

LEGISLATIVE UPDATE  
**“FINAL GAVEL”**

1<sup>st</sup> SESSION OF THE  
152<sup>nd</sup> GENERAL ASSEMBLY

AS OF: 13 July 2023  
EXECUTIVE SUMMARY

“This will do exactly the opposite of what you think you are doing.”  
Rep. Rich Collins

The First Session of the 152nd General Assembly started with all members of the Assembly returning to the building for in-person Session, with committee meetings held both in-persona and virtually. Held over from Covid were the time limits on speakers. In some cases, speakers would only get one minute to present their issues, yet while the “record” would remain open for 24 hours, many agree the members never read the submitted comments. The speed at which things happen in the building has dramatically increased.

As the Session progressed, social and environmental issues again took a prominent position of topics legislated. Some were left over from the previous Session – such as the Law Enforcement Bill of Rights and numerous climate change bills, however, new for this year were bills related to electric vehicles. While zoom offered seemingly more public access – it was still a difficult environment to petition your government. Essentially, while access via zoom and in-person hearings were improved, given the majorities held by the ruling party, virtually anything that they wished to pass – would pass.

As to spending, and while some of Delaware’s economy continued to recover, early DEFAC numbers presented a revenue picture for the coming FY ’24 showing estimates for a very large surplus. By the June DEFAC revenue estimate – Delaware was facing a budget surplus of again nearly \$400 million, with another near record-breaking Bond Bill of \$1.4 billion and a General Operating Budget of \$5.6 billion. And like last year, this Assembly passed a supplemental spending bill of one-times for state employees as well as contingency spending for bills that if they passed would get state money.

This Session saw legalization of marijuana for recreational use (Governor allowed to become law without signature), the publication of the regulations (DOL) around mandated family leave FMLA for all businesses, publication of regulations (DNREC) for the elimination of gas and diesel powered vehicles in DE by 2035, legislation creating the Data Privacy Act impacting larger businesses, again legislation to allow doctor assisted suicide, legislation to allow for natural organic reduction of human remains, bills increasing rights for employees, a new \$.60/line tax on all land lines and cell phones to support the 988 mental health crisis line, passage by one Chamber of a “permit to purchase” for all firearms, REALTORS again seeking to reduce the 4% realty transfer tax, a new bill adding a Short-term Rental Tax, a bill to eliminate any HOA covenants that prevent homeowners using clothes-lines, and numerous bills impacting both the multi-family and manufactured housing codes.

Of special significance were the 2022 elections and its impact upon both the House and Senate. For some in the business community, the last two cycles have moved the Chambers further left. This has emboldened the drive to introduce and pass some very controversial bills.

Specifically – in the House, there were a series of gun and environmental bills that were presented consuming a lot of time and effort. One such measure was a strong effort to release SS#1 to SB1 the “Permit to Purchase” bill from the House Appropriations committee before June 30<sup>th</sup>. This effort, along with action on other bills added to the complexity of the Chamber. Most notable was during the last night of Session, and as promised by Speaker Schwartzkopf because of the ’22 election, he stepped-down (as part of power-sharing deal cut in January) and turned the chair over to Rep Valerie Longhurst, the former Majority Leader and now Speaker for the 2<sup>nd</sup> Session of the 152<sup>nd</sup> GA. During this historical moment was also the election of Rep Mimi Minor Brown as Majority Leader and Rep Keri Evelyn Harris – the first Freshman to take the role as Majority Whip.

As to legislation in the House, and mentioned above, there were a series of bills impacting both the multi-family and manufactured housing communities introduced and passing in one or the other Chamber.

Of note, it was during the debate and eventual passage in the House of HB212 that Rep Rich Collins made his comment... While Rep Val Longhurst believed this was a good idea to place a cap on rent increases in manufactured housing communities to 5% and then barring any rent increases of any amount the following year by the community owner, that during the floor debate Rep Collins said “...for the very thing you are trying to do to help tenants, this will do the exact

opposite of what you think you are doing.” HB212 passed along party-line votes but was not heard in the Senate before 30 June.

To the Senate, there were no real last-minute issues given the overwhelming majority held by the Democrats at 15 to 6 R’s. Virtually every bill they wished to move forward, did so without delay. Interesting observation was when the Senate Majority would post their agenda the evening before, many of those same bills were still in committee. This is just a small indication of their ability to present and pass legislation as necessary.

As to the money bills, the Assembly passed the Budget Bill HB 195 by Tuesday 27 June with the two remaining money bills, Bond Bill SB160 and Grants-in-Aid HB197 both passing the House and Senate respectively 30 June.

However, it was during the closing days of Session this year, and with expectations of getting out of the building earlier because of a change to Delaware laws allowing Special Session to be called at 5:30 PM instead of midnight that the House Republicans staged a walkout.

