



The Legislative Wrap-Up

Library and Information Services, Department of Legislative Services

Issue 08-9

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DEADLINES

March 3 was the 55th day of the 2008 session, the final date for introduction of bills without suspension of the rules. The Maryland Constitution prohibits the introduction of legislation “during the last thirty-five days” of a regular session, unless permitted by a two-thirds affirmative vote of the elected membership of the chamber in which the bill is to be introduced. This allows 55 days for the normal introduction of legislation. To date, legislators have introduced 1,004 Senate bills and 1,616 House bills. *Sine die* is April 7.

NEW DELEGATE

Andrew A. Serafini (R), a Hagerstown businessman, officially became a member of the House of Delegates on Friday, March 7, when he was sworn in to represent District 2A, Washington County.

COURTS AND CIVIL PROCEEDINGS

Arbitration

The House passed [HB 577](#) that makes void and unenforceable any provision in an insurance contract with a consumer that limits or waives a trial by jury or judge by requiring binding or nonbinding arbitration.

Dry Cleaning

[HB 776](#), the subject of a House committee hearing this week, requires a dry cleaner or launderer to repair or pay for the repair of an item of clothing damaged in cleaning. If an item is lost, or is damaged and cannot be repaired to its pre-damaged condition, the dry cleaner or launderer must pay the amount necessary to replace the lost item with a comparable item of clothing. A specific notice must be posted at each point of sale detailing the cleaner’s obligations under the bill, and a violation is an unfair or deceptive trade practice under the Consumer Protection Act.

Circuit Courts

Legislation affecting the circuit courts has had hearings:

- [HB 1330](#) aims to standardize the process of going to court to enforce an arbitration award, setting a uniform \$25 fee for filing a petition to confirm the award and requiring a clerk of the circuit court to promptly mail notice of the petition to each party, other than the petitioner, in the arbitration proceeding. If the petitioner files proof of mailing, the failure to do so on the part of the clerk does not affect the court’s authority to issue an order confirming the award. The clerk is required to issue an order confirming the award unless a party takes specified actions; and
- [HB 479](#) gives to a defendant the right of removal to the Anne Arundel County Circuit Court of an action challenging the constitutionality or validity of a public general law or an injunction action restraining the enforcement, operation, or execution of a public general law or the action of a State officer. The companion bill, [SB 529](#), has a hearing later this month.

Children

A House committee has received public input on the Maryland State and Children’s Lead Poisoning Recovery Act ([HB 1241](#)), which makes manufacturers of lead pigment liable under any legally recognized theory of liability for damages caused by the presence of lead-based paint in residential buildings in Maryland. The bill changes the standard of liability in negligence and product liability actions by providing that an individual manufacturer’s lead pigment in lead-based paint caused the damage is not necessary and provides for the manner of apportionment of damages among multiple manufacturers found liable. It also creates the Maryland Lead Restitution Fund consisting of funds received by the State for its claims against a manufacturer of lead pigment or others in the lead paint industry for violations of State law. The fund is to be used for lead abatement and prevention purposes and for the Maryland Medical Assistance Program.

Under current law, the authority of the Child Support Enforcement Administration to deduct an annual collection fee of \$25 from an individual who has never received temporary cash assistance and for whom the State has collected at least \$500 in child support payments expires at the end of September. The Senate passed [SB 198](#) to continue that authority until the federal requirement that the State impose such a fee is repealed.

Heard this week by a Senate committee, [SB 516](#) establishes that, on motion of a child's mother, a man must be excluded from legal status as a child's father for purposes of guardianship or adoption, and be denied custody and visitation, if a court finds by clear and convincing evidence that he committed rape in the first or second degrees, incest, or sexual abuse of a minor against the child's mother and the child was conceived as a result of any of these acts. If the court excludes a man as father of a child, the court may still order the man to provide financial support to the child. The House has held hearings on the companion bill ([HB 500](#)). Another measure, [SB 385](#), on the termination of parental rights in the case of a child conceived as the result of rape, was withdrawn.

[HB 858](#), which would have extended the statute of limitations for civil actions relating to sexual child abuse, was also withdrawn by its sponsors.

