

WILLIAM BUSH
STATE REPRESENTATIVE
29th District



**HOUSE OF REPRESENTATIVES
STATE OF DELAWARE
411 LEGISLATIVE AVENUE
DOVER, DELAWARE 19901**

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House Economic Development/Banking/Insurance & Commerce Committee Meeting Minutes

5.17.22

This committee meeting has been recorded and may be accessed via legis.delaware.gov

Chair Bush called the meeting to order at 1:17 p.m. Members present included Vice-Chair Bennett and Reps. Baumbach, Bolden, Dorsey Walker, Griffith, Hensley, Lambert, Ramone, Spiegleman, Wilson-Anton, and Yearick. For a list of guests present, please see the attendance list below.

Chair Bush introduced **HB 406, AN ACT TO AMEND TITLE 12 OF THE DELAWARE CODE RELATING TO DECEDENTS' ESTATES AND FIDUCIARY RELATIONS.**

Chair Bush explained that House Bill 406 came from the Estates and Trusts section of the Delaware State Bar Association (DSBA) and was approved by their Executive Committee. Chair Bush expressed that Matthew P. D'Emilio from DSBA was available to answer any questions from committee members.

Chair Bush opened the floor for public comment. There was no public comment.

A motion was made by Vice-Chair Bennett and seconded by Rep. Dorsey Walker to release HB 406 from committee; motion carried. Yes= (10) Chair Bush, Vice-Chair Bennett, and Reps. Baumbach, Dorsey Walker, Hensley, Griffith, Lambert, Ramone, Spiegleman, and Yearick; No= (0); Absent= (3) Reps. Bolden, Smith, Wilson-Anton. The bill was released from committee with a F=2, M=10, and U=0 vote.

Chair Bush introduced **HB 420, AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO LAND USE PLANNING.**

Chair Bush expressed the importance for Delaware to stay economically competitive with its surrounding states. Chair Bush explained the permitting process for economic development projects can take over two years in Delaware. HB 420 is a method to accelerate Delaware's permitting process. Chair Bush specified that HB 420 only applies to economic development projects, which are over 50,000 square feet. Chair Bush also emphasized that HB 420 will create jobs in Delaware. He continued to explain the PLUS process, the state's pre-application review for land use, which was created twenty years ago. Chair Bush said he worked with the Governor's office and David Edgell, Director of Office of State Planning Coordination (OSPC) in drafting this legislation. Governor Carney supported and helped draft the legislation.

Rep. Spiegleman noted that the PLUS process can be very difficult. In future legislation, Rep. Spiegleman expressed the need to include instances where the proposed use is inconsistent with the zoning ordinances, which would require variances. Rep. Spiegleman said he was supportive of the legislation.

Rep. Ramone expressed the importance of speeding up the permitting process and requested to be a co-sponsor of HB 420.

Rep. Yearick pointed to lines five and six of this legislation which state that an economic development process is "consistent with an adopted local government comprehensive plan and local land development and zoning ordinances". Rep. Yearick asserted that HB 420 does not supersede any processes at the local level. Chair Bush noted he reached out to the different counties in Delaware, who are supportive of this legislation. Rep. Yearick expressed support for the legislation and noted that he is a co-sponsor.

Rep. Wilson-Anton noted she was aware of concerns from Delaware residents about HB 420 creating too quick of a process and

removing too many safeguards. Chair Bush responded by stating that in HB 420 economic development projects are exempt from the pre-application meeting and review process unless required by a local jurisdiction, through a memorandum of understanding. He noted that HB 420 does not change the process dramatically. Chair Bush stated he anticipates additional legislation to be introduced at a later date. Rep. Wilson-Anton stated that in Sussex County a number of development plans have been approved regardless of community concerns. She noted that Sussex County is not as strict as New Castle County in regard to the PLUS process. Rep. Wilson-Anton commented that many residents were alarmed by the legislation. In addition, she questioned how much of a difference HB 420 would make since it is not a dramatic shift from the current process. Chair Bush thanked Rep. Wilson-Anton for comments on the legislation.

Rep. Ramone noted that he heard similar concerns to Rep. Wilson-Anton. Rep. Ramone quoted line three of the legislation that defines economic development. Rep. Ramone noted that HB 420 streamlines the PLUS process.

