

# Staff Findings and Recommendations Report Delaware Byway Advisory Board

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*152<sup>nd</sup> General Assembly, 1<sup>st</sup> session*

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*Respectfully submitted to the  
Joint Legislative Oversight and Sunset Committee  
February 2023*

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Sunset Members:

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The Joint Legislative Oversight & Sunset Committee (“JLOSC” or “Committee”) is a bipartisan 10-member legislative body which performs periodic legislative review of boards or commissions. The purpose of the oversight and sunset review is to decide genuine public need and if the entity is effectively performing. The Division of Research is a nonpartisan and confidential reference bureau for the General Assembly and supplies many services including staff support for JLOSC.

Special thanks: We appreciate the aid provided by Delaware Department of Transportation staff in conducting this review.

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# ABOUT THIS REPORT

This is a staff findings and recommendations report (“staff report”) drafted by Division of Research staff on the sunset and oversight review (“review”) of the Delaware Byway Advisory Board. This report has staff recommendations for JLOSC review and discussion. Recommendations are not final until discussed and adopted by JLOSC with an affirmative vote by 7 members.

The review’s purpose is to find the public need for the entity and whether the entity is effectively performing to meet the need. The goal of the review is to supply strength and support to entities that are supplying a State recognized need.

JLOSC performs its duties with support provided by the Division of Research’s dedicated and nonpartisan staff in the form of two JLOSC research analysts with supplemental assistance from a legislative attorney, legislative fellow, and administrative assistant. JLOSC staff completes a performance evaluation of the entity under review and gives a staff report to JLOSC which includes research, analysis, key findings, and recommendations. During the review process, the following is not assumed:

- There is a genuine public need for the entity under review.
- That the entity is satisfactorily and effectively meeting public need.

Rather, the entity under review has the burden of showing, through the statutory criteria for review included in their self-report and analyst requested supplemental documentation, that there is a genuine public need, and that the entity is meeting that need.

JLOSC selected the Delaware Byway Advisory Board for review on March 21, 2022. During the review process the Delaware Department of Transportation supplied information by completing a self-report which included a performance review questionnaire.<sup>1</sup>

Division of Research staff compiled the following findings and recommendations after completion of a performance evaluation which included thorough research and analysis outlined in the Objectives, Scope, and Methodology section of this report. Division of Research staff used national auditing and evaluation standards while conducting the performance evaluation. Those standards require that we plan and perform the evaluation to obtain sufficient evidence to supply a reasonable basis for our findings and conclusions based on our evaluation objectives. We believe that the evidence obtained supplies a reasonable basis for our findings and conclusions based on our evaluation objectives. The Objectives, Scope, and Methodology section discusses the fieldwork procedures used while developing the findings and recommendations presented in this report.

The recommendations contained in this report are not final until adopted by JLOSC by affirmative vote of 7 members. Under §10213(a), Title 29, the Committee must first

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<sup>1</sup> Self-reports available on the Committee’s website, <https://legis.delaware.gov/Committee/Sunset>

decide whether there is a genuine public need for an entity under review. To meet this requirement, the Committee may select to continue or terminate the entity under review. JLOSC meets publicly to review and discuss its staff's findings and recommendations, and the Committee is free to change, reject, or create brand new recommendations.

The JLOSC statute authorizes the Committee to recommend 1 or more of the following:

- Continuation of the entity as is.
- Termination of the entity.
- Termination of any program within the entity.
- Consolidation, merger, or transfer of the entity or the entity's functions to another entity.
- Termination of the entity unless certain conditions are met or modifications are made, by legislation or otherwise within a specified period.
- Budget appropriation limits for the entity.
- Legislation which the Committee considers necessary to carry out its decision to continue or terminate the entity.

The information contained in this report, along with the previously published self-report<sup>2</sup>, which includes background information from the entity under review, help the Committee in conducting a review of the entity and meeting its statutory requirements under Chapter 102, Title 29. The "Staff Findings" section of this report has information to support the following staff recommendations.

### **Next Steps**

After the release of this report, JLOSC will hold a public hearing in early 2023 for each entity under review to present to the Committee and accept public comment on the scope of the review.<sup>3</sup>

The Committee will review all information received, including the findings and recommendations presented in this staff report. Recommendations become completed after review, discussion, and an affirmative vote of 7 JLOSC members. Committee members are not bound by recommendations presented by staff and are free to change, reject, or form new recommendations. Once JLOSC adopts recommendations, the review moves to the implementation phase which may include drafting legislation.