CRIMES, CORRECTIONS, AND PUBLIC SAFETY

Death Penalty

Capital punishment was the focus of two bills at a Senate hearing this week. [SB 645](#) repeals the death penalty and all provisions relating to it and requires a person found guilty of murder in the first degree to be sentenced to imprisonment for life or imprisonment for life without the possibility of parole. [SB 614](#) establishes a Maryland Commission on Capital Punishment that must submit a final report by December 15, 2008. The companion bills, [HB 1328](#) and [HB 1111](#) respectively, have hearings next week in the House.

In 2006, the Maryland Court of Appeals found that the procedures for lethal injection were implemented without the input required by the Administrative Procedure Act. The court held that the Division of Correction protocols are ineffective until either (1) the protocols are adopted as regulations under the Administrative Procedure Act; or (2) the General Assembly exempts the protocols from the procedures required by the Act. To date, neither condition has been met. [HB 1250](#) exempts the protocols governing the

administration of the death penalty from the requirements of the Administrative Procedure Act. It will be heard in a House committee next week.

Drug Use and Dealing

Citizens testified this week on the "Smart on Crime" Act ([HB 845](#)), changing the penalty for the misdemeanor crime of possessing or administering a controlled dangerous substance from a maximum 4 years in jail and a \$25,000 fine to 90 days and \$500, if the violation involves an amount of the substance equal to or less than one tenth of a gram. The bill also changes the crime of distribution of, or possession with the intent to distribute, a controlled dangerous substance from a felony to a misdemeanor, if the violation involves an amount of certain substances equal to or less than specified small amounts, as long as the person was not convicted of a crime of violence in the 3 years prior to the drug conviction. The companion bill ([SB 552](#)) has had a hearing and awaits committee action.

Child Abuse

Justice's Law ([HB 426](#)) increases the maximum imprisonment penalties for first degree child abuse that results in the death of a victim and for a subsequent conviction of child abuse in the first degree that results in the death of the victim from a maximum of 30 years to a maximum of life imprisonment. No action has been taken on the bill since its hearing earlier in this session.

ECONOMIC AND BUSINESS ISSUES

Electricity in the Air – Utility Regulation

This week saw action related to Maryland's utility regulation laws, with hearings on previously introduced bills as well as the introduction of several new bills.

A House committee received testimony on its bill related to restructuring of the electric utility industry. The Senate bill is scheduled for testimony next week. [SB 583/HB 1314](#) require the Public Service Commission (PSC) to exercise its authority to ensure that electric companies satisfy reliability needs and electricity supply needs of all customer classes as well as the supply needs of certain residential and small commercial customers. The PSC is required to ensure that electric companies provide residential and small commercial customers with a safe and reliable electricity supply at prices that reflect a reasonable balance of least cost and least volatility. In addition, the PSC is required to participate in appropriate federal proceedings and is given oversight over any generating facilities that it requires an electric company

to construct or lease as well as the electric output, the price, and the sale of electricity from these facilities.

The same House committee examined [HB 822](#), which requires the PSC to consider and pursue certain reasonable alternatives before requiring or approving electric companies to buy or build certain generation-assets or enter into certain long-term contracts. Under the legislation, the PSC must conduct investigatory and evidentiary proceedings to study alternatives to long-term electricity generation contracts and new electricity generating facilities and must coordinate with the Maryland Department of the Environment to study the environmental and cost impacts to electricity, reporting the results of the study to the Governor and the General Assembly. The Senate companion bill is [SB 991](#).

Additional utility-related legislation before the Assembly includes:

- [SB 450](#), providing that the primary objective of the PSC is to obtain the lowest rates for consumers when setting rates for an electric or gas company or when carrying out certain functions relating to natural gas suppliers;
- [SB 479](#), an emergency measure, authorizing an electric company to pay a certain sum from its corporate earnings but prohibiting the company from recovering the sum from its customers through electric rates or otherwise;
- [SB 721](#), requiring each gas company and each electric company to file a separate annual report for each of its nonregulated affiliated or subsidiary companies that operates in the State; and
- [SB 997/HB 1600](#), relating to the PSC's regulation of nuclear decommissioning funds.