On Tuesday 27 June with the Seaford Charter Change bill (which held the provisions to allow business entities to vote) defeated on the floor, the R’s had made a commitment that if the Seaford Charter change did not pass – they would vote against the Bond Bill – they did, and shortly thereafter, walked out of the building. The Minority told leadership that if there were not enough votes to pass that bill and a floor vote on HB123 (directing DNREC to stop their EV mandate) the following day, the bond bill would not get done.

However, the next day upon the passage of Seaford’s bill, and a floor vote on HB123 (it passed 21 yes) the Bond Bill was brought forth and passed easily by both sides.

Here are some spending highlights from this year.

The FY'24 Budget is \$5.606 billion.

This year's budget showed increases again in spending for virtually all agencies and employees, to include 9% pay raise for teachers. The Assembly increased monies in the Budget Stabilization Fund (budget smoothing); numerous one-times in HB196/Supplemental for Frie Company Pensions of \$4.625m, DSHA getting \$30mm, monies for the Presidential Primary, \$2mm for residential lead

remediation, and numerous line items for the Marijuana Control Act. Budget growth was almost 10% from last year.

A breakdown of spending for the last number of years as compared to the new FY2024 budget is as follows:

**FY2017 - 7 years ago**

General Operating Budget	\$4.084 billion
Bond/Capital Improvement Bill	\$501 million
Grant-in-Aid	\$45.9 million

**FY2018 - 6 years ago**

General Operating Budget	\$4.11 billion
Bond/Capital Improvement Bill	\$590 million
Grant-in-Aid	\$37.2 million

**FY2019 - 5 years ago**

General Operating Budget	\$4.27 billion
Bond/Capital Improvement Bill	\$816 million
Grant-in-Aid	\$52.1 million

**FY2020 – 4 years ago**

General Operating Budget	\$4.57billion
Bond/Capital Improvement Bill	\$863million
Grant-in-Aid	\$55million

**FY2021 – 3 years ago**

General Operating Budget	\$4.525billion
Bond/Capital Improvement Bill	\$707 million
Grant-in-Aid	\$54.4 million

**FY2022-2 years ago**

General Operating Budget	\$4.771 billion
Bond/Capital Improvement Bill	\$1.350 billion
Grant-in-Aid	\$63.2 million

**FY2023 – Last year**

General Operating Budget	\$5.09 billion
Bond/Capital Improvement Bill	\$1.40 billion
Grants-in-Aid	\$69.4 million

**FY2024**

General Operating Budget	\$5.606 billion
Supplemental/One-times	\$ 194 million
Bond/Capital Improvement Bill	\$1.409 billion
Grants-in-Aid	\$ 70 million

Once again, the state has presented and passed record setting operating and bond bill budgets. As Delaware moves past the post-Covid environment, coupled with a more progressive Assembly, spending in the out years could become much more difficult. As the last days of Session approached, the Chair of the JFC warned his fellow Legislators that next year's budget already shows some \$200million less in revenue.

As to legislation, there were regulations impacting virtually every small business employer (FMLA), regulations proposed mandating the sale of only EV's in Delaware by 2035 from DNREC, potential wide swaths of the economy impacted through DE's Climate Action Plan HB99 (the old SB305), and very difficult bills for multi-family residential real estate such as "right to counsel" and manufactured housing property owners with rent control.

Delaware's revenue picture was record setting for FY'24. While inflation is remains high around 7% , some of the persistent issues that have long plagued Delaware as to an aging population, in-migration of retirees, a lack of diversified production-based economy, more clearly indicate the out-year projections could be more difficult. And given there were NO tax cuts (again) for any segment of businesses and citizens, our economy looks more fragile, but Delaware's small and large business owners are flexible and resilient, and if we can get people to work, we should remain competitive with our surrounding states and attract the talents of those seeking to live and work here.

Respectfully Submitted;  
C.S.KIDNER ASSOCIATES/CAPITOL STRATEGIES  
C. Scott Kidner

# REVIEW OF LEGISLATION

## I. LAND USE /REAL ESTATE/HOUSING

The following bills and positions noted represent the overall commercial and residential real estate, multi-family, and manufactured housing industry, along with the business community as it relates to their private property rights, how they conduct their business, and their ability to use/transfer real property within the state of Delaware.

### **SENATE**

SS#1 to SB1w/HA#1 – Sen Townsend and Rep Minor Brown – Right to Counsel/Diversion Program/CLASI

NEUTRAL

As most in housing know, the bill is a significant rewrite of SB101 from last session that for virtually every eviction case, an attorney must be provided for the defense of that tenant. A Coordinator would be hired through the AG's office to contract with CLASI or other legal services who would provide the defense counsel. The bill saw numerous changes after lengthy and detailed conversations with the sponsor and CLASI, which resulted in: Defining a "tenant", how full-time students are calculated, how income is calculated, requiring that mediation must occur no later than 48 hours before trial date, and tenant's failure to complete mediation may not delay commencement of trial (HA1), creates a list of actions that are covered for representation, among many other changes.