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<sup>2</sup> Self-Report is accessible on the Committee's website, <https://legis.delaware.gov/Committee/Sunset>

<sup>3</sup> Public meeting notices found on the Committee's website and the State of Delaware's Public Meeting Calendar.

# OBJECTIVE, SCOPE, AND METHODOLOGY

## Objective

A performance evaluation conducted as required under JLOSC statute and based on the following criteria<sup>4</sup>:

1. If the agency is a licensing agency, the extent to which the agency has permitted qualified applicants to be licensed.
2. The extent to which the agency has served the public interests.
3. The extent to which the agency has recommended statutory changes, and whether those changes directly benefit the public or whether those changes primarily benefit the agency or other entities and are of only indirect benefit to the public.
4. Review the implementation of recommendations contained in the final reports presented to the General Assembly and the Governor during previous legislative sessions.

## Scope

This review covers a 5-year performance period except where noted.

### JLOSC Statutory Criteria #1

If the agency is a licensing agency, the extent to which the agency has allowed qualified applicants to be licensed.

### Methodology for JLOSC Statutory Criteria #1

The Delaware Byway Advisory Board is not a licensing agency, statutory criteria #1 is not applicable to this review.

### JLOSC Statutory Criteria #2

The extent to which the agency has served the public interests.

### Methodology for JLOSC Statutory Criteria #2

The Delaware Byway Advisory Board was created by Executive Order in 2000 and later codified under the Delaware State Scenic and Historic Highway Program. As described in the fieldwork section of this report, this review explored the main duties and responsibilities listed in statute and bylaws<sup>5</sup>:

1. Serve in advisory capacity and advise the Delaware Department of Transportation regarding the designation, development, operation, management, and promotion of Delaware byways.

### JLOSC Statutory Criteria #3

The extent to which the agency has recommended statutory changes, and whether those changes directly benefit the public or primarily benefit the agency or other entities and are of only indirect benefit to the public.

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<sup>4</sup> 29 Del. C. § 10209.

<sup>5</sup> 14 Del. C. § 3007A.

### **Methodology for JLOSC Statutory Criteria #3**

The Delaware Byway Advisory Board has not recommended statutory changes, statutory criteria #3 is not applicable to this review.

### **JLOSC Statutory Criteria #4**

Review the implementation of recommendations contained in the final reports presented to the General Assembly and the Governor during earlier legislative sessions.

### **Methodology for JLOSC Statutory Criteria #4**

This is the first JLOSC review of the Delaware Byway Advisory Board, statutory criteria #4 is not applicable to this review.

### **Fieldwork completed**

- Reviewed all information supplied by the entity.
  - Self-report.
  - Delaware Scenic and History Highway Program Guide dated November 10, 2001.
  - Historical meeting materials not available online.
  - Draft of the 2021 Delaware Byways Program Guide.
- Any available public documents such as annual reports, corridor management plans, website, and available news articles.
- Current statute.
- Board's overall performance as it relates to current statute.
- Board's compliance with Freedom of Information Act ("FOIA").
  - Public meeting calendar: Board meeting notices, agendas, minutes.
- Held a virtual meeting with the Delaware Department of Transportation ("DelDOT") to discuss review.

### **Review Background**

This is the first review of the Delaware Byway Advisory Board by JLOSC. This review began in March of 2022. Entity completed and returned a self-report in June of 2022. JLOSC staff conducted research and drafted this findings and recommendations report.

### **Background Research Synopsis**

The Delaware Byway Advisory Board (formally known as the *State Scenic and Historic Highway Advisory Board*) was created in 2000 by Senate Bill 320 in conjunction with the Delaware Scenic and Historic Highways Program. The program was tasked with identifying, promoting, preserving, and enhancing Delaware's roadways by identifying specific qualities related to scenic, historic, natural, cultural, recreational, and archaeological. This mirrored the federal National Scenic Byways Program managed by the United States Department of Transportation. The program was developed with the assistance of the Delaware Byway Advisory Board, the membership of which include a wide range of expertise including local and county government, state agencies, planning organizations, environmental organizations, and advocacy groups. Throughout the development of the program, the Delaware Byway Advisory Board consulted with DelDOT's planning division to create the Delaware Scenic and Historic Highways Program Guide in 2001. The program guide defined the creation, organization, and ongoing management of any established byways in Delaware. In 2010, Senate Bill 210 changed the name of the Delaware Scenic and Historic Highways Program to the Delaware Byways program.