Tree Care Activities – Electric Companies

Recently, the public had the chance to comment on [SB 727](#) (cross-filed with previously heard [HB 839](#)) and [SB 746](#), both of which address tree care activities performed by electric companies:

- [SB 727](#) requires an electric company, prior to specified tree care activities, to contact affected community associations, to give specified notice to the public, and to provide an opportunity for public comment, including holding a public hearing presenting a descriptive plan of the proposed tree care activities. Homeowners are allowed to hire private tree experts for specified proposed tree removals; and

- [SB 746](#) requires an electric company to send a notice to each owner of property it construes to be in a public right-of-way and on which the electric company intends to remove or clear one or more trees, with copies sent to the PSC and Consumer Protection Division (CPD) of the Office of the Attorney General. This bill allows the property owner to comment on the proposed action to the CPD, to request a cease and desist order, and to participate in mediation with the electric company.

Corporate Law

Late in the week, the Senate approved and sent the House a bill addressing the right to fair value of stock by objecting stockholders ([SB 556](#)). The companion bill, [HB 728](#), remains in a committee of that chamber.

Nanobiotechnology Research

On Friday, the Senate passed [SB 735](#), which proposes the establishment of the Coordinating Emerging Nanobiotechnology Research in Maryland Program (CENTR) and Fund. Administered by the Maryland Technology Development Corporation (TEDCO), the CENTR program and fund would facilitate advanced nanobiotechnology research at higher education institutions and promote Maryland as a key location for private-sector firms in the industry, in part by establishing new research centers and fostering public-private partnerships. The emerging field of nanobiotechnology combines life sciences and engineering and is of interest to the pharmaceutical industry and computer chip manufacturers. The companion bill is [HB 1409](#).

EDUCATION

Higher Education

This week, the House passed legislation that expands the allowable uses of the Higher Education Investment Fund (HEIF) to include BRAC-related initiatives ([HB 704](#)). BRAC is expected to impact many of the federal military installations in the State, resulting in an estimated 19,536 to 20,836 direct new jobs and placing Maryland among the largest beneficiaries nationally. Most of these jobs are projected to be medical professionals, engineers, and managers. The bulk of the gains are expected at Aberdeen Proving Ground, Andrews Air Force Base, Fort Meade, and the National Naval Medical Center.

The Maryland Truth in Tuition Act, [HB 1388](#), was recently heard by House members. The bill requires four-year public institutions of higher education to

develop long-term tuition plans and publish these plans annually. Each year, the institutions must announce tuition rates for the upcoming academic year and the 3 academic years after the upcoming year. The published rates may reflect annual tuition increases should necessary adjustments be needed to maintain appropriate levels of service. However, once a tuition rate is published it cannot be increased.

HB 538 (failed), “Collective Bargaining – Adjunct Faculty and Graduate Student Employees,” received an unfavorable House committee vote. The companion bill, **SB 617**, has not yet been before a Senate committee. Also receiving an unfavorable committee vote was **SB 40** (failed). The bill, titled “Prohibition on Illegal Aliens from Receiving In-State Tuition Status” would have required any applicant to a Maryland higher education institution to provide certification that they are lawfully present in the U.S. to qualify for tuition remission.

Primary/Secondary Education

SB 428, which formalizes a reporting method to allow students the option of providing contact information to educational and career opportunity organizations, including military recruiters, passed a second reading in the Senate.

High School Assessment (HSA) testing is the subject of several bills that were recently heard by committee members or will have hearings in the near future. Students currently must pass subject tests mandated by the Maryland State Department of Education (MSDE) to complete graduation requirements. There are four tests, one each in algebra, biology, government, and English. The bills that address these tests include:

- **HB 49**, establishing an annual deadline of July 1 for reporting test scores. A deadline is not currently established in State law or regulations;
- **HB 519**, detailing a weighted numerical assessment system that MSDE must adopt as a requirement for graduation. HSA's will still be required, but would account for 50 to 60% of a total weighted system. Other factors considered will include attendance at 10 to 20% of the weighted requirement and grade point average to account for the remainder of the score. The companion bill, **SB 933**, is scheduled for a hearing in a couple of weeks; and
- **HB 520** (the companion bill, **SB 787**, to be heard on March 11), prohibiting schools from requiring students to pass mandatory statewide curriculum-based tests in order to satisfy graduation requirements.

Another issue, high school dropouts, received quite a bit of attention this week. A trio of bills addresses raising the age range of compulsory attendance from 5 years and older to under 18 (rather than 16) in order to keep students in school through graduation.