Based upon these changes and other items removed from the bill, the DAA eventually took a position of neutral, and it easily passed both Chambers by 16 June 2023

*Awaiting Governor's Signature*

SB9– Sen McBride and Rep Lambert – Relating to Lead Paint

NEUTRAL

The bill creates a much more robust lead testing and abatement program in Delaware by inspection of properties where a child is found to have elevated BLL's screened for lead paint, and if found, abated. Also says for those property owners/landlords that receive state money to mitigate, they are barred from raising rents for three years, and creating a dedicated fund for abatement, and finally expanding the duties of the Childhood Lead Poisoning Advisory Committee that includes inspections and remediation in pre-1978 properties. The DAA and DAR

offered some slight modifications included in both SA#1 and HA#1. With positions of neutral from the housing community, the bill eventually passed the Senate with the amendments on 30 June.

*Awaiting Governor's Signature*

SB99 – Sen Pinkey and Rep Wilson-Anton – Municipalities

NEUTRAL

The bill prevents the use of municipal ordinances that require removal by eviction a tenant or the tenant's household for criminal activity. Essentially, this bars the local government from enforcing eviction by landlords, such that if they do not remove the tenant – they will have their rental license cancelled. Both DAA and DAR took the position of neutral, passing in the Senate with 4 No votes, and then released from House Housing on 15 June, without making it to the House floor for a vote before 30 June.

*No Further Action Taken.*

SB130 – Sen Sturgeon and Rep Phillips – Restrictive Covenants/Clotheslines

OPPOSED

This seeks to strike any HOA covenant or deed restriction that prevents a homeowner from setting up/installing a clothesline to dry clothes, all in the name of reducing that person's carbon foot print. Pushback from DAR and some other property organization's – the bill was heard in Senate Housing in June but was not released.

*No Further Action Taken.*

SB172 – Sen Walsh and Rep Carson – Manufactured Housing and Receivership Petitions

OPPOSED

This bill came from the DOJ and created a “pattern and practice” of violations by a landlord of various provisions of Chapter 70 and the rental agreement by making it an unlawful practice under the Consumer Fraud Act, and further authorizes the AG's office to file a petition to establish receivership in the JP Courts on specified grounds. SA1 tries to mitigate areas of what is considered pattern and practice by deleting the word “welfare”. It passed the Senate on a partisan vote on 15 June and then released from House Housing Comm on 22 June, but failed to get to the floor before the end of Session.

*No Further Action Taken*

## HOUSE

HB37 (HB191) – Rep Dorsey-Walker and Sen Brown – Tenant Remedies/Escrow  
OPPOSED

Like HB477 from the last year, the bill seeks to address issues in Wilmington relating to a specific landlord and condemnation of his rental units in 2022, by giving tenants ability to withhold and/or escrow rent into an account within the JP Court system. DAA maintained throughout the debate from last year and into this year, creating an escrow account does nothing to help tenants that are facing life and safety issues and their unit is condemned. After several weeks of meetings and two separate hearings, the bill was changed again and filed as HB191 and then a week later, HS#1 to HB191 was introduced.

Each version made changes to the current code around escrow, and while some changes were positive for the landlord community, the final version needed significant redress to eliminate conflicts and confusion in the bill. Opposed by DAA in committee again, the bill was released – then assigned to House Appropriations (Fiscal Note) – whereby it was released late on the 21<sup>st</sup>. It passed the House on 22 Yes, 1 N, 1 NV and 16 Absent (this was the night the R’s walked out) and assigned to Senate Housing with no hearing held before 30 June.  
*No Further Action Taken.*

HS#1 to HB55 – Rep Lynn and Sen Hoffner – Homeless Bill of Rights  
OPPOSED

Amending Title 6 and Tile 31, the bill – and like many versions before it, seeks to establish a new protected class for those that are defined as homeless in the bill. And like the previous version, this one is also opposed by DAA and DAR because of the negative impact it will have the ability of the property owner to determine if the potential tenant can meet the requirements of tenancy. Additional issues remain in this version as the broad definition of homelessness, the rights afforded to these people that include their ability to “stay” in cars or in public spaces without intervention from police, and what happens to the landlord if they are accused of violating the provisions of this new fair housing claim charged against them by a tenant.

Introduced on 14 Mar 2023 and assigned to the House Judiciary Committee, no hearings were held before the close of the Session.

*No Further Action Taken.*



## HB168 – Rep Williams and Sen Mantzavinos – Short Term Rental Tax

### OPPOSED

Amending Titles 9 and Title 30 – the bill creates a new tax for short-term rentals (VRBO/ARBNB) of a 150 days or less and adds a new rental license fee of \$25 a year for short-term listing services. Strongly opposed by DAR and supported by the Hotel Lodging and Tourism Associations – the bill was introduced on 18 May and assigned to House Revenue and Finance Committee. It was released from Committee in June and remains on the House Ready List. The expectation is the parties will try and seek some common ground before the return of the Assembly in January 2024.