# STAFF FINDINGS

## Finding #1

**The last known meeting of the Delaware Byway Advisory Board (“Advisory Board”) was in 2005. The Advisory Board held meetings to assist in the development of the Delaware Scenic and Historic Highways Program Guide and approval of the first established Delaware byway. The Advisory Board no longer meets, is not involved in the Delaware Byways program, and is no longer meeting a state need.**

Senate Bill 320 created the Advisory Board in 2000 through the Delaware Scenic and Historic Highways Program. The program was tasked with identifying, promoting, preserving, and enhancing Delaware’s roadways by identifying specific qualities related to scenic, historic, natural, cultural, recreational, and archaeological. These goals mirrored the federal National Scenic Byways Program managed by the United States Department of Transportation.

Senate Bill 320 required the program be developed with the assistance of the Advisory Board, the membership of which included a wide range of expertise including local and county government, state agencies, planning organizations, environmental organizations, and advocacy groups. Senate Bill 320 did not outline specific duties or meeting requirements for the Advisory Board. To date, the Advisory Board’s statute has not been modified to include any additional requirements and only instructs the DelDOT Secretary to appoint an Advisory Board “to assist in and make recommendations regarding in the designation, development, operation, management and promotion of Delaware byways.”

During the initial development of the program, the Advisory Board consulted with DelDOT’s planning division to create the Delaware Scenic and Historic Highways Program Guide (“program guide”) in 2001.<sup>6</sup> The program guide included 6 chapters defining the creation, organization, and ongoing management of any designated byways in Delaware. The program guide summarized the Advisory Board’s discussions regarding its vision, goals, and objectives for the program. The identified goals included:

- Goal 1: Evaluate and Designate State Scenic and Historic Highways.
- Goal 2: Protect and/or enhance State Scenic and Historic Highways and their resources through a coordinated management program while ensuring the safe operation of these routes.
- Goal 3: Benefit economic development through tourism and promote byway related educational and recreational opportunities.
- Goal 4: Monitor and evaluate the implementation of the State Scenic and Historic Highways Program to ensure it continues to meet the needs of the State and its citizens.

Out of the 4 goals listed, the Advisory Board was only included under the first goal, to “determine the responsibilities of the Scenic and Historic Highways Advisory Board in administering the State Scenic and Historic Highways Program.” There are no known

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<sup>6</sup> Included in Appendix A of the Delaware Byway Advisory Board Self-Report, which is accessible on the Committee’s website, <https://legis.delaware.gov/Committee/Sunset>



responsibilities the Advisory Board developed other than what was included in Chapters 4 and 5 of the program guide.

Chapter 4 of the program guide covers the implementation of corridor plans which outlines an annual inspection process with the Scenic and Historic Highway Sponsor and DeIDOT's Byway Coordinator. The only mention of the Advisory Board is that DeIDOT would provide any written reports during this process. There are no duties outlined for the Advisory Board to take once the written reports were received and there is no record of the Advisory Board ever reviewing or discussing these reports since the Advisory Board disbanded before implementation.

Chapter 5 of the program guide covers de-designation of Delaware Byways. This section only includes the Advisory Board in the review of a written recommendation from DeIDOT's Director of Planning and submitting the Advisory Board's recommendation to the DeIDOT Secretary for final decision. To date, there has never been a Delaware Byway considered for de-designation. If needed, this process could operate without input from the Advisory Board since all maintenance currently occurs without Advisory Board assistance.

DeIDOT submitted a self-report for this review and included all known meeting information for the Advisory Board.<sup>7</sup> The Advisory Board held 8 meetings between October 10, 2000, and March 31, 2005. During this time, the Advisory Board assisted DeIDOT with the program guide, published in 2001 and reviewed 3 byway applications for the Brandywine Valley, Rockwood-Shipley, and Red Clay Valley.<sup>8</sup> DeIDOT established an evaluation committee which assisted the Advisory Board in its application review. The Advisory Board made approval recommendations to DeIDOT's Secretary for the Brandywine and Red Clay Valley applications after considering the input and advice of the evaluation committee, DeIDOT's Director of Planning, and the Byway Coordinator. The Advisory Board returned the Rockwood-Shipley application to the applicant and included review comments. After the final known meeting of the Advisory Board on March 31, 2005, the evaluation committee continued reviewing applications and assisting DeIDOT in the byway designation process. The six established Delaware Byways under the program include:

- Brandywine Valley National Scenic Byway, designated in 2002.<sup>9</sup>
- Red Clay Scenic Byway, designated in 2005.
- Delaware Bayshore Byway, designated in 2007.<sup>10</sup>
- Historic Lewes Byway, Gateway to the Bayshore, designated in 2008.
- Harriet Tubman Underground Railroad Byway, designated in 2010.
- Nanticoke Heritage Byway, designated in 2010.<sup>11</sup>

After the nomination and eventual designation of the last byways, Senate Bill 210 updated the program's name in 2010, changing the name from Delaware Scenic and Historic Highways Program to the Delaware Byways program.

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<sup>7</sup> Included in Appendix B of the Delaware Byway Advisory Board Self-Report, which is accessible on the Committee's website, <https://legis.delaware.gov/Committee/Sunset>.

<sup>8</sup> Page 58 of the Delaware Byway Advisory Board Self-Report.

<sup>9</sup> Designated as a National Scenic Byway in 2005.

<sup>10</sup> Formally Route 9 Coastal Heritage Byway. Designated as a National Scenic Byway in 2021.

<sup>11</sup> Formally Western Sussex Byway.

The Advisory Board assisted DeIDOT with establishing the Delaware Byways program, however the Advisory Board did not involve itself or create areas for its involvement in the ongoing support and maintenance of the Delaware Byways program. The Advisory Board has not met in almost 18 years and no longer serves an established state need.

## **Finding #2**

**The 6 designated byways in the Delaware Byways program have established boards or organizations responsible for the development and management of a Corridor Management Plan (“CMP”) and communicate directly with DeIDOT’s Byway Coordinator. The Brandywine Valley National Scenic Byway is the only byway established in Delaware Code and is governed by its own advisory board, which manages the byway’s operational needs.**

National and state scenic byway designations qualify for program grants and assist communities by increasing tourism and economic development. Each designated byway creates a Corridor Management Plan (“CMP”), in which the vision, goals, and responsibilities for conserving and enhancing the area’s most valuable characteristics are outlined. The CMP must also describe how the byway will benefit economic development through tourism and recreational opportunities. However, a strategy must be in place to balance protection of the byway’s resources with the public’s opportunity to experience it. Like most states, Delaware requires each byway to complete a CMP within 5 years of designation. The National Scenic Byways Program also requires a CMP. The Delaware Bayshore Byway and Brandywine Valley National Scenic Byway both have National Scenic Byway designations in addition to their designations in the Delaware Byways program.

According to historical meeting information provided by DeIDOT, the Advisory Board never approved a CMP.<sup>12</sup> The last meeting held on March 31, 2005, did not have quorum, and only received information regarding the CMP for the Brandywine Valley National Scenic Byway, which was submitted to DeIDOT’s Secretary and to the Federal Highway Administration for National Scenic Byway consideration.

The Advisory Board has had no influence or responsibility in the CMP development and approval process. CMP development include a public meeting process conducted by the Byway Management Organization (“BMO”).<sup>13</sup> Each byway must establish and maintain a BMO as part of the state and national byway programs. After holding public meetings, a direct dialogue and approval process occurs between the BMO and DeIDOT. Since initial CMPs typically cover a 5-year period, BMOs will be required by DeIDOT to update their CMP every 5 years.<sup>14</sup>

Currently, the following BMOs are responsible for the management of their respective byway, which includes CMP creation and possible future updates:

- Brandywine National Scenic Byways Partnership.
- Red Clay Valley Scenic Byway Alliance.
- Delaware Bayshore Byway, collective BMO partnership of 20+ organizations.
- Historic Lewes Byway.

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<sup>12</sup> Included in Appendix B of the Delaware Byway Advisory Board Self-Report, which is accessible on the Committee’s website, <https://legis.delaware.gov/Committee/Sunset>.

<sup>13</sup> DeIDOT publishes public meeting announcements on Delaware’s Public Meeting Calendar.

<sup>14</sup> DeIDOT’s draft 2021 program guide included in Appendix C of the Delaware Byway Advisory Board Self-Report.