Rep. Spiegelman added that it can take over a year before the general public gets in the queue. Rep. Spiegelman noted this is the reason why the PLUS process can take over two years.

Rep. Lambert asked if HB 420 would supersede the Coastal Zone Conversion Permit Act. Chair Bush invited David Edgell, Director of the Office of State Planning Coordination to respond to Rep. Lambert's question. Mr. Edgell thanked the representatives for their comments. Mr. Edgell noted the Governor's office and the Office of State Planning Coordination support the bill as written. Mr. Edgell stated that HB 420 has no impact on the Coastal Zone Conversion Permit. Furthermore, Mr. Edgell expressed that the Department of Natural Resources and Environmental Control (DNREC) was comfortable with the provisions in this legislation.

Chair Bush opened the floor for public comment.

Shelley Cecchett, Executive Director, Greater Kent Committee expressed support for the legislation.

Mike Riemann of Becker Morgan Group and the American Council of Engineer Companies noted that this legislation does not change any requirements for state or local agencies, it just streamlines the process. Mr. Riemann expressed support for HB 420.

Brian Short of Delaware's Contractor Association expressed support for this legislation. Mr. Short noted that he had the opportunity to be a part of the working group, Ready in 6 that contributed to the study that resulted in this recommendation.

Jennifer Kmiec, Executive Director of Committee 100 expressed support for HB 420.

Scott Kidner, the Central Chamber of Commerce stated support of HB 420.

Joe Fitzgerald of the New Castle County Chamber of Commerce (NCCCC) expressed support for HB 420. NCCCC was also a member of the Reading in 6 working group.

Tyler Micik of the Delaware State Chamber of Commerce stated support for the legislation. He noted that this bill does not put public health or safety at risk and helps Delaware compete for economic development projects.

Bob Perkins, Executive Director of Delaware Business Roundtable expressed strong support for HB 420. He noted that the KPMG report found that Delaware's average permitting time is between eighteen and twenty-four months. He expressed that in surrounding states like Maryland and Pennsylvania average permitting time is around a year. Mr. Perkins stated the importance of Delaware staying competitive with other states for economic development projects.

A motion was made by Rep. Spiegelman and seconded by Rep. Ramone to release HB 420 from committee; motion carried. Yes= (10) Chair Bush and Vice- Chair Bennett and Reps. Baumbach, Dorsey Walker, Bolden, Griffith, Hensley, Lambert, Ramone, Spiegelman, and Yearick; No= (0); Not Voting = (1) Rep. Wilson-Anton; Absent= (1) Rep. Smith. The bill was released from committee with a F=4, M=7, U=0 vote.

Chair Bush introduced SB 209, AN ACT TO AMEND TITLE 2 OF THE DELAWARE CODE RELATING TO TRANSPORTATION AND INSURANCE COVERAGE FOR THE DELAWARE TRANSPORTATION AUTHORITY, PUBLIC CARRIERS, AND TRANSPORTATION NETWORK COMPANIES.

Chair Bush invited Rep. Griffith, prime sponsor of Senate Bill 209, to explain the legislation. Rep. Griffith noted that transportation options have changed dramatically over the last several years. Rep. Griffith explained riders face different levels of protection on different transportation options. She said that riders are not aware of the varied transportation protections. Rep. Griffith stated SB 209 protects consumers in the event of an accident or crash.

Rep. Griffith explained the legislation changes the minimum liability insurance coverage from \$300,000 to \$1,000,000 for the Delaware Transit Corporation, which reflects the current state of affairs. In addition, the legislation adds \$1,000,000 for uninsured and underinsured insurance for any claims arising out of a single occurrence. She noted if a DART bus is struck by another vehicle whose operator is underinsured or uninsured there are limits to what an injured party on the bus can receive as a result of that crash.

Rep. Griffith stated that public carriers include modes of transportation such as taxi cabs and limos. Public carriers do not include riding services, such as Ubers and Lyfts. Rep. Griffith said that SB 209 raises the liability insurance coverage to \$1,000,000 and adds \$1,000,000 for uninsured and underinsured for all public carriers.

