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

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

Section 1. Amend Title 15, Section 7550(h) of the Delaware Code by inserting after the words “and/or ordinance” and before the period (“.”) the following:

“, provided that the State Election Commissioner may, in his or her sole discretion, unless otherwise provided for by the municipal charter, cancel any municipal election the conduct of which is rendered impracticable due to conditions outside of the municipality’s control. Upon such cancellation, the municipality shall reschedule the election in accordance with Section 7553 of this Chapter and the term of any existing officeholder shall continue until the results of the rescheduled election are certified pursuant to Section 7558.”.

Section 2. Amend Title 15, Section 7552(b) of the Delaware Code by inserting the following after the first sentence thereof:

“If the municipal Board of Elections fails to timely meet and issue a written decision, the citizen may file the complaint directly with the State Election Commissioner.”.

Section 3. Amend Title 15, Section 7552(b) of the Delaware Code by striking the words “no less than 48 hours before the date of the election”.

Section 4. Amend Title 15, Section 7552 of the Delaware Code by designating existing subsection (c) as subsection (d) and adding a new subsection (c) to read:

“The State Election Commissioner may issue a decision ordering such corrective action as deemed warranted. The State Election Commissioner is specifically authorized to invalidate the result of an election where the State Election Commissioner finds that the conduct in violation of Subchapter IV or V of this chapter or federal or state law altered or is reasonably likely to have altered the result of the election.”.

Section 5. Amend Title 15, Section 7552(d) of the Delaware Code by striking the words “no less than 48 hours before the date of the election”.
Section 6. Amend Title 15, Section 7553(f) of the Delaware Code by inserting, at the beginning thereof, the words “Within three business days of posting election notices pursuant to subsections (a) and (b),”.

Section 7. Amend Title 15, Section 7553(f) of the Delaware Code by inserting at the end thereof the words: 

“The Department of Elections may reject any election notice that is filed late or that is materially incorrect. If such rejection results in the violation of subsection (a) or (b) of this section, the municipality shall reschedule the election in accordance with this section.”.

Section 8. Amend Title 15, Section 7558(a) of the Delaware Code by inserting the words “certification of” after the word “following”.

Section 9. Amend Title 15, Section 7558 of the Delaware Code by designating existing subsection (d) and (e) as (e) and (f), respectively, and adding a new subsection (d) to read:

“(d) In the case of any objection or dispute, the municipal Board of Elections shall convene within 48 hours of the closing of the polls to examine the matter, reviewing such records and hearing such testimony as it shall deem necessary. The Board of Elections shall determine the result of the contested election and certify the name of the winning candidate or candidates. If, by reason of an equal number of votes having been cast for 2 or more candidates for municipal office, there is a tie vote for a municipal office, the State Election Commissioner shall declare a vacancy in such office, unless otherwise provided for by the municipal charter. Such vacancy shall be filled by appointment by the governing body of the municipality until the next municipal election, when it shall be filled for the remainder of the term. If such vacancy occurs within 30 days of a municipal election for the vacant office, the governing body of the municipality may elect not to fill the vacancy by appointment.”.

Section 10. Amend Title 15, Section 7558(f) of the Delaware Code by inserting at the end thereof the sentence:

“For purposes of this subsection, the words ‘county, district or hundred’ as used in Section 5941 shall mean ‘municipality’ and the words ‘board of canvass’ as used throughout Sections 5941 through 5955 shall mean ‘municipal Board of Elections.’”.

SYNOPSIS

This Act would empower the State Election Commissioner to declare vacancies in municipal offices in the event of a tie vote and cancel municipal elections due to weather-related and other unforeseeable emergencies, unless the municipal charter makes other provisions for handling such situations. It also allows the Commissioner to invalidate the results of municipal elections if the Commissioner finds that there was a violation of state or federal law that likely influenced the result of the election.