



MAYOR AND COUNCIL

COUNCIL RESOLUTION NO. 2009-01

BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF DOVER, IN COUNCIL MET:

That the Mayor and Council have determined that the Charter of the City of Dover, Article IV - Financial Affairs, Section 50 - Debt Limit, Subsection (c)(i) should be amended by removing the \$3,000,000 limit on borrowing without a referendum, while maintaining a threshold of 1/4 of one percent (.25) of taxable assessed value of real property of aggregate principal amount. Therefore, the Mayor and Council of the City of Dover respectfully request the General Assembly of the State of Delaware to amend its Charter, which amendment if adopted by the General Assembly would be as follows:

- (i) To finance public storm sewers, streets and appurtenances provided that no more than 1/4 of one percent (.25%) of taxable assessed value of real property of aggregate principal amount of bonds may be issued at any one time pursuant to this clause and any new bonds issued pursuant to this clause may not cause the total aggregate principal amount of bonds outstanding at any one time to exceed one percent of the total taxable assessment for a general tax at the time such new bonds are issued; and

ADOPTED: JANUARY 26, 2009

KENNETH L. HOGAN
COUNCIL PRESIDENT

CARLETON E. CAREY, SR.
MAYOR

SYNOPSIS

This amendment would remove the \$3,000,000 limit on borrowing without a referendum, while maintaining a threshold of 1/4 of one percent (.25) of taxable assessed value of real property of aggregate principal amount

Actions History

Jan 12, 2009 - Introduced in Legislative, Finance, and Administration Committee

January 27, 2009

Sponsor: _____

House of Representatives
145th General Assembly
House Bill No. _____

AN ACT TO AMEND THE CHARTER OF THE CITY OF DOVER
BEING CHAPTER 175, VOLUME 75 OF THE LAWS OF
DELAWARE, AS AMENDED, REGARDING BOND ISSUING
AUTHORITY

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE
(Two-thirds of all members elected to each House concurring therein):

Section 1. Amend Section 50 of Chapter 175, Volume 75, Laws of Delaware, by deleting clause (i) of Paragraph (c) of Section 50 in its entirety and inserting in lieu thereof the following new clause (i):

- (i) To finance public storm sewers, streets and appurtenances provided that no more than 1/4 of one percent (.25%) of taxable assessed value of real property of aggregate principal amount of bonds may be issued at any one time pursuant to this clause and any new bonds issued pursuant to this clause may not cause the total aggregate principal amount of bonds outstanding at any one time to exceed one percent of the total taxable assessment for a general tax at the time such new bonds are issued; and

Section 2. This Act shall be effective upon its enactment in accordance with law.

SYNOPSIS

This act would remove the \$3,000,000 limit on borrowing without a referendum, while maintaining a threshold of 1/4 of one percent (.25) of taxable assessed value of real property of aggregate principal amount

1 **CITY OF DOVER - PROPOSED CHARTER AMENDMENT IN FULL CONTEXT**

2 **Article IV - Financial Affairs, Section 50 - Debt Limit**

3 (a) Whenever the needs of the city shall require more money than is at the time in the city
4 treasury from current receipts, the council shall be authorized and empowered to anticipate current
5 revenue by borrowing such sums as shall be needed not in excess of one percent of the total taxable
6 assessment for a general tax. The amount so borrowed shall be paid back out of current revenue
7 received thereafter.

8 To exercise the power aforesaid the council shall adopt a resolution to that effect, which resolution
9 shall require the affirmative vote of at least three-fourths of all the members of the council, and the
10 approval of the mayor. The indebtedness created under this section shall be evidenced by the bond,
11 or note, of the city, and the faith and credit of the city shall be deemed to be pledged thereby.

12 (b) The mayor and council is hereby authorized and empowered to borrow from time to time on
13 the faith and credit of the City of Dover sums of money for such purposes as may be deemed
14 necessary and proper by the mayor and council of the said city which purpose shall be consistent
15 with the powers conferred upon the mayor and council of the City of Dover by the Charter thereof,
16 as amended, for the management and maintenance of the said city and for these purposes the mayor
17 and council shall have full power and authority to issue bonds of the said "City of Dover."

