section 7. This Act shall sunset four years after it is enacted into law.

Approved March 28, 2000

CHAPTER 272

FORMERLY

HOUSE BILL NO. 375
AS AMENDED BY HOUSE AMENDMENT NOS. 1 AND 2 AND
SENATE AMENDMENT NOS. 1 AND 2

AN ACT TO AMEND TITLE 19 OF THE DELAWARE CODE RELATING TO THE PUBLIC EMPLOYMENT
RELATIONS ACT.

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

Section 1. Amend § 1302(j), Title 19 of the Delaware Code by striking this section in its entirety and substituting in lieu thereof the following:

"(j) 'Binding Interest Arbitration' means the procedure by which the Public Employment Relations Board shall make written findings of fact and a decision for final and binding resolution of an impasse arising out of collective bargaining."

Section 2. Amend § 1313(b), Title 19 of the Delaware Code by striking the word "fact-finders" in the first and second sentence and substituting in lieu thereof the words "binding interest arbitrators".

Section 3. Amend § 1314(c), Title 19 of the Delaware Code by striking the word "fact-finding" in the first, second and third sentence and substituting in lieu thereof the words "binding interest arbitration".

Section 4. Amend § 1315, Title 19 of the Delaware Code by striking it in its entirety and substituting in lieu thereof the following:

"§ 1315. Binding Interest Arbitration.

"(a) Within 7 working days of receipt of a petition or recommendation to initiate binding interest arbitration, the Board shall make a determination, with or without a formal hearing, as to whether a good faith effort has been made by both parties to resolve their labor dispute through negotiations and mediation and as to whether the initiation of binding interest arbitration would be appropriate and in the public interest; except that any discretionary subject shall not be subject to binding interest arbitration.

(b) Pursuant to Section 4006(f), Title 14 of this Code, the Board shall appoint the Executive Director or his/her designee to act as binding interest arbitrator. Such delegation shall not limit a party's right to appeal to the Board.

(c) The binding interest arbitrator shall hold hearings in order to define the area or areas of dispute, to determine facts relating to the dispute and to render a decision on unresolved contract issues. The hearings shall be held at times, dates and places to be established by the binding interest arbitrator in accordance with rules promulgated by the Board. The binding interest arbitrator shall be empowered to administer oaths and issue subpoenas on behalf of the parties to the dispute or on the binding interest arbitrators' own behalf.

(d) The binding interest arbitrator shall make written findings of facts and a decision for the resolution of the dispute; provided however, that the decision shall be limited to a determination of which of the parties' last, best, final offers shall be accepted in its entirety. In arriving at a determination, the binding interest arbitrator shall specify the basis for the binding interest arbitrator's findings, taking into consideration, in addition to any other relevant factors, the following:

(1) The interests and welfare of the public.

(2) Comparison of the wages, salaries, benefits, hours and conditions of employment of the employees involved in the binding interest arbitration proceedings with the wages, salaries, benefits, hours and conditions of employment of other employees performing the same or similar services or requiring similar skills under similar working conditions in the same community and in comparable

communities and with other employees generally in the same community and in comparable communities.

(3) The overall compensation presently received by the employees inclusive of direct wages, salary, vacations, holidays, excused leaves, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment and all other benefits received.

(4) Stipulations of the parties.

(5) The lawful authority of the public employer.

(6) The financial ability of the public employer based on existing revenues, to meet the costs of any proposed settlements; provided that, any enhancement to such financial ability derived from savings experienced by such public employer as a result of a strike shall not be considered by the binding interest arbitrator.

(7) Such other factors not confined to the foregoing which are normally or traditionally taken into consideration in the determination of wages, hours and conditions of employment through voluntary collective bargaining, mediation, binding interest arbitration or otherwise between parties, in the public service or in private employment.

In making determinations, the binding interest arbitrator shall give due weight to each relevant factor. All of the above factors shall be presumed relevant. If any factor is found not to be relevant, the binding interest arbitrator shall detail in the binding interest arbitrator's findings the specific reason why that factor is not judged relevant in arriving at the binding interest arbitrator's determination. With the exception of paragraph (6) of this subsection, no single factor in this subsection, shall be dispositive.

(g) Within 30 days after the conclusion of the hearings but not later than 120 days from the day of appointment, the binding interest arbitrator shall serve the binding interest arbitrator's written determination for resolution of the dispute on the public employer, the certified exclusive representative and the Board. The decision of the binding interest arbitrator shall become an order of the Board within five (5) business days after it has been served on the parties.

(h) The cost of binding interest arbitration shall be borne equally by the parties involved in the dispute.

(i) Nothing in this chapter shall be construed to prohibit or otherwise impede a public employer and certified exclusive representative from continuing to bargain in good faith over terms and conditions of employment or from using the services of a mediator at any time during the conduct of collective bargaining. If, at any point in the impasse proceedings invoked under this chapter, the parties are able to conclude their labor dispute with a voluntarily reached agreement, the Board shall be so notified, and all impasse resolution proceedings shall be forthwith terminated."

Section 5. Amend § 1309 of Title 19 of the Delaware Code by inserting 'or § 1315' after '1308' and before 'of' in the first sentence of that section.