Rep. Griffith explained in this legislation transportation network companies, such as Uber and Lyft, are required to provide a minimum of \$1,000,000 per accident in uninsured and underinsured motorist insurance. Rep. Griffith expressed SB 209 to be a strong consumer protection bill. Rep. Griffith noted that it would be onerous to ask Delawareans to know the protection level for different modes of transportation.

With the permission of the Chair, Rep. Griffith invited Stephen Morrow, Partner of Rhoades & Morrow LLC, and Shakuntla Bhaya, Partner of the law firm Doroshow Pasquale Krawitz and Bhaya to testify on behalf of this legislation. Rep. Griffith asked Mr. Morrow and Ms. Bhaya to address the public policy concerns that SB 209 addresses.

Mr. Morrow stated there is a hodgepodge of insurance requirements for entities that transport people. In 2016, Uber and Lyft were told they needed one million dollars of insurance coverage to transport people. However, Mr. Morrow noted that no other limits were changed regarding other entities such as taxi cabs, buses, etc. Mr. Morrow stated that DART is required to only have \$300,000 of liability coverage but has \$1,000,000 in coverage. Mr. Morrow commented that the varying coverage requirements on modes of public transportation are not good for Delawareans.

Mr. Morrow noted there are broad exclusions when it comes to public carriers. For instance, public carriers do not include buses that transport people from synagogues and churches. Mr. Morrow said the legislation requires one million dollars in uninsured and underinsured motor coverage. Mr. Morrow provided a hypothetical example where twenty people who are on a DART bus are struck by an uninsured drunk driver. Mr. Morrow noted that in this example, the twenty people on the DART bus have no access to any insurance.

Rep. Yearick asked Mr. Morrow about any feedback from the transportation network companies, DART, and public carriers. Mr. Morrow responded stating that DART already has one million dollars in coverage. Mr. Morrow said that he has not heard much feedback from DART at all. Mr. Morrow noted that SB 209 does have a fiscal note. Mr. Morrow expressed that transportation network companies are already required by the General Assembly to have one million dollars in insurance liability coverage. However, transportation network companies are not happy about needing one million dollars for uninsured and underinsured.

Mr. Morrow stated the example he used regarding the DART bus being hit by a drunk driver applies to all modes of public transportation companies including transportation network companies. Rep. Yearick expressed that the number of uninsured drivers is a major problem in the State of Delaware.

Ms. Bhaya replied to Rep. Griffith's question on public policy concerns the legislation addresses. Ms. Bhaya stated the biggest public policy concern is that there are commercial-owned transportation companies in Delaware. Ms. Bhaya noted buses often carry large numbers of passengers. If a DART bus is hit by a motor vehicle whose operator is underinsured or uninsured, the passengers are not able to seek compensation and recoup costs for the damages experienced. Ms. Bhaya said that oftentimes those who ride public transportation such as buses are low income. Ms. Bhaya explained that SB 209 is a consumer protection bill to promote fairness and equity.

Chair Bush opened the floor to public comment.

Aimee String, Chief of Legislative Relations of the Delaware Department of Transportation noted that DART buses carry the one-million-dollar liability insurance since 2017.

Tyler Micik of the Delaware State Chamber of Commerce stated opposition to SB 209. Mr. Micik noted Delaware already has one of the most comprehensive insurance requirements in the country. Mr. Micik explained the passage of this legislation would add unnecessary costs which will result in reduced driver earnings and increased rider affairs negatively.

Lisa Goodman of Uber expressed that regarding the transportation network companies, SB 209 is not supported by facts. Ms.

Goodman stated that Delaware already requires personal injury protection (PIP). In addition, Ms. Goodman noted that Uber analyzed their claims data, which found only 28 claims that involved uninsured motorists in the last twenty-four months. These claims include instances where a driver has accepted a ride and is in route to pick up a passenger or when a passenger is inside the Uber. Ms. Goodman said that a hundred percent of those claims were resolved in the PIP limits. Ms. Goodman requested SB 209 to be amended.

Melissa Hopkins of Delaware Alliance for Nonprofit Advancement expressed concerns about how this legislation will affect nonprofits that provide transportation services.

Rebecca Byrd of ByrdGomes opposed SB 209 as written.

Brad Nail of Lyft opposed the legislation.