18 The aggregate of the amounts so borrowed together with all other bonded indebtedness for which
19 the full faith and credit of the City of Dover has been pledged shall not at any time exceed a sum
20 equal to five percent of the total assessed value of real property situate within the bounds of the City
21 of Dover as such boundaries shall from time to time appear.

22 The said bonds shall be issued in one or more series, shall bear such date or dates, shall mature at
23 such time or times, shall bear interest at such rate or rates, shall be payable at such time or times, and
24 at such place or places, shall be in such denominations, and shall contain such other provisions as
25 the mayor and council may provide and shall be set forth in the said bonds. Said bonds may or may
26 not be coupon bonds and may be registered or otherwise as the mayor and council deem advisable.

27 The mayor and council shall direct and effect the preparation and sale of said bonds at such time or
28 times, at such price or prices, and upon such terms as the said mayor and council deem advisable,
29 and all the monies arising from the sale of said bonds shall be used for the municipal purposes of the
30 City of Dover specified in the resolution authorizing their issue.

31 The form of said bonds and of any coupons which may be thereunto attached shall be as prescribed
32 by the mayor and council, and all such bonds shall be signed by the mayor and the treasurer of the
33 City of Dover and sealed with the corporate seal thereof. Facsimile signatures of the mayor and
34 treasurer and a facsimile of the corporate seal may be imprinted upon such bonds and any coupons
35 attached to said bonds in lieu of the signatures of the said mayor and treasurer in their own
36 handwriting and of the affixing of the corporate seal itself.

37 Said bonds of the City of Dover shall be exempt from all state, county and municipal taxes.

38 The mayor and council of the City of Dover are hereby authorized and required to levy and raise by
39 taxation in each and every year such sums of money as may be required to pay the interest accrued
40 on said bonds while all or any of said bonds remain unpaid, and the said mayor and the city council
41 are further authorized and required to levy and raise by taxation, from time to time such sum or sums
42 of money as shall be needed to establish such sinking funds as the said mayor and the city council
43 may at their discretion authorize for the redemption of said bonds, or any of them, at or before their
44 maturity and such sum or sums of money as shall be required to otherwise redeem any or all or said
45 bonds at or before their maturity. Taxes for interest and for redemption of said bonds shall be levied
46 and raised as taxes for general municipal purposes in the said city are levied and raised and shall be
47 in addition to those levied and raised for any and all other municipal purposes.

48 A statement appearing in the bonds issued under the provisions of this section to the effect that the
49 bonds have been duly authorized shall be deemed and held to be conclusive evidence in favor of the
50 lawful holder of any such bonds that the terms and conditions of this section have been fully met and
51 complied with.

52 (c) Bonds may be authorized and issued pursuant to subsection (b), without a referendum vote,
53 by a resolution of the council which shall have the affirmative vote of three-fourths of the members
54 thereof and the approval of the mayor, for the following purposes:

55 (i) To finance public storm sewers, streets and appurtenances provided that no more than
56 1/4 of one percent (.25%) of **total taxable** assessed value of real property ~~or 3 million~~
57 ~~dollars, whichever is less,~~ of aggregate principal amount of bonds may be issued at any one
58 time pursuant to this clause ~~(i)~~ and any new bonds issued pursuant to this clause ~~(i)~~ may not
59 cause the total aggregate principal amount of bonds outstanding at any one time **pursuant**
60 **to this clause (i)** to exceed one percent of the total taxable assessment for a general tax at the
61 time such new bonds are issued; and

62 (ii) To refund bonds secured by the city's full faith and credit, prior to their stated
63 maturity, provided that (A) the present value of the aggregate principal and interest payments
64 of the refunding bonds are not greater than the present value of the aggregate principal and
65 interest payments on the bonds to be refunded determined by discounting at the effective
66 interest rate on the refunding bonds, calculated based on the internal rate of return: and (B)
67 at the time of issuance of the refunding bonds there are deposited in escrow, pledged to
68 secure the refunded bonds, sufficient monies and/or direct obligations of, or obligation the
69 principal of and interest on which are guaranteed by, the United States government, which,
70 without regard to any reinvestment earnings, will be sufficient to pay when due all interest,
71 principal and redemption price on the refunded bonds at maturity or upon earlier call for
72 redemption.

