

LEGISLATIVE UPDATE
“FINAL GAVEL”

1st SESSION OF THE
152nd 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 an in-person Session. Committee meetings were held both in-person and virtually. Time limits on speakers, a holdover from Covid, continued. In some cases, speakers would only get one minute to present their issues with specific legislation. While the “record” would remain open for 24 hours following the committee meeting, many agreed that the members never read the submitted comments. The speed at which bills were being introduced and passing in the building has dramatically increased.

As the Session progressed, social and environmental issues again took a prominent position in the 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 officials. Essentially, while access via zoom and in-person hearings were improved, actions moved through the general assembly quickly.

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 end of June, DEFAC revenue estimates showed that 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 similar to last year, this Assembly passed a supplemental spending bill of one-time increases for state employees, as well as contingency spending for bills that if they passed would receive funding.

This Session saw the legalization of marijuana for recreational use which the Governor allowed to become law without his signature; the publication of the regulations (DOL) around mandated family leave (PMLA) for all businesses; the publication of regulations (DNREC) for the elimination of gas and diesel powered vehicles in Delaware by 2035; and the legislation creating the Data Privacy Act impacting larger businesses. Also, 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 were all in play. The passage by one Chamber of a “permit to purchase” for all firearms was also on the table as was area 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 were also worked.

The business community again recognized the significance of 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 Assembly further to a more liberal point of view. This has emboldened the drive to introduce and pass some very controversial, non- business friendly 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 30th. This effort, along with actions on other bills added to the complexity of the Assembly.

Most notable was during the last night of Session, and as promised by Speaker of the House, Representative Pete Schwartzkopf, he stepped-down and turned the chair over to Representative Valerie Longhurst, the former Majority Leader and now Speaker for the 2nd Session of the 152nd General Assembly. During this historical moment was also the election of Representative Mimi Minor Brown as Majority Leader and Representative Keri Evelyn Harris, the first freshman, to take the role as Majority Whip.

On the Senate side, where the majority party has 15 votes to 6, practically 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 quickly.

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

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, June 27, with the Seaford Charter Change bill (which held the provisions to allow business entities to vote) being defeated on the floor, the Republican Representatives had made a commitment that they would vote against the Bond Bill which they did, and shortly thereafter, walked out of the building. The Minority Party told the 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 the Seaford Charter Change bill, and a floor vote on HB123 (passing w/ 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 Fire Company Pensions of \$4.625m, DSHA getting \$30m, monies for the Presidential Primary, and \$2m for residential lead remediation, in addition to 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 \$200 million less in revenue.

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 such as an aging population through the increased migration of retirees, and a lack of a diversified production-based economy, more clearly indicates that

the out-year projections could be more difficult. And given there were “no” tax cuts (again) for any segment of Delaware’s businesses and/or citizens, our economy looks more fragile.

With all this said, we need to be more cognitive and deliberate in passing business friendly and business supportive legislation, because even though our Delaware small and large business owners are flexible and resilient, they need legislation that helps them remain competitive with our surrounding states and to attract the talent needed to increase employment opportunities.

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 16.

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 of 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 the House Housing Committee on June 15, without making it to the House floor for a vote before June 30.

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 June 21. It passed

the House on 22 Yes, 1 No, 1 Not Voting and 16 Absent and was assigned to the Senate Housing Committee with no hearing held before June 30.

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,DAR, and the CDCC because of the negative impact it will have on 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 Mar 14, 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

SUPPORT

Amending Titles 9 and Title 30 – the bill creates a new tax for short-term rentals (VRBO/ARBNB) of a150 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 May 18 and assigned to the 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.

II. ENVIRONMENT

SENATE

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

This bill, like others from the Minority 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 Delaware by 2035, from being implemented by the Department. Introduced in April, the bill was assigned to the Senate Environment and Energy Committee, eventually received 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 finding 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 the 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 the House Natural Resources committee, it eventually passed the House and the Senate by June 27 along party lines.

Awaiting Governor's Signature.

HB11 w/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 Chambers by June 27.

Awaiting Governor's Signature.

HB12 – Rep Phillips and Sen McBride – EV Rebate Program

NEUTRAL

Introduced on May 2, this bill 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 \$2m 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 June 30.

Awaiting Governor's Signature.

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

NEUTRAL

Requires DNREC to report no later than December 31 2023, with support from DeIDOT, 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 the House Natural Resources Committee on May 2 - no hearing was held.

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

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 Delaware. A direct result of the EV mandate published in April by DNREC for ACCII, the bill became part of the Republican House “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.

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

OPPOSED

This is the first leg of changing Delaware'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, CDCC, DFB and others, it was released from House Administration committee but failed to get onto the floor before June 30.

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 Delaware, 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 businesses 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 June 28– 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 June 6.

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 June 30.

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, it was assigned to the Senate Executive Committee and did not have a hearing.

No Further Action Taken.

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, CDCC and others within the housing community, the bill was released from the House Revenue and Finance Committee and reassigned to the House Appropriations Committee on January 24, 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 to be valued at present fair market value vs. true value in money, easily passing the Senate on June 20.

Awaiting Governor's Signature.

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

In another attempt to reduce Delaware's TTax in some manner – this bill will exempt someone who sells their primary residence in Delaware and purchases 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 the 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 January 1, 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 an amendment got out of the Senate Appropriations Committee but was never placed on the Senate agenda for consideration given the FN attached was \$24.9m in year '24, increasing to \$55m 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 the House Housing Committee on April 26, but failed to get to the agenda before June 30.

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 the 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 June 20.

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 for our food/hospitality industry. Passing along party-line votes in both Chambers by Jun3 27.

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 June 30.
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 Representatives 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 June 30 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 creates 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 June 30.

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 both Chambers before June 30

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 June 7 – 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 April 23, *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 of 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 exempt 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 – Expedited Review

SUPPORT

As the first in four bills and as part of the Ready in 6 initiative– this bill 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 as part of the Ready in 6 initiative, 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 initiative, 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 being presented in as part of the Ready in 6 initiative, 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 June 20 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 no position from DOL – the bill easily passed both Chambers by June 30.

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 date collected. With other exemptions for federally regulated entities such as banks, insurance carriers and brokers, 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 June 6, this bill 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 charged, 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 the 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.