- **SB 436** requires this age increase, but also outlines specific exemptions to this rule for young adults. For example, students in the military and severely ill students may be waived from compulsory attendance;
- **HB 1040**, specific to Prince George’s County, seeks to raise the compulsory attendance age to 17, as well, beginning July 1, 2008. Any young adult who seeks alternative education will only be required to attend school through age 15; and
- **HB 21**, which will be open to testimony on March 11, seeks to change compulsory attendance from 5 years and older to under 18.

To further assist young adults in achieving a high school education and diploma, **SB 447/HB 1421** will create a “GED Options Program.” This program allows students who are between the ages of 16 and 18 and may be at a high risk of dropping out to follow an alternative course to obtaining a diploma while remaining enrolled in school. The program will provide students with training in workforce development skills and require their enrollment in a GED preparatory course for a minimum of 15 hours per week. Both bills were before committees this week.

ELECTIONS AND ETHICS

The House agreed on passage of a proposal that, as amended, is no longer a constitutional amendment, but instead clarifies current law to state that an individual at least 16 years old may register to vote and an individual under the age of 18 years may vote in a primary election if the individual will be at least 18 years old by the time of the general election (**HB 310**). The companion measure (**SB 92**), a constitutional amendment as originally proposed, remains in a Senate committee. Last week the Senate approved a proposed amendment to the Maryland Constitution (**SB 201**) on the same subject.

ENVIRONMENT, NATURAL RESOURCES, AND AGRICULTURE

Chesapeake Bay

SB 213, modifying the focus of the Chesapeake Bay 2010 Trust Fund, creating the Chesapeake Bay Nonpoint

Source Fund, and codifying the BayStat Program, has passed the Senate. The cross-filed bill, [HB 369](#), remains in committee.

Testimony has been given on proposals that strengthen the Critical Area Law. Among other changes, [SB 844/HB 1253](#) extend the 100 foot buffer requirement to 300 feet, increase the authority of the Critical Area Commission, and increase the penalties for violations. Also before committee members, [SB 831/HB 581](#) expand the uses of the Bay Restoration Fund within the Department of Environment.

Air Pollution and Energy Efficiency

The Clean Air Permit Fee bill, [SB 442](#), has moved to the opposite chamber. As amended, the bill increases the amount of fees that may be collected, excludes carbon dioxide emissions from the calculations, and raises the amount of money that may stay in the Maryland Clean Air Fund.

Among bills that have been the focus of recent public hearings:

- [HB 1320](#) establishes the Maryland Clean Energy Center to promote and assist the development of the clean energy industry in the State; the Maryland Clean Energy Technology Incubator Program; and a Maryland Clean Energy Fund which would include proceeds from the sale of credits under the Regional Greenhouse Gas Initiative (RGGI).
- [HB 1337](#) establishes the Maryland Clean Energy Center to promote and assist the development of the clean energy industry in the State and the Maryland Clean Energy Technology Incubator Program. The crossfiled bill, [SB 977](#), remains in committee.
- [SB 309/HB 712](#) establish the Office of Climate Change within the Department of Environment (MDE), requires reduction in greenhouse gas emissions, and funds the program with RGGI proceeds.

Environment

Testimony was taken this week on [SB 508](#) that establishes the Environmental Leadership Group within MDE to consider and act on environmental matters in the State, and modifies the permit process, and on two bills concerning plastic bags. [HB 967](#) requires large stores and pharmacies to use paper or reusable carry out bags. [HB 908](#) requires MDE to study the feasibility of establishing a pilot program to mitigate the negative effects of the use and disposal of plastic bags in Maryland.

Animals

Also before a committee recently, [SB 599](#) prohibits the force-feedings of birds to produce foie gras and ban the sale or serving of foie gras produced through force-feeding of birds. The companion proposal is [HB 1137](#).

FINANCIAL INSTITUTIONS AND COMMERCIAL LAW

Credit Regulation

An emergency bill regarding credit regulation passed the House this week. [HB 852](#) creates exceptions to penalties imposed on credit grantors, specifically applying to situations in which a borrower prepays for a loan. The Senate companion bill, [SB 347](#), will be taken up on the Senate floor next week.