- Underground Railroad Coalition on behalf of the Harriet Tubman Underground Railroad Byway.
- Nanticoke Heritage Steering Committee.

Of these designated byways and the established BMOs, only the Brandywine Valley National Scenic Byway, and its Brandywine Valley National Scenic Byway Advisory Council, are included in Delaware Code. The Brandywine Valley National Scenic Byway Advisory Council manages the byway's operational needs and last held a meeting on January 30, 2023.<sup>15</sup>

### **Finding #3**

**This review was unable to establish FOIA compliance since the last meeting of the Advisory Board occurred in 2005.**

The Advisory Board is a public body as defined by the Freedom of Information Act ("FOIA").<sup>16</sup> During the course of a typical review JLOSC staff reviews the previous three years of meetings (January 2019 through October 2022) for FOIA compliance. JLOSC staff checks for FOIA compliance on meeting notice, agendas, and minutes. Using FOIA open meeting requirements<sup>17</sup> a JLOSC review typically notes the following FOIA compliance items:

- Every meeting must be open to the public, except for valid exception under FOIA.
  - Executive session closed to the public for FOIA named purposes.
- Public notice of regular meetings posted at least 7 days in advance of the meeting.
  - Includes agenda if determined.
    - Posted within 6 hours in advance of the meeting with reason for posting delay included.
    - Posted in public location accessible to the public, including electronic posting on designated State of Delaware website.<sup>18</sup>
  - Includes date, time, and place of meeting.
    - Indicates intent to hold executive session (if applicable).
- Agenda is subject to change, changes may include:
  - Added items, including executive session.
  - Deletion of items, including executive session.
- Minutes recorded and made available for public inspection and copying as a public record. Minutes must include the following:
  - Record of members present.
  - Record by individual members of each vote taken and action agreed on.
- Final minutes posted within 5 working days of final approval.
  - Draft minutes posted within 20 working days of meeting conclusion for public bodies who meet 4 or fewer times per year.

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<sup>15</sup> Meeting announcements posted on Delaware's Public Meeting Calendar.

<sup>16</sup> 29 Del. C. § 10002.

<sup>17</sup> 29 Del. C. § 10004.

<sup>18</sup> Designated website is the Public Meeting Calendar: <https://publicmeetings.delaware.gov>

According to documentation provided by DeIDOT, the Advisory Board has not met since 2005. Therefore, JLOSC staff was unable to establish the Board's compliance with FOIA. JLOSC staff did find public meeting notices published by DeIDOT for BMOs holding public workshops for CMP updates and operational meetings of the Brandywine Valley National Scenic Byway Advisory Council.

#### **Finding #4**

**In June 2011, DeIDOT released the Context Sensitive Solutions for Delaware Byways ("manual") which provides project guidance within established byways in the program. The manual included historical information regarding the Advisory Board but did not outline any active roles regarding the maintenance and monitoring of the Delaware Byway program.**

After the designation of 6 byways in the Delaware Byway program, a manual dated June 2011 was prepared for DeIDOT by Mahan Rykiel Associates Inc. and Whitman, Requardt, & Associates, LLP. Available on the Delaware Byways program website, the manual provides extensive information on the Delaware Byways program and includes case studies for byway projects located in Delaware, Massachusetts, Arkansas, and Virginia. The manual provides guidance and information to DeIDOT designers, consultants, and any other entities involved in activities or projects located along a designated byway.

The manual includes historical information regarding the Advisory Board located under the 2001 program guide which the Advisory Board helped create. The manual did not outline any active roles for the Advisory Board regarding the maintenance and monitoring of the Delaware Byway program.

#### **Finding #5**

**In 2021, DeIDOT revised its Delaware Byway program guide and updated expectations, duties, operations, and reporting requirements for the existing byways. The updated program guide closes the program to new nominations and no longer mentions the Advisory Board. DeIDOT's revised program guide is currently in draft form and unavailable on its website.**

Under the draft 2021 Delaware Byways Program Guide, each BMO is required to monitor their CMP on an annual basis, providing a written status report to DeIDOT's Byways Coordinator.<sup>19</sup> The written status report should include progress in implementation and the activities involved, any new funding information, accomplishments, and any changes to the CMP. Each BMO is required to submit this report on December 31 of every year.

Additionally, the Program Guide requires DeIDOT's Byways Coordinator to ride each byway at least once a year with a member of the BMO in advance of the report's due date to assess current conditions and success in implementing the CMP.

