

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1425 w/CS Metropolitan Planning Organizations

**SPONSOR(S):** Patterson

**TIED BILLS:** **IDEN./SIM. BILLS:** CS/SB 2110 (s)

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Transportation	19 Y, 0 N w/CS	Pugh	Miller
2) State Administration	4 Y, 0 N w/CS	Brazzell	Everhart
3) Appropriations			
4)			
5)			

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### SUMMARY ANALYSIS

This bill facilitates metropolitan planning organizations' (MPO's) working together to form regional solutions to transportation problems that cross county lines.

This bill exempts MPO's from the provisions of chapter 120, F.S., the Administrative Procedure Act; revises requirements for the representation of urbanized areas by MPO's; and specifies membership on an MPO chair's coordinating committee.

This bill has no fiscal impact on state government, but could have an indeterminate and possibly minimal positive impact on cities and counties if MPO's are exempt from the rulemaking and dispute-resolution procedures mandated by chapter 120, F.S.

This bill raises no apparent constitutional issues. It takes effect upon becoming a law.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

**STORAGE NAME:** h1425c.sa.doc

**DATE:** April 14, 2003

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. DOES THE BILL:

- |                                      |                              |  |   |
|--------------------------------------|------------------------------|--|---|
| 1. Reduce government?                | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/>            |
| 2. Lower taxes?                      | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom?        | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 5. Empower families?                 | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |

This bill does not reduce government because it allows MPO's and local government entities, where contiguous, to enter into interlocal agreements creating yet another entity to address regional transportation concerns.

#### B. EFFECT OF PROPOSED CHANGES:

##### Background on MPO's

As established by chapter 23 U.S. Code Sec. 134, metropolitan planning organizations (MPO's) are directed to develop, in cooperation with state officials, transportation plans and programs for urbanized areas of more than 50,000 persons. Pursuant to s. 339.175, F.S., MPO's, in cooperation with the state and public transit operators, develop "transportation improvement plans" that are the building blocks for the Florida Department of Transportation's statewide Five-Year Work Program.

An MPO must be designated for each urbanized area of the state and must be created and operated pursuant to an interlocal agreement entered into pursuant to s. 163.01, F.S. There are currently 25 MPO's in Florida, encompassing all or a portion of 33 counties. Based on the 2000 U.S. Census, Florida has three additional urbanized areas, and as many as three additional MPO's could be created.

MPO's consist of local elected officials, appropriate state agencies (specifically including the Florida Department of Transportation), and may also include officials of public agencies that administer major modes of transportation within the metropolitan area. MPO's receive transportation planning funds from the Federal Highway Administration and the Federal Transit Administration for staffing and general administration activities.

Four regional coordinating boards currently exist among MPO's: the Central Florida MPO Alliance, the West Central Florida Chairs Coordinating Committee, the South Florida Regional Transportation Organization, and the Southwest Florida Regional Metropolitan Transportation Subcommittee. The latter three include members other than MPO's. These groups focus on developing regional transportation plans and strategies for attracting more funds to address their area's unique mobility problems.

##### Background on interlocal agreements and the Florida Administrative Procedure Act

Chapter 120, F.S., the Administrative Procedure Act, provides the process by which agencies must adopt rules. These methods provide for public notice of agency intent to adopt a rule and for intervention by persons substantially affected by the decision to implement that rule. Chapter 120, F.S., also controls administrative dispute resolution procedures in cases when the effect on a person's substantial interests regarding the enforcement of an administrative decision or application of a rule must be determined.

For purposes of the Administrative Procedure Act, "Agency," as defined in s. 120.52, F.S., means:

- The Governor;
- State officers;
- Each department, authority, board, commission, regional planning agency, multicounty special district with a majority of its governing board composed of non-elected persons, educational unit, and entities described in chapters 163, 373, 380, and 582 and s. 186.504; and
- Each other unit of government in the state, including counties and municipalities, to the extent they are expressly made subject to this act by general or special law or existing judicial decisions.

Certain entities are exempted from this definition, including any legal or administrative entity created by an interlocal agreement pursuant to s. 163.01(7), F.S., unless any party to such agreement is otherwise an agency as defined in s. 120.52, F.S. Since an agency (the Department of Transportation) is party to the interlocal agreements creating the MPO's, the MPO's themselves, while otherwise exempt as creatures of interlocal agreements, are nevertheless considered agencies.