*No Further Action Taken.*

## HS#2 to HB212 – Rep Longhurst and Sen Pinkey – Rent Control for Manufactured Housing

### OPPOSED

Introduced in lieu of HB212 on 27 June, and after earnest conversations with FSMHA, the bill essentially places a cap on rents for manufactured housing communities to 5% a year, and if the property owner takes that amount, they are barred from raising any rent the following year. This does not apply to communities that have 50% or more that are 2<sup>nd</sup> homes. It also requires disclosures on the Rental Assistance Program and requires the DOJ’s Ombudsman to hold 2 meetings a year in each county to offer information about rental assistance and other programs to tenants. While some modifications were made by the sponsor, and despite ongoing opposition from the industry and the DEMOA to this version, the substitute was introduced and on the agenda the same day, passing on a 25 Yes vote. Assigned to the Senate Housing Committee, it was not heard before 30 June.

*No Further Action Taken*

## HB241– Rep Harris and Sen Pinkey – Housing Advisors

### OPPOSED

It seeks to create a new term of “housing agreement advisor” that someone who assists a buyer, prospective buyer, renter, prospective tenant during any pre-rental pre-purchase meetings to support that tenant or buyer. The definition of this advisor is extremely broad and is not limited to how many can attend these meetings. Additionally, there is no duty or liability of the advisor if they offer “advice” that is wrong or damaging. It also requires landlords to provide this information to any prospective tenant and not doing so is a civil penalty.

Introduced on 16 June and assigned to the House Housing Committee it was released on 20 June. However, the sponsor made a commitment it would not be worked until next year

*No Further Action Taken.*

## **II. ENVIRONMENT**

### **SENATE**

SB96 – Sen Pettyjohn and Rep Ramone – DNREC EV Regulation  
SUPPORT

This bill, like others from the Minority outright prohibits the Department from implementation of their ACCII (Advanced Clean Car) ZEV Regulations which ban the sale of any diesel or gas powered vehicle under 14,000lbs in DE by 2035, from being implemented by the Department. Introduced in April, the bill was assigned to the Senate Environment and Energy Committee, eventually getting a hearing in June. However, it failed to garner any support from the Majority.

*No Further Action Taken.*

### **HOUSE**

HR17 – Rep Ramone – DNREC EV Regulation  
SUPPORT

This Resolution directs the Department from advancing any regulations or action that would implement California's ACCII regulations on DE until all fiscal impacts and directs the Department to evaluate the 33 states that currently operate under EPA's CO2 emission standards, and make these findings known to the Assembly by March of 2024. Never getting a floor vote, it remains on the Ready List.

*No Further Action Taken.*

HB8 – Rep Osienski and Sen Walsh – Clean Construction Preferences  
NEUTRAL

This is the first in a series of bills directing the State to implement various "clean" energy or technologies or preferences in the hiring process for state contracts. Specifically, this directs the Agencies to implement "clean construction preferences" that measure the amount of carbon released or other pollutants used in the materials purchased for construction. Released from Committee on 10 May and remains on House Ready List

*No Further Action Taken.*

HB9 – Rep Griffith and Sen McBride – EV's/Statewide Fleet  
NEUTRAL

It will require the State to purchase EVs in a phased approach that by 2040, 100% of all state owned vehicles and light duty trucks will be zero-emission. It allows OMB with the stated exemptions for police and vehicles operated by the Dept of Education, to grant some additional exemptions. Released from House Natural Resources Committee and reassigned to Appropriations because of a multi-million dollar FN, it remains tabled in Committee.

*No Further Action Taken.*

HB10 – Rep Heffernan and Sen Hansen – Electric School Bus Program  
NEUTRAL

Requires the state to begin eliminating diesel powered school buses in a phased approach, such that by 2030, 30% of all school buses in DE will be zero emission vehicles. This too had a FN, but it provided costs to FY'26 of \$1.625mm for that year. Assigned to House Natural Resources committee, it eventually passed the House and the Senate by 27 June along party lines.

*Awaiting Governor's Signature.*

HB11w/HA#1 – Rep Heffernan and Sen Hansen – County Building Codes/Solar Ready Zones  
NEUTRAL

This will require all new construction over 50,000sqft to have their roofs and electrical systems able to accept solar panels and the accompanying conduit and service panels. Supported by DAR and CIRC Neutral, the bill does exempt those buildings that have 70% shade for the year, those that already have onsite solar, or the building is certified it cannot support a solar ready zone. Introduced in May, it passed easily in both chamber by 27 June.