A motion was made by Rep. Hensley and seconded by Rep. Baumbach to release SB 209 from committee; motion carried. Yes= (7) Chair Bush and Vice-Chair Bennett and Reps. Baumbach, Griffith, Lambert, Hensley, and Wilson-Anton; No= (1) Rep. Yearick; Absent= (5) Reps. Bolden, Dorsey Walker, Smith, Ramone and Spiegleman. The bill was released from committee with a F=1, M=6, U=0 vote.

House Bill 413, AN ACT TO AMEND TITLE 21 OF THE DELAWARE CODE RELATING TO MOTOR VEHICLES was not heard.

Chair Bush adjourned the meeting at 2:13 pm.

Respectfully submitted by:

Rachel Widom, Legislative Fellow

Attendance List

- Aimee String, Chief of Legislative Relations of the Delaware Department of Transportation
- Bob Perkins, Executive Director, Delaware Business Roundtable
- Brad Nail, Lyft
- Brian Short, Delaware's Contractor Association
- Jennifer Kmiec, Executive Director of Committee 100
- Joe Fitzgerald, New Castle County Chamber of Commerce (NCCCC)
- Lisa Goodman, Uber
- Matthew P. D'Emilio, Delaware State Bar Association
- Melissa Hopkins, Delaware Alliance for Nonprofit Advancement
- Mike Riemann, Becker Morgan Group and American Council of Engineer Companies
- Rebecca Byrd, Byrd and Gomes
- Scott Kidner, Central Chamber of Commerce
- Shakuntla Bhaya, Partner of the law firm Doroshow Pasquale Krawitz and Bhaya
- Shelley Cecchetti, Executive Director, Greater Kent Committee
- Stephen Morrow, Partner of Rhoades & Morrow LLC
- Tyler Micik, Delaware State Chamber of Commerce

5.17. 22 House Economic Development, Banking, Insurance & Commerce Committee Public Comment

- 1. HB 420 (Sponsor: Chair Bush) Submitted by Jennifer Kmiec | May 16, 2022, at 4:09 PM*
- 2. SB 209 (Sponsor: Senator Paradee) Submitted by Rebecca Byrd | May 17, 2022, at 1:08 PM*
- 3. SB 209 (Sponsor: Senator Paradee) Submitted by Christopher Gilrein | May 16, 2022, at 12:39 AM*



THE COMMITTEE OF 100

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Jennifer L. Kmiec

May 17, 2022

Comments to House Economic Development/Banking/Insurance & Commerce Committee

RE: HB 420 An Act to Amend Title 29 of the Delaware Code Relating to Land Use Planning

The Committee of 100, a non-partisan, non-profit association of Delaware business leaders that works to promote responsible economic development and address issues that affect Delaware's economic health, **strongly supports HB 420 and the bill's goal of expediting the land use process for economic development projects in the State of Delaware.** Projects located in Investment Level 1 or 2 under the Strategies for State Policies and Spending that are consistent with local zoning and any local comprehensive plan, and that will create full-time jobs, should be exempt from PLUS unless required by local governments or requested by applicants.

PLUS was created 20 years ago and has fulfilled its intent of providing increased coordination among state and local agencies, especially for major projects. PLUS, however, can add up to 90 days to the overall permitting process. Since agencies that participate in PLUS require separate submissions of plans for permits specific to their needs, PLUS creates a redundant process that does not result in agency approvals.

The Committee of 100 is a member of the Ready in 6 Coalition, which commissioned a study in 2020 that concluded, "With significant competition between states for jobs, talent and investment, an efficient permit process is critical to demonstrate a favorable business climate and provide a predictable outcome for businesses seeking to locate or expand in Delaware. Because prospective businesses target locations which can achieve permitting in as few as six months, those states with longer permit timeframes experience reduced interest and missed economic development opportunities."

The Committee of 100 believes that HB 420 is an important step toward decreasing permitting time and making Delaware more attractive for business location and expansion. We urge the committee to vote in favor of the bill.

Thank you for your consideration,

Jennifer Kmiec
Executive Director

Promoting Responsible Economic Development Since 1967

ModivCare has served as the statewide non-emergency medical transportation manager for the Department of Health and Social Services since 2002, providing over 1.3 million trips per year to the state's most vulnerable population through an independent network of over 65 unique transportation provider companies operating nearly 150 vehicles throughout the state.