73 (d) Except for bonds issued pursuant to subsection (c) hereof, all bonds issued under the
74 provisions of subsection (b) shall first be approved by a referendum vote of the qualified voters (as
75 herein defined) of the City of Dover.

76 Notice of the holding of such referendum election shall be authorized by resolution of the mayor and
77 council, published once a week, for at least three consecutive weeks in at least one newspaper
78 circulated in the City of Dover, Delaware. Such notice shall be set out in summary form the amount
79 and purposes of such bond issue, the date and place of holding the referendum election and the hours
80 the polls will be open.

81 At said referendum election "qualified voter" shall mean every natural person who is a resident or
82 a nonresident taxable of the city, of the age of 18 years or upwards. Each qualified voter shall be
83 eligible to vote and shall have one vote.

84 The city assessor or his/her designee shall attend the election with the last city assessment and tax
85 payment records for the inspection of the election officers. The referendum election shall be held at
86 such date as the mayor and council shall designate. The referendum election shall be held at such
87 suitable place in said city as the mayor and council shall designate in said published notice. The polls
88 shall be open from 7:00 a.m. (local time), and shall close at 8:00 p.m. (local time). The judge of the
89 election shall, in the case of a tie vote on the bond issue, cast the deciding vote, otherwise judge of
90 the election shall refrain from voting, but the election clerks may vote.

91 The total votes cast for and the total votes cast against the bond issue shall be certified as correct by
92 at least two of the election officers and delivered to the mayor, or to the clerk of council immediately
93 after the total vote count has been certified.

94 The mayor and council shall at the next regular meeting after the election, or at a special meeting,
95 receive the results of the referendum election and make the same a part of the minutes of said
96 meeting, whereupon if a majority of the votes cast were for the bond issue bonds herein provided for
97 may be issued and sold as provided in subsection (b), but if at such referendum election the majority
98 of the votes cast were against the bond issue, then no bonds shall be issued nor shall any money be
99 borrowed pursuant to the resolution submitted to the referendum.

100 (e) In addition to the power otherwise granted in this section, the mayor and council may issue
101 special assessment revenue bonds to finance those public projects for which the city may levy and
102 collect special assessments pursuant to section 28 of this Charter. Such bonds shall not obligate the
103 faith and credit of the city, but shall be payable solely from the proceeds of the special assessments
104 which are pledged to the payment thereof. Such bonds shall be authorized without a referendum vote
105 by a resolution of the council which shall have the affirmative vote of three-fourths of the members
106 thereof and the approval of the mayor.

107 (f) After authorization of the sale of bonds as provided in this section and in anticipation of the
108 sale and issuance of said bonds, the mayor and council may borrow money and issue notes of the city
109 for the purpose and to the extent of the amount of bonds authorized to be sold, less the amount of
110 any bonds theretofore issued under such authority. The said borrowing shall be authorized by a
111 resolution of the council which shall have the affirmative vote of three-fourths of the members
112 thereof and the approval of the mayor, and the note or notes thereby authorized shall be signed by
113 the mayor and treasurer of the city. When issued and signed in accordance with this subsection (f),
114 the faith and credit of the city shall be deemed to be pledged for the repayment of all said notes,
115 except those issued pursuant to subsection (e) hereof.

116 The note or notes issued in anticipation of a bond issue may be renewed from time to time, but the
117 proceeds of the sale of such bonds shall, to the extent necessary, be first used to pay and retire such
118 notes. Said notes may be deemed at par and accrued interest at any time prior to their maturity if the
119 right so to do shall have been reserved.

120 (g) For the purposes of the debt limitations prescribed in this section, (i) any bonds which have
121 been refunded pursuant to subsection (c)(ii) shall be treated as no longer outstanding; and (ii) bonded
122 indebtedness, principal amount of bonds and bonds outstanding shall be determined without regard
123 to original issue discount.

124 (Amend. of 7-12-2005 (S.B. 126) ; Amend. of 7-12-2007 (SB 146), §§ 1, 2)