*Awaiting Governor's Signature.*

HB12 – Rep Phillips and Sen McBride – EV Rebate Program  
NEUTRAL

Introduced on 2 May, it creates a program that will incentivize the lease or purchase of new and used electric vehicles in the amounts of no more than \$2500 for all EV, and no more than \$1000 for hybrids. The FN notes annual cost of \$2mm a year coming from the Regional Greenhouse Gas Initiative and other ASF funds from DNREC. Like the others, it passed the House and Senate along party lines by 30 June.

*Awaiting Governor's Signature.*

HB13 – Rep Phillips and Sen McBride – EV Charging Stations Report

NEUTRAL

Requires DNREC to report no later than 31 Dec 2023, with support from DelDOT, an assessment of existing EVSE (electric vehicle supply equipment) availability and how to deploy more EVSE through incentive programs, with a focus on single family homes with on-street parking. Assigned to House Natural Resources Comm on 2 May, no hearing was held.

*No Further Action Taken.*

HB123 – Rep Ramone and Sen Hocker – Assembly Consent on EV Regulations

SUPPORT

The bill requires the Department to get consent from the Assembly before promulgating any regulations restricting the sale of gas and diesel powered vehicles in DE. A direct result of the EV mandate published in April by DNREC for ACCII, the bill became part of the R “walkout” over the Seaford Charter change. This bill passed the House with a bi-partisan vote of 21 yes under suspension of rules. It has not been assigned to a committee in the Senate.

*No Further Action Taken.*

HB99w/HA#1 – Rep Heffernan and Sen Hansen – Climate Change Solution Act of 2023

OPOSSED

While similar to last year’s SB305, the bill got numerous changes made in consultation with the business community, yet it still requires every Department in State Government to create and coordinate their Climate Action Plan as established in 2021 by meeting the requirements on greenhouse gas reduction limits; to create Climate Change Officers in each Department who will develop the strategies and report those to DNREC on a yearly basis, and other requirements. The bill also requires all rulemaking, regulations, and procurement from the State Agencies be done through the lens of climate change. HA#1 brings some clarity as to the Technical Climate Advisors, who they are, and more critically, the timing and use of offsets for carbon by the business community. As with many bills of this nature – it passed the House and Senate along party-line votes.

*Awaiting Governor’s Signature.*

HB220 – Rep Willson-Anton and Sen Hansen – Constitutional Amendment for Natural Resources

OPPOSED

This is the first leg of changing DE’s Constitution that says all people have an inherent right to clean water, air, soil, and climate, and the preservation of these natural resources are the common property of every Delaware citizen. While many

understand the merits of a clean environment, the bill is so broad it will lead to any citizen suing or taking any business or agricultural entity to court because they violated their inherent right to clean environment. Opposed by members of the Administration, DFB and others, it was released from House Administration committee but failed to get onto the floor before 30 June.

*No Further Action Taken.*

HB246 – Rep Phillips and Sen Huxtable – Statewide Riparian Buffers

OPPOSED

Seeking to establish a uniform statewide 300 foot buffer around all water bodies in DE, the bill creates numerous problems within the land development community, and steps on home rule. With numerous organizations including the CDCC in strong opposition, the bill was not heard in committee and the sponsors indicated they would bring all stakeholders into a meeting(s) to discuss this issue before the return of Session in January.

*No Further Action Taken.*

HB248 – Rep Johnson and Sen Townsend – Pre-Permit Community Outreach Meeting

OPPOSED

The sponsor has indicated the intent is to require business that are seeking zoning and/or permits in underserved communities to conduct their business activities must first – before any application for permits – meet, within 3 miles of the property or site, with all the interested members of the affected communities. Opposed by many in the business community including the CDCC, the sponsor finally agreed to not pursue the bill, and would meet with the business community in the coming months.

*No Further Action Taken.*

HB249 – Rep Carson and Sen Paradee – Increasing Fees for DNREC

OPPOSED

Introduced on 28 June – the sponsors have indicated this will be a topic for 2024 to seek increases across the board for numerous DNREC fees and licensing programs that include storage tanks, emergency generators, hazardous waste facilities, drilling licenses, waste hauling transport permits, NPDES permits, VOC unit fees, sediment and stormwater control fees, and many others. It also allows fees in Section 6 of the bill to be raised by the Department without Assembly vote by no more than 5% each year. Assigned to the House Appropriations Committee, it will be heard in January

*No Further Action Taken.*

### **III. TAXES**

#### **SENATE**

SB65 – Sen Buckson and Rep Briggs-King – Transfer Tax Expenditures

NEUTRAL

The bill simply adds workforce and affordable housing programs to the current list of transfer taxes eligible for expenditure in the three counties. Having gotten some opposition, the bill was stricken on 6 June.