Each BMO is also required to update their CMP every 5 years as a mechanism for meeting established milestones and ensuring that each BMO maintains active organizations that continue to lead, initiate, manage, and implement strategies and actions. As each BMO has individual concerns, needs, and goals, a statewide Advisory

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<sup>19</sup> Included in Appendix C of the Delaware Byway Advisory Board Self-Report, which is accessible on the Committee's website, <https://legis.delaware.gov/Committee/Sunset>.

Board, like the one that's the subject of this review, is not an efficient mechanism to ensure the collaboration among the numerous stakeholder groups across the state.

The need for a statewide Advisory Board further diminishes with the closure of the Delaware Byways program to new nominations. This information is included in the 2021 draft program guide. DeIDOT believes the 6 designated byways comprehensively capture the core of Delaware's scenic, historic, and natural characteristics with each county and region represented. DeIDOT further explains that their byway management resources cannot support any additional byways. Currently the 2021 draft program guide is not available on DeIDOT's website.

## **Finding #6**

**DeIDOT's website for the Delaware Byway program contains out of date information. The website does not include a draft copy of the 2021 Delaware Byways program guide or any annual byway status reports. The website still includes information for the 2001 program guide (which links to a nomination application), instructions on how to nominate a new byway, and a Delaware Byway Bucks program which ceased social media activity in 2019.**

While the Advisory Board is not involved with DeIDOT's website for the Delaware Byways program, JLOSC staff accessed the website during research for this review. During the research process, JLOSC staff noted several outdated areas of the website for the Delaware Byways program.

The website includes an entire section dedicated to the original 2001 program guide, which also links to a nomination application. The *Frequently Asked Questions* section of the website focuses on the process for new byway nominations. There is no indication on this website that DeIDOT planned or created revisions to this program guide in 2021 and a draft copy of the 2021 program guide is not included. The program updates in the 2021 draft program guide close the Delaware Byway program to new byway nominations.

Also absent from the website are the annual byway status reports which were mentioned in both 2001 (final) and 2021 (draft) versions of the program guide. The 2021 draft program guide also updates the process for monitoring byways and submitting annual status reports.

Currently the website includes information on a Delaware Byway Bucks program, but it is unknown if this marketing program is still active. The Facebook page for the Delaware Byway Bucks program is still included on the social media platform, but the last post occurred on August 7, 2019, to update new merchants participating from the city of Smyrna.

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# STAFF RECOMMENDATIONS

## **Recommendation #1, Option 2 – Sunset the Delaware Byway Advisory Board**

Review and analysis by JLOSC staff conclude the Delaware Byway Advisory Board is not operational. The Delaware Byways program is currently not accepting applications for new byways. The existing 6 byways are self-governed by Byway Management Organizations and individual Corridor Management Plans, showing that the Advisory Board is not meeting a state need.

JLOSC staff recommends Option 2: Sunset the Delaware Byway Advisory Board with JLOSC sponsoring legislation to implement this recommendation.

Continue or Terminate (standard JLOSC recommendation).

Option 1: The Delaware Byway Advisory Board shall continue, subject to any further recommendations that JLOSC adopts.

- OR -

Option 2: The Delaware Byway Advisory Board is terminated, and the Committee will sponsor legislation to implement this recommendation.

## **Recommendation #2 – Website Update and Publish 2021 Delaware Byways Program Guide**

The Delaware Department of Transportation shall update the Delaware Byway Program website to reflect current operation:

- Remove information for suggesting and nominating new byways.
- Publish the 2021 Delaware Byways Program Guide.
- Publish the annual, written status reports of each Byway Management Organization as outlined in the Delaware Byways Program Guide.
- Publish updated Corridor Management Plans.

## **Recommendation #3 Release from Review**

Release the Delaware Byway Advisory Board from review upon enactment of sunset legislation.





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NICOLE MAJESKI  
SECRETARY

February 24, 2023

Mr. Mark Brainard, Jr.  
Ms. Amanda McAtee  
Joint Legislative Oversight and Sunset Committee  
411 Legislative Avenue  
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Dear Mr. Brainard and Ms. McAtee:

The Department of Transportation appreciates the JLOSC's staff review of the Delaware Byway Advisory Board. Outlined below are DelDOT's comments and clarifications to the findings. DelDOT does concur with the three staff recommendations. We look forward to the presentation meeting on March 23, 2023.

