

CHAPTER 13
FORMERLY
HOUSE BILL NO. 66

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

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

Section 1. Amend § 8401, Title 29 of the Delaware Code by making additions as shown by underlining and deletions as shown by strike through as follows:

§ 8401 Establishment of Department.

(a) The Department of Transportation is hereby established. The Department, through appropriate divisions, authorities, subdivisions, offices and administrations shall have the power to perform and shall be responsible for the performance of all the powers, duties and functions vested by law in the Department of Highways and Transportation immediately prior to July 1, 1976.

(b) The powers and duties of the Department of Transportation shall also include, but not be limited to, the following activities:

(6) Preparing ~~an a annual~~ biennial transportation needs ~~plan~~ program directed at the achievement of a coordinated and balanced transportation system for the State that is consistent with the state's social, economic and environmental needs and goals;

Section 2. Amend § 8409, Title 29 of the Delaware Code by making additions as shown by underlining and deletions as shown by strike through as follows:

§ 8409 Council on Transportation.

(a) There is hereby established a Council on Transportation.

(b) The Council shall serve in an advisory capacity, except as otherwise provided, to the Secretary, the Deputy Secretary, the Transportation Directors and the Governor, and shall:

(1) Consider matters relating to transportation in the State and other matters such as the budget and capital ~~improvement~~ transportation program which may be referred to it by the Governor or the Secretary of the Department;

(2) Study, research, plan and advise on matters it deems appropriate to enable the Department to function in the best possible manner;

(3) Have final approval of and adopt the Department of Transportation Capital ~~Improvements~~ Transportation Program which shall be submitted ~~annually~~ biennially to the Council by the Department;

a. The Council shall review the updated Department capital ~~improvements~~ transportation program prepared by the Department of Transportation, and established pursuant to § 8419 of this title, as amended. The updated Capital ~~Improvements~~ Transportation Program shall cover a period of not less than 6 years. The draft Capital ~~Improvements~~ Transportation Program shall be available to the public and the Council shall publish notices in a newspaper of general circulation in each county. The notices shall specify dates and

places at which public meetings will be held, by the Council, 1 in each county, at which time the program will be reviewed and publicly explained and objections or comments may be made by an individual or group. Public meetings shall be held at least 2 weeks after the draft Capital ~~Improvements~~ Transportation Program is made available to the public. The notices shall also specify the name and address of the person to whom written comments may be sent. The written comments must be received by the person within 10 days after the last public meeting, which must be scheduled no later than September 30 of ~~each~~ the program year. Following the written comment period, the Council may make priority changes to the proposed Capital ~~Improvements~~ Transportation Program in an open meeting by documenting the reasons and justifications for changes, using the priority formula-based processes described in § 8419 of this title, and shall adopt the program by March 1 of ~~each~~ the program year. The Capital ~~Improvements~~ Transportation Program as prepared by the Department and as adopted by vote of the Council shall become the adopted Capital ~~Improvements~~ Transportation Program for the upcoming fiscal years. The adopted program shall be submitted to the agency charged with preparation of the State Capital ~~Improvements~~ Transportation Program and members of the General Assembly on/or before March 15 ~~of each year~~ of the program year for inclusion in the state capital improvements program for the following fiscal year.

Section 3. Amend § 8419, Title 29 of the Delaware Code by making additions as shown by underlining and deletions as shown by strike through as follows:

§ 8419 Transportation priority planning.

The Department of Transportation, with Council approval, shall:

(1) Establish a method of determining current needs and costs of the entire multi-modal transportation requirements in the State which will be utilized in allocating capital funds ~~by transportation capital improvement program~~ for the Capital Transportation Program. The ~~needs and~~ costs will be updated annually.

(2)a. Establish a formula-based process which shall be used for setting priorities on all Department transportation projects and which shall consider, but not be limited to the following: Safety, service and condition factors; social, economic and environmental factors; long range transportation plans and comprehensive land use plans; and continuity of improvement.

b. The formula based process shall not be utilized for setting priorities for dirt roads, suburban street aid projects, municipal street aid projects or system preservation projects. System preservation projects will be prioritized based upon performance measures established in the Department for pavement management, bridge management and safety management projects.

(3) Review and approve the Long Range Transportation Plan, to be used in connection with the Department's internal review process for transportation projects. Department programs or projects utilizing other than state, Transportation Trust Fund or federal funds shall be indicated within the Capital ~~Improvements~~ Transportation Program with their priority rating as specified in paragraph (2)a. of this section, but the costs shall not be added to the total estimated cost of the overall program. An annual written report including this data shall accompany the Department recommendations.

(4) Update and prepare ~~annually~~ biennially a statewide Capital ~~Improvement~~ Transportation Program for submission to the Council ~~of~~ on Transportation. The ~~first~~ current year of the Program shall consist of transportation programs and projects to be advanced in that year based upon the prioritization ranking process specified in paragraph (2) of this section. No program or project will be funded for implementation except those that can with reasonable certainty be advertised for bid that year. Proposed projects or programs for the remaining years of the 6-year Capital ~~Improvement~~–Transportation Program shall be pursued in accordance with the prioritization ranking process specified in paragraph (2) of this section. The estimated cost of the Program for each year shall not exceed the estimated federal and state funds available for transportation purposes during that year. The estimated federal and state fund availability will be developed annually by the Department of Transportation based upon the dollar amount of funds available and the ability to use the funds for a specific program or project.

Approved May 6, 2019