*No Further Action Taken.*

SS#1 To SB87 – Sen Huxtable and Rep Baumbach – Realty Transfer Tax

SUPPORT

Essentially, the bill allows for the transfer of property to or from tax exempt organizations when the purpose is to provide owner-occupied housing to low and moderate income persons. Supported by DAR and others in the housing community, the substitute removes the exemption in the original bill for homes financed through the federal Low Income Housing Tax Credit Program. Easily passing both Chambers by 30 June.

*Awaiting Governor's Signature.*

SB88 – Sen Huxtable and Rep Lambert – Realty Transfer Tax

NEUTRAL

The bill sets forth a new levels of which a TTax will be paid by a first-time buyer depending on the value of the home. Generally supported by DAR in that any reduction of the transfer tax for real property is good, the bill makes the calculation of these taxes complicated. Opposed by the Administration, ti was assigned to the Seante Executive Committee and did not have a hearing.

*No Further Action Taken.*

SS#1 to SB107 – Sen Lawson and Rep Gray – Motor Vehicle Fees

NEUTRAL

It will allow the mobile home-owner to seek the value of their mobile home or trailer at the retail level to help in determining the document/transfer fee charge by the state during the sale of the home. It does exclude furnishings, site modifications, and location of the park as part of the calculation. The substitute requires an appraiser who is qualified must be sed by the homeowner. Passing both Chamber's easily by 390 June

*Awaiting Governor's Signature.*

## **HOUSE**

### **HB36 – Rep Bush and Sen Walsh – Transfer Tax Reduction SUPPORT**

Like the many bills before it in previous Sessions – this simply reduces the current 4% transfer tax to 3% on the sale of real property. Long supported by DAR and others within the housing community, the bill was released from House Revenue and Finance Committee and reassigned to the House Appropriations Comm on 24 January, yet never received a hearing

*No Further Action Taken.*

### **HB62 – Rep Wilson-Anton and Sen Lockman – Assessment of Real Property NEUTRAL**

The bill introduced in March will require each county to reassess the value of real property in the respective county at least every 5 years, starting when this current assessment process is complete. It also requires the property be value at present fair market value vs. true value in money, easily passing the Senate on 20 June.

*Awaiting Governor's Signature.*

### **HB67 – Rep Shupe and Sen Hocker – Realty Transfer Tax NEUTRAL**

In another attempt to reduce DE's TTax in some manner – this bill will exempt someone who sells their primary residence in DE and but their next primary residence within 12 months from the TTax on that second purchase, with the discussion in committee about adding language that makes this allowable only every 10 years. Assigned to House Revenue Committee, it failed to get out of committee.

*No Further Action Taken.*

### **HB89 – Rep Baumbach and Sen Sokola – Personal Income Taxes SUPPORT**

The bill increases the earned income tax credit to 7.5% for tax years beginning after 1 January 2023 and makes clear that previously enacted refundable earned tax credit of 4.5% for federal tax purposes took effect for tax years after January 1, 2021. Assigned to 4 separate committees, the bill with amendment got out of Senate Appropriations committee but was never placed on the Senate agenda for consideration given the FN attached was \$24.9mm in year '24, increasing to \$55mm in 2025.

*No Further Action Taken*

HB127 – Rep Baumbach and Sen Huxtable – County Fire Protection Fees

OPPOSED

It would allow the counties to impose a new fire protection fee on all property within the county, with fees deposited into a separate account, that only 5% of fees collected can be used for administration, and the fire company must include in their audit the monies collected under the fee. Generally opposed by the CDCC and other business organizations, it was released from House Housing Committee on 26 April, but failed to get to the agenda before 30 June

*No Further Action Taken.*

HB128 – Rep Baumbach and Sen Townsend – Personal Income Tax

OPPOSED

The bill totally rewrites the PIT levels in DE by creating more tax brackets and increasing the top tax bracket for anyone making income over \$100,000 a year at 6.9%. Assigned to the House Revenue Committee in May, it never got to the House Agenda.

*No Further Action Taken.*

HB149 – Rep Collins and Sen Hocker – Personal Income Taxes

SUPPORT

Introduced in early May, the bill simply requires that each PIT bracket to be annually adjusted for cost-of-living increases, whereby lower income individuals do not get hit with “bracket creep” because of salary increases that are to offset inflation. Assigned to House Revenue Committee it failed to have a hearing.

*No Further Action Taken.*

## **IV. BUSINESS ISSUES**

### **SENATE**

SS#1 to SB43 – Sen Richardson and Rep Baumbach – Human Trafficking/Postings

NEUTRAL

The bill requires businesses to post signage about human trafficking and contains violation provisions for failure to post. The business community agrees trafficking must be eliminated, there were some concerns over failure to post the appropriate signage. Easily passing both Chambers by 20 June.