As written, SB 209 would impact all public carriers defined as any individual or business entity picking up or dropping off passengers within the state of Delaware for compensation, including contracted non-emergency medical transportation providers.

This legislation would require a minimum of \$1,000,000 liability coverage for death, bodily injury, and property damage and \$1,000,000 for uninsured and underinsured insurance vs. the current requirements of \$100,000 per person per accident for personal injury or death and \$50,000 per accident for property damage.

To provide services under the non-emergency medical transportation program (NEMT), Modivcare requires coverage of \$500,000. The proposed change would double the required coverage to participate in the program, resulting in a 75+% increase in annual premiums on average for all transportation provider companies.

In consultation with Smalls Insurance Agency who serves as the predominant insurance agent / broker for NEMT services in the state, early estimates of cost increases are catastrophic:

- Castle Ride Transportation's premiums per vehicle would increase from \$5,500 to \$10,000
- Pawlos Holding, LLC's premiums per vehicle would increase from \$4,800 to \$9,000
- Bee's Way Transport, LLC's premiums for all vehicles would increase from \$14,114 to \$26,114
- Superior Medical Transportation Inc's premiums for all vehicles would increase from \$18,530 to \$30,530
- Statewide Transportation Inc's premiums for all vehicles would increase from \$19,561 to \$34,561

To make matters worse, most Standard Insurance companies in the state do not offer \$1,000,000 UM/UIM coverage, (as this bill is proposing). If passed, insurers would be forced to revise their quoting system and underwriting requirements in order to offer this specific coverage and could simply decide not to write this Risk associated with NEMT services in Delaware state.

The proposed changes would result in unaffordable coverage to many existing transportation providers within the network, resulting in a smaller provider network left to service a very high volume of medically necessary trips. As such, the shrinking network would substantially degrade provider capacity, thus impacting access to care for Medicaid recipients.

As such, the NEMT industry and transportation providers in the state of Delaware strongly and universally oppose this legislation, and fear negative impact to the aged, infirm, and vulnerable population in the state of Delaware.



TECHNET
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May 17, 2022

Representative William Bush, Chair
House Committee on Economic Development, Banking, Business, and Insurance
Delaware General Assembly
Dover, DE 19901

Re: SB 209 – Relating to Transportation and Insurance Coverage for the Delaware Transportation Authority, Public Carriers, and Transportation Network Companies

Dear Chairman Mantzavinos:

I write today to express TechNet's concerns with SB 209 as it relates to the insurance coverage requirements for Transportation Network Companies (TNCs) in Delaware.

TechNet is the national, bipartisan network of technology CEOs and senior executives that promotes the growth of the innovation economy by advocating a targeted policy agenda at the federal and 50-state level. TechNet's diverse membership includes dynamic American businesses ranging from startups to the most iconic companies on the planet and represents over four million employees and countless customers in the fields of information technology, e-commerce, the sharing and gig economies, advanced energy, cybersecurity, venture capital, and finance. TechNet has offices in Austin, Boston, Chicago, Denver, Olympia, Sacramento, San Francisco, Silicon Valley, and Washington, D.C.

While we share the Committee's commitment to safety, we are worried that the speed with which this bill has been moved through the Committee process has not allowed ample time to consider how it might affect businesses, drivers, and the transportation sector as a whole. We ask that the Committee take some time to convene stakeholders and examine the goals and potential unintended consequences of SB 209.

As filed, SB 209 would require coverages and limits that are both outside the national norm and unnecessary in light of current statutory requirements in the state. Delaware already has some of the most robust insurance requirements for TNCs in the country and the bill could have significant ramifications for Delaware businesses and may stifle innovation and slow the economy's recovery during a time when growth is critical. We feel strongly that the best path forward is one that includes engaging stakeholders and considering all potential unintended consequences. Therefore, I'd urge you to take your time on Senate Bill 209 so that productive changes and solutions can be worked into the language of the bill.

Thank you for your consideration. Please do not hesitate to contact me if TechNet can be a resource as you consider this issue.

Sincerely,

A handwritten signature in black ink, appearing to read 'Chris Gilrein', with a stylized, cursive script.

Christopher Gilrein
Executive Director, Northeast
TechNet
cgilrein@technet.org