Debt Management Services

The Senate approved [SB 646](#), which repeals a requirement that a debt management services agency be a nonprofit organization. The Internal Revenue Service (IRS) recently revoked the tax-exempt status of several debt management organizations in Maryland, deeming them as “for-profit.” The legislation allows the affected debt management services to maintain licensing in Maryland. Currently, there are 36 licensed debt management services in Maryland. Nine of these debt management services are currently challenging the IRS decision to revoke their tax-exempt status. The companion bill, [HB 947](#), has a hearing on March 11. In 2007 this legislation passed the Senate but not the House.

Consumer Protection

Following a visit to a Senate committee by Drifters’ singer Charlie Thomas last week, the Truth in Music Advertising Act ([SB 711](#)) was debated on the Senate floor this week and passed by that body. The bill prohibits a person from advertising or conducting a live performance using the names of famous groups without paying royalties or acknowledging that the members of these groups are not a part of the official group. The bill’s provisions are based on a model law created by the Vocal Group Hall of Fame Foundation that aims to protect musical groups from identity theft by other groups that perform under the same name with the original group’s songs. Eighteen other states have enacted similar laws.

Legislation regarding the prohibition of the delivery of unsolicited print publications was withdrawn. [HB 357](#) (failed) would have prohibited “unsolicited print publications,” defined as certain print publications

delivered to the consumer without the consumer's consent. The bill would have required publishers to include a toll-free number on their distributed publications to allow for the consumer to notify the publisher that they no longer wish to receive the publication.

FISCAL MATTERS

Budget Bill and Bond Bill Hearings

The Budget Bill ([SB 90/HB 100](#)) is scheduled to come to the Senate floor on Monday evening, March 10, but will be laid over for consideration until Wednesday, March 12. In the House, committee members have completed budget hearings and are starting to make decisions. On Wednesday of this week, the Governor submitted a supplemental budget, consisting largely of technical amendments to the Budget Bill. Hearings on bond bills will be held on Saturday, March 8.

Sales Tax Legislation – Computer Services

Legislators have introduced a number of bills to repeal in full or in part the sales tax on services imposed by Chapter 3 (SB 2) of the 2007 Special Session. All of the bills are on the hearing schedule for March 12. The legislation addresses:

- repealing the tax ([HB 187](#), [HB 196](#), [HB 253](#), [HB 326](#), [SB 41](#), [SB 46](#));
- exempting services used in fulfilling federal government contracts ([SB 138](#), [HB 281](#));
- exempting services used in fulfilling either federal or State contracts ([SB 257](#));
- exempting services intended for resale ([SB 505/HB 313](#));
- exempting services used in production activities and research and development ([HB 670](#));
- exempting services used in Internet publishing ([HB 1169](#));
- exempting services enabling a user to access information or content ([HB 1183](#));
- exempting preexisting contracts for computer services ([SB 137](#));
- lowering the sales tax rate on computer services to 3% from 6% and increasing the motor vehicle excise tax rate on multipurpose vehicles with a manufacturer's shipping weight of 5,000 pounds or more to 7% with higher rates for heavier vehicles

with a maximum rate of 8%. Currently, the rate is 6% on all vehicles ([HB 1318](#)).

Additional Sales Tax Legislation and Other Fiscal Measures

On March 12, a House committee will take commentary on extending the sales tax to elective cosmetic procedures that are not considered medically necessary ([HB 614](#)) and to tanning services with the revenue to be dedicated to the Health Coverage Fund ([HB 250](#)).

Legislation moving through the process also includes:

- [SB 444/HB 664](#) to revise the corporate income tax reporting requirements;
- [HB 1470](#) to prohibit a county from creating a special taxing district that contains residential property. ([SB 381](#) is a similar bill);
- [SB 562/HB 1310](#) to increase the tax on alcoholic beverages with the increased revenues dedicated to adult and adolescent addiction and prevention services; and
- [SB 854/HB 1211](#) and [SB 478/HB 1276](#) to alter provisions related to property tax sales.

HEALTH CARE AND HEALTH INSURANCE

Last week, a House committee listened to the public comment on [HB 737](#), which imposes a State income tax surcharge of \$1,000 on individuals with a Federal Adjusted Gross Income (FAGI) of over \$50,000 and a \$2,000 surcharge on couples with a FAGI over \$100,000 (joint filers), if these individuals do not have health care coverage. The money collected will be deposited in the State's Health Care Coverage Fund, which supplements funding for Medicaid.