*Awaiting Governor's Signature.*



SB51 with HA#1, 2, 4 – Sen Paradee and Rep Baumbach – Polystyrene Ban  
OPPOSED

The bill basically bans the use of any polystyrene made products from use by consumers, as well as single use coffee stirrers, picks, and plastic straws within the food industry. It does exempt this material used in meat or food production for shipping. The CDCC believes the amount of these items contributing to land-fills is minimal, as compared to the new costs and compliance issues which are great. Passing along party-line votes in both Chambers by 27 June.

*Awaiting Governor's Signature.*

SB64w/HA#2 – Sen Paradee and Rep Bolden – State Lottery/Casino Investment  
SUPPORT

The Act will promote capital investment by the three tracks by allowing them to restructure their table game licensing fees such that instead of paying these fees to the state – they can use them for capital improvements. Supported by CDCC and the tracks along with the Dept of Finance, the bill faced opposition from the Majority Leader, eventually placing HA#2 that sunsets these provisions within one year and requires the Lottery Director and the Comptroller General to approve the accounting submitted by the tracks before they can use them. With only one No vote in the House, and 21 Yes in the Senate – it easily passed by 30 June.

*Signed by the Governor May 25, 2023.*

*Related to Gaming, HR 6 was introduced in January that established an Internet Sports Lottery Legislative Working Group to be led by Reps Cooke, Bush, and Smith and Dukes.*

*This group's intention is to seek legislative action to allow for multi-platform sports betting in Delaware via groups like Fan Duel and Draft Kings. The group met in public multiply times with the tracks, horsemen, Lottery Office, and the current lottery provider listening to the advocates, as well as outlining their concerns and the multitude of issues around a multi-platform system vs a platform controlled and run by the Lottery Office. By 30 June there was no resolution to this issue, and no bills were introduced on behalf of Fan Duel or Draft Kings.*

SB81 – Sen Townsend and Rep Griffith – Wrongful Death Actions  
OPPOSED

The bill changes the standard of what can be considered in a wrongful death action and opens the business community to a much lower threshold of litigation for accidents that result in death or serious injury. Some insurance carriers that have these types of policies sought changes in language to limit this much broader language use. Unfortunately – the bill's sponsor did not accept any changes.

*Awaiting Governor's Signature*

SB145 SA#1 – Sen Sturgeon and Rep Osienski – Damages for Employment  
Discrimination

NEUTRAL

It increases the limits on the dollar amount of awards of compensatory or punitive damages or both in cases of employment discrimination and creating caps in specific categories based upon the number of employees. SA#1 keeps those limits the same as current law for 4-14 employees, and then changes those limit levels for 15 to 100 employees. With strong support from the DTLA, it easily passed by both Chambers by 30 June

*Awaiting Governor's Signature.*

SB146 – Sen Sturgeon and Rep Osienski – Discrimination in Employment

NEUTRAL

A simple bill that clarifies that an individual can file a charge of discrimination by sending a verified charge to the DOL – and this verified charge is deemed to be filed on the date it is sent to the Department. With no opposition – it passed the Chamber before 30 June.

*Awaiting the Governor's Signature*

SB147 – Sen Sturgeon and Rep Osienski – Computer Related Offenses

OPPOSED

Broadly written – the bill would allow employees to access the employers computer systems, programs, data bases or other networks if the employee is doing this to seek information or evidence in the case of violations of federal or state employment laws. Strongly opposed by the CDCC and the other Chambers, it was released from the Senate Judiciary Committee on 7 June – but did not get to the floor. The sponsor indicated she would bring new language before it got a vote.

*No Further Action Taken.*

## **HOUSE**

HB1 – Rep Osienski and Sen Paradee – Marijuana Legalization

NEUTRAL

HB2/wHA#1,2 – Rep Osienski and Sen Paradee – Marijuana Control Act

NEUTRAL

As many are aware, HB371 and HB372 from last Session never garnered, even with various amendments, enough votes to pass. The sponsor then split the bill into two parts, one for straight legalization HB371 which is a simple majority bill,

and then a bill that provides all the regulations and taxes to allow for the sale of recreational marijuana.

The business community's overall issues were and remain around dramatically changing the employer/employee relationship. Specifically, the business community sought and got language that insured the employer's policies on drugs in the workplace or working while impaired known as "zero tolerance policies" will not be affected. However, while this was welcomed, there are no reliable tests for THC impairment; there is little legal framework for employers to know what they can or cannot do, and; this will impact an already difficult hiring environment by taking even more people out of the hiring pool.