Section 6.. Amend §1309(b) of Title 19 of the Delaware Code by inserting the words "or §1315" between "1308" and "of" in that section.

Section 7. This Act shall sunset four years after it is enacted into law.

Approved March 28, 2000

CHAPTER 273

FORMERLY

HOUSE BILL NO. 150

AS AMENDED BY SENATE AMENDMENT NOS. 1 AND 2

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO THE DEPARTMENT OF
CORRECTIONS.

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

Section 1. Amend Title 29 of the Delaware Code by enacting the following as a new section 8926 entitled
"Correctional Officer Education Assistance Fund" as follows:

"§ 8926. Correctional Officer Education Assistance Fund.

(a) Any correctional officer below the rank of Captain may avail themselves of the provisions of
this act to reimburse the tuition costs for higher education related to their position.

(b) The classes will be reimbursed at 100% of the tuition paid following completion of the course
with a grade of "C" or better at a college or university within the State for classes related to corrections,
public safety, criminal justice, psychology or sociology or related fields. Related fields shall include any
courses necessary to complete a degree program in Criminal Justice, Corrections, Public Safety,
Psychology or Sociology.

(c) In the event that the Department's annual appropriation for purposes of education
reimbursement is not sufficient to provide total reimbursement to all eligible employees, the Department
shall pro-rate the funds so that each eligible employee receives a share of the total annual appropriation
equal to the individual employee's reimbursable expenditure divided by the total reimbursable expenditure
of all employees in the Department multiplied by the annual appropriation." Section 2. The provisions of
this Act shall be applied retroactively to July 1, 1999.

Approved April 04 2000

CHAPTER 274

FORMERLY

HOUSE BILL NO. 322

AS AMENDED BY HOUSE AMENDMENT NOS. 1 AND 2 AND
SENATE AMENDMENT NO. 1

AN ACT TO AMEND SECTION 1916 OF TITLE 14 OF THE DELAWARE CODE TO ESTABLISH A
DEADLINE FOR SCHOOL DISTRICTS TO FIX THE RATE OF TAXATION.

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

Section 1. Amend § 1916(d), Title 14 of the Delaware Code by deleting it in its entirety and substituting
in lieu thereof the following:

"(d) The board shall, no later than the second Thursday in July, deliver its warrant, with a
duplicate of the assessment list, to the receiver of taxes and county treasurer of the county or
counties where the district is located."

Section 2. This act shall become effective January 1, 2000.

Approved April 04, 2000

CHAPTER 275

FORMERLY

HOUSE BILL NO. 409
AS AMENDED BY HOUSE AMENDMENT NO. 2

AN ACT TO AMEND TITLE 15 OF THE DELAWARE CODE RELATING TO ELECTIONS AND VOTING.

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

Section 1. Amend §1906, Title 15 of the Delaware Code by striking the words "10 days" wherever they appear and substituting in lieu thereof the words "20 days".

Section 2. Amend §2011(b), Title 15 of the Delaware Code by striking all the words after the phrase "applicant shall sign the application" in the last sentence and substituting in lieu thereof the words "and one registration officer shall sign his or her name in the space provided for that purpose on the application."

Section 3. Amend §2021(a), Title 15 of the Delaware Code by striking the words "The department for each county shall conduct mobile registrations throughout its county on a regularly scheduled year-round basis;" in the first sentence and substituting in lieu thereof the words "The department of election for each county shall conduct mobile registration as it deems appropriate;"

Section 4. Amend §2047, Title 15 of the Delaware Code by adding a new subsection thereto as follows:

"(6) The commissioner of elections shall promulgate rules and procedures by which the departments of election may accept transfers of address from registered voters between the closing of registration and the day of a primary, presidential primary, and general election both within their offices and at other locations within their respective counties. Such rules and procedures shall contain a provision by which a person so transferring his or her address in accordance with those rules and procedures may appear at his or her proper polling place and vote without completing the eligibility affidavit or envelope at the polling place as required in subsections (1), (2) or (3) of this section. The departments of elections in receipt of such transfers shall process them as soon as practical."

Section 5. Amend § 2048, Title 15 of the Delaware Code by adding a new subsection thereto as follows:

"(c) The commissioner of elections shall promulgate rules and procedures by which the departments of election may accept changes of name from registered voters between the closing of registration and the day of a primary, presidential primary, and general election both within their office and at other locations within their respective counties. Such rules and procedures shall contain a provision by which a person so changing his or her name in accordance with those rules and procedures may appear at his or her proper polling place and vote without completing the voter registration application at the polling place as required in subsection (a) of this section. The departments of elections in receipt of such applications to change persons' names shall process them as soon as practical."

Section 6. Amend § 2049, Title 15 of the Delaware Code by adding a new section "(c)" to read as follows:

"(c) Applications received that change a person's political party affiliation during a period which a person may not change his or her political party affiliation in accordance with provisions of this title shall be held by the department of elections receiving the application and processed when the period to change a person's political party affiliation reopens."

Section 7. Amend § 2050 (a) (4), Title 15 of the Delaware Code by deleting the last sentence in said subsection and inserting in lieu thereof the following:

"If the applicant desires not to register to vote, the transmission of an electronic record will notify the Department of Elections of the applicant's intention."