The Comptroller is required to exempt certain groups from the requirement including nonresidents, individuals who have recently moved into Maryland, individuals just entering the workforce, individuals unemployed in excess of four weeks, certain individuals unable to obtain health care coverage, and individuals who object to health care coverage on religious grounds. Additionally, the Comptroller must widely publicize the health care coverage requirements so that individuals can obtain coverage and avoid the surcharge.

LEGISLATIVE MATTERS

[HB 1215](#), scheduled for a committee hearing next week, forms a task force to study all task forces, commissions, temporary or ad hoc committees, and related panels that

functioned from January 1, 1998, to December 31, 2007. The aim is to try to determine the purpose, findings, and effectiveness, the individual and combined costs, and any subsequent actions that may be attributable to the work of these entities. This new task force will report by January 1, 2009.

STATE GOVERNMENT

The House passed Administration legislation ([HB 362](#)) to establish the Department of Information Technology (DOIT) as a new principal department in the executive branch. The new department is designated as a primary procurement unit for information processing equipment and associated services and telecommunication equipment, systems, or services. DOIT also will have primary responsibility for coordinating all aspects of the State's telecommunications policy, procurement, and management. This includes improving and expanding access to telecommunications and computer networks in rural areas and by people with disabilities. The companion measure is [SB 212](#).

TRANSPORTATION

Access to Accident Reports

The House passed legislation dealing with access to motor vehicle accident reports. As amended, the emergency measure prohibits a person from accessing a motor vehicle accident report for the purpose of soliciting another person to sue or to retain a lawyer to represent the other person, provides that a violation is subject to maximum penalties of imprisonment for 1 year and/or a \$1,000 fine, and repeals provisions of law restricting access to and disclosure of motor vehicle accident reports ([HB 488](#)). According to various witnesses, the provisions of current law, which are repealed by the bill as amended, were unworkable for those persons who have a legitimate need to access and disclose information in motor vehicle accident reports. Three additional bills on motor vehicle accident reports access were defeated in committee ([HB 249](#), [HB 441](#), and [HB 1252](#)).

Motorcycle Helmets

Maryland law currently mandates that an individual may not operate or ride on a motorcycle unless the individual is wearing protective headgear that meets established federal standards. An individual who is riding in an enclosed cab is exempt from the protective headgear requirement. This week a committee listened to public comments on [HB 1203](#), which exempts an operator or

occupant of any three-wheeled motorcycle equipped with an enclosed cab; an individual 21 or older who has been licensed to operate a motorcycle for at least two years; an individual 21 or older who has completed a motorcycle-rider safety course approved by the Motor Vehicle Administrator or by the Motorcycle Safety Foundation; or an individual 21 or older who is a passenger on a motorcycle operated by another exempt individual. Similar bills have been introduced each year since 1996.

Prior to 1966, no state required motorcycle helmet use. In 1967, the federal government required states to adopt universal helmet laws (applicable to all riders) or lose a portion of highway construction funds. Maryland adopted such a law in 1968. In 1975, by which time all but three states had enacted universal helmet use laws, the U.S. Congress repealed this requirement and states began to repeal their helmet laws. Maryland repealed its universal helmet law in 1979, but continued to require helmet use by riders younger than age 18. Maryland reinstated a universal helmet use law in 1992.

Maryland Transit Administration (MTA) - Transit-Oriented Development

Now in the Senate, [HB 373](#), proposed by the Governor, states that, in recognition of the role transit plays in reducing highway congestion and greenhouse gas emissions, that land uses surrounding transit stations throughout the State should be developed in a manner that is conducive to greater transit ridership and designed to promote transit, walking, and bicycling in addition to the automobile as means of transportation. An amendment clarifies that the bill does not interfere with local land use planning authority. The companion bill is [SB 204](#).

Specifically, the legislation establishes "transit-oriented development" (TOD) as a transportation purpose that codifies current practice. TOD means a mix of private or public parking facilities; commercial and residential structures; and uses, improvements, and facilities customarily appurtenant to such facilities and uses, that

- is part of a deliberate development plan or strategy involving property that is located within one-half mile of the passenger boarding and alighting location of a planned or existing transit station;
- is planned to maximize the use of transit, walking, and bicycling by residents and employees; and
- is designated as a TOD by the Secretary of Transportation in consultation with other specified State and local agencies.