Because of the past election, the sponsor believed with HB1 and HB2 there were enough votes to pass – but to also sustain a veto override effort. Both bills passed with enough votes to override, and on 23 April, *the Governor allowed both bills to become law without his signature.*

HB41– Rep Briggs King and Sen Pettyjohn – Right to Repair  
NEUTRAL

This is a follow-on to legislation introduced last year, this bill requires the manufacturers and of these electronic devices to produce parts, documents, tools and updates to allow consumers to fix their own device. Initially opposed by the larger telecoms and ISP, this bill makes changes that exempts any equipment owned and leased to the consumer. Introduced in January, it was finally heard in March, released but failed to make the House Agenda.  
*No Further Action Taken.*

HB101 – Rep Bush and Sen Walsh – Ready in 6/Expedited Review  
SUPPORT

As the first in four bills and as part of the Ready in 6 program – this requires both DNREC and DeIDOT to speed up their reviews of entrance permits and stormwater plans associated with new development by allowing for the use of pre-approved consultants hired by the agencies. Strongly supported by the business community but opposed by DeIDOT – this bill was not released from committee in May.  
*No Further Action Taken.*

HB102 – Rep Bush and Sen Walsh – Temporary Entrance Permits  
SUPPORT

This will allow the issuance of temporary entrance permits within 10 days for those projects within Level 1 where the development meets economic goals. Like HB101 and the others, it was strongly supported by the CDCC and the business community, and with little opposition, it was passed easily in early June.

*Signed by Governor on 20 June 2023.*

HB103 – Rep Bush and Sen Walsh – Traffic Impact Fee  
SUPPORT

The third bill as part of the Ready in 6, and more complicated and controversial, it will allow developers in Level 1 and 2 to pay an impact fee for those areas that are not part of a transportation improvement district. The business community believes this will speed up construction, bring predictability, and help with needed improvements to the areas they are developing. Opposed by DeIDOT, the bill was not released from Committee.

*No Further Action Taken.*

HB104 – Rep Bush and Sen Walsh – Pre-Application Exemption  
SUPPORT

The final bill, this allows the developer to be exempted from the pre-application process with PLUS if the project is within Level 1 or 2, meets local zoning and comprehensive plan requirements and will create full-time jobs. Supported by CDCC and many other business groups – this bill easily passed both Chambers with little opposition.

*Signed by Governor on 20 June 2023.*

HB144 – Rep Bush and Sen Mantzavinos – Workers Compensation  
SUPPORT

A simple bill that changes the number of exemptions for workers comp reimbursement in LLC's from 4 individuals to 8 individuals, which is current law for corporations. With support from the insurance brokers and the no position from DOL – the bill easily passed both Chambers by 30 June.

*Awaiting Governor's Signature.*

HB154w/HA#1 and #4 – Rep Griffith and Sen Townsend – Data Privacy Act  
NEUTRAL

After numerous meetings with all stakeholders impacted by the bill, and with numerous changes and two amendments, the sponsor was able to get Data Privacy passed through both Chambers. Overall, an extremely complicated and cumbersome bill, the CDCC with other Chambers were able to gain exemptions

that will virtually eliminate any small business owner from getting captured under these provisions because of the “floors” on data sold and data collected. With other exemptions for federally regulated entities such as banks, insurance carriers and brokers, it is only those within a very specified segment of data collection and sales will be required to meet the confines of the bill.

*Awaiting Governor’s Signature.*

HS#2 to HB160 – Rep Longhurst and Sen Poore – Mental Health Line Tax  
OPPOSED

Introduced late in the Session on 6 June, it will place a .60 cent tax on every phone line and cell line on all residents and corporations (except state phone lines) per month to fund a new mental health crisis intervention hotline and support services. After testimony from the business community with concerns on the amount of the tax (highest in the nation) and seeking clarity on lines that will be charge, as well as who will oversee the funds generated, two substitutes were introduced. However, many of the issues remained including the high tax, passing both Chambers on a bi-partisan vote.

*Awaiting Governor’s Signature.*

HB175 – Rep Neal and Sen Poore – Accessible Parking  
OPPOSED

The bill is another attempt by the Assembly to dramatically increase the amount and redesign/layout of handicap parking in the state by mandating to local governments their duties and responsibilities in code enforcement. With the response from the Chambers and League of Local Governments, the sponsor acknowledged the issues around the bill and concerns from business owners. As a result – HCR 68 was introduced asking the three Counties and the League of Local Governments to convene and make recommendations to the Assembly for improving, signage, and uniformity of handicap parking in the state.

*No Further Action Taken.*

## V. ISSUES FOR JANUARY 2024

Delaware's revenue picture looks less robust for 2024, with signs of inflation and reduced spending by consumers. Delaware's inflation is running over 6% and unemployment remains a mixed bag of high claims, but "Help Wanted" signs indicating employers are unable to find workers. With no tax cuts offered, and the loss of Covid federal dollars washing through the system, it remains unclear how this impacts our state's economy in the coming months.

Returning legislation for next year will include these and other bills that impact the business community: Transfer Tax Reduction; Source of Income; Homeless Bill of Rights; Rent Escrow/Withholding; Rent Control in Manufactured Housing; Potential Additional Lead Paint Testing/Inspection Requirements for Multi-family Housing; Electric Vehicles; Issues around Climate Change, and; Implementation of FMLA by regulation.