Whether or not an agency is subject to the Administrative Procedure Act, that agency still must provide notice of its intent to act when its actions impact the substantial interest of a person and that agency must provide due process when its actions compel action on the part of a person or that person desires to challenge that decision.

Proposed Changes:

This bill adds MPO's to the list of legal entities not included in the definition of "agency" under chapter 120, F.S., and thus MPO's will not have to comply with its provisions for rule-making and dispute resolution. However, MPO's retain a constitutional responsibility to provide due process and fairness in developing their policies and resolving disputes, as do all governmental entities that currently are not considered an "agency" for purposes of chapter 120.

This bill also amends s. 339.175, F.S., to clarify that each individual urbanized area of the state is not required to designate its own MPO. It provides a specific process for MPO's in contiguous counties to develop methods of coordinating their transportation planning to take into account regional needs. The bill allows MPO's to join with each other or with other political subdivisions to coordinate transportation planning efforts and enter into interlocal agreements. These interlocal agreements shall, at a minimum, include:

- the entity's purpose;
- creation of a separate legal or administrative entity to coordinate transportation planning or development;
- the duration of the agreement and the process by which the agreement may be changed or terminated;
- the membership, appointment process, and voting rights of the entity;
- the manner in which the parties to the interlocal agreement will finance their share of administrative and costs associated with the entity;
- how the entity will receive and pay funds; and
- how individual members of the entity may resolve their differences.

This bill also specifies that an interlocal agreement created pursuant to the bill's provisions is not effective until it has been recorded in the official public records of each county that has a voting member on the entity. It also specifies that nothing in this provision shall be construed as a requirement that multiple MPO's merge into a single MPO.

This bill also clarifies that transportation authorities or other entities must be actively performing transportation functions to have a representative on an MPO. Additionally, it provides that MPO members may not vote on issues which present a conflict of interest.

Finally, the bill names the counties who are members of the statutorily created "chair's coordinating committee" of contiguous counties with MPO's. Those counties are Hernando, Hillsborough, Manatee,

Pasco, Pinellas, Polk, and Sarasota counties, and the committee is collectively called the West Central Florida Chairs Coordinating Committee.

This bill takes effect upon becoming a law.

C. SECTION DIRECTORY:

Section 1: Amends s. 120.52, F.S., to exempt metropolitan planning organizations (MPO's) from the definition of "agency" as it pertains to Chapter 120, F.S., the Administrative Procedure Act.

Section 2: Amends s. 339.175, F.S., regarding representation of urbanized areas by MPO's, MPO's membership, joint action by MPO's, and a chair's committee in a specific area.

Section 3: Provides that this act shall take effect upon becoming a law.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues: None.
2. Expenditures: None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues: None.
2. Expenditures: Indeterminate. Exemption from rulemaking and dispute resolution procedures mandated by chapter 120, F.S., could result in an indeterminate cost savings for MPO's, whose operating costs are largely funded by local governments. However, due to Constitutional requirements, MPO's will still have some similar expenses.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR: None.

D. FISCAL COMMENTS: Indeterminate. Local governments and the state Department of Transportation may experience some cost savings when carrying out transportation projects that are planned and implemented on a regional scale rather than in county-by-county segments.

## III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision: Not applicable. This bill does not create any fiscal impacts on municipalities or counties.
2. Other: None.

- B. **RULE-MAKING AUTHORITY:** This bill will eliminate the current requirement that MPO's adopt rules and provide a dispute-resolution process pursuant to chapter 120, F.S. However, MPO's still must provide notice of their intent to act when its actions impact the substantial interest of a person, and must provide due process to citizens and businesses when proposed MPO actions may impact them.
  
- C. **DRAFTING ISSUES OR OTHER COMMENTS:** None.

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**

At its April 2, 2003, meeting the Transportation Committee adopted without objection one amendment filed by the bill's sponsor. The amendment clarifies that transportation authorities or other entities must be performing transportation functions to have a representative on an MPO. The intent of the amendment is to prevent authorities that are defunct or otherwise not engaged in building or operating transportation projects from serving on an MPO. The committee then voted 19-0 in favor of HB 1425, as amended.

HB 1425 w/ CS was amended by the Committee on State Administration on April 14, 2003. This amendment provides that MPO members may not vote on issues which present a conflict of interest. The bill was reported favorably with a committee substitute.