Staff Finding #2:

Regarding the sentence, "*Currently, the following BMOs are responsible for the management of their respective byway, which includes CMP creation and possible future updates:*

- *Brandywine Valley National Scenic Byway Advisory Council.*
- *Red Clay Valley Scenic Byway Alliance.*
- *Delaware Greenways on behalf of the Delaware Bayshore Byway and the Historic Lewes Byway.*
- *Underground Railroad Coalition on behalf of the Harriet Tubman Underground Railroad Byway.*
- *Nanticoke Heritage Steering Committee.*"

DelDOT Response:

The Brandywine Valley National Scenic Byway Advisory Council is not the BMO (Byway Management Office). It was set up under state law to act as an advisory committee and participant with the Secretary of Transportation as its Chair to oversee actions and management of the byway. The Brandywine National Scenic Byways Partnership is the entity that manages the BMO and is responsible for updates. The Advisory Council is only a participant in that process.

February 24, 2023

Likewise, the Delaware Bayshore Byway and Historic Lewes Byway is not specific to BMO responsibility of Delaware Greenways. Delaware Greenways is part of each overall BMO management organization, but they are not the sole responsible entity. For the Delaware Bayshore Byway, there is a Management Partnership which consists of 20+ different organizations, interests, or municipalities that serve as the collective BMO. The Historic Lewes Byway is now part of its own byways Management Committee. Delaware Greenways and the DelDOT Byway Coordinator are key and essential BMO members for those three respective byways and undertake most of the administrative and coordination efforts.

Staff Finding #6:

Regarding the program guide, annual reports, and Byways Bucks program.

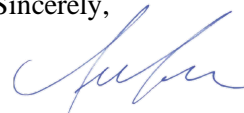
DelDOT Response:

Agree with the finding and observations and look forward to updating the Byways website. The 2021 Guide will be finalized and posted after the completion of the final decision from JLOSC.

Absent from the website are annual byway status reports which were mentioned in the 2001 (final) and 2021 (draft) versions of the program guide. To summarize, no annual status reports have been undertaken by byways management or DelDOT. DelDOT is clarifying the guidance for what needs to be included in the annual reporting. The 2001 guide lacked details, instructions, specific requirements, or potential consequences for Byways failing to meet this goal and we are now working to clarify this initiative for the 2021 guide.

The Byways Bucks Program was primarily set up for participating merchants which may or may not undertake postings and advertisement themselves. The merchants are requested to use the Byways nomenclature and status to advertise and promote themselves as supporters along a scenic or historic byway, like other states and tourism centers that have more robust promotions and advertising programs. Last summer, DelDOT interns contacted participating merchants and asked that they update their membership information. Due to the COVID pandemic, many small businesses that originally participated have since closed and/or lost interest in the program.

Sincerely,



Nicole Majeski  
Cabinet Secretary

NM:psh

cc:

Shanté Hastings, Deputy Secretary/Chief Engineer  
Pamela Steinebach, Director, Planning  
Jeff Niezgoda, Assistant Director, Planning  
Michael Hahn, Planning Supervisor  
Kelly Valencik, Planner



# TITLE 17

## Highways

### CHAPTER 1. General Provisions

#### Subchapter VI. Delaware Byways Program

##### § 193. Delaware Byway Advisory Board.

The Secretary shall appoint a Delaware Byway Advisory Board consisting of public and private parties, including not-for-profit organizations, to assist in and make recommendations regarding in the designation, development, operation, management and promotion of Delaware byways. Members of the Advisory Board created pursuant to this section shall include, but not be limited to, the Secretaries, chief administrative officers or representatives of the:

- (1) Department of State;
- (2) Department of Agriculture;
- (3) Division of Small Business;
- (4) Department of Natural Resources and Environmental Control; and
- (5) Such other public or private members as the Secretary may determine would be of assistance in this process.

These members would include, but not be limited to, representatives from: federal, state and local governments; environmental groups; planning agencies; the real estate and outdoor advertising industries; business, farming and nature organizations; and such other groups which may be affected by a byway designation.

[72 Del. Laws, c. 444, § 2](#); [77 Del. Laws, c. 367, § 21](#); [81 Del. Laws, c. 49, § 15](#); [81 Del. Laws, c. 374, § 44](#);