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A bill to be entitled

An act relating to metropolitan planning organizations; amending s. 120.52, F.S.; revising the definition of "agency" for the purposes of the Administrative Procedure Act; providing that certain metropolitan planning organizations and certain described legal or administrative agencies are not agencies for the purposes of that act; amending s. 339.175, F.S.; clarifying a provision that M.P.O.'s be designated for each urbanized area; revising provisions for chair's coordinating committees; providing for a chair's coordinating committee consisting of designated M.P.O.'s; providing legislative findings; authorizing an M.P.O. to enter into interlocal agreement with any other M.P.O. or any political subdivision for described purposes; providing for content of such agreement; providing conditions for such agreement to take effect; providing for recording of such agreements in public records; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

WHEREAS, in pursuit of the implementation of federal law and pursuant to s. 339.175, Florida Statutes, metropolitan planning organizations (M.P.O.'s) are created by interlocal agreement between the Department of Transportation, acting on behalf of the Office of the Governor, and various local government entities primarily, including counties and municipalities, and

WHEREAS, local governments, such as counties and municipalities, are not "agencies" pursuant to, and are



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31 consequently exempt from, chapter 120, Florida Statutes, the
 32 Administrative Procedure Act, and

33 WHEREAS, it is only because the Department of
 34 Transportation, a state agency subject to the Administrative
 35 Procedure Act, is a party to the interlocal agreement creating
 36 M.P.O.'s that M.P.O.'s are defined as "agencies" pursuant to the
 37 Administrative Procedure Act, and therefore made subject to the
 38 act, and

39 WHEREAS, most M.P.O.'s have jurisdiction within only a
 40 single county, and

41 WHEREAS, M.P.O.'s are essentially nonregulatory
 42 organizations, and

43 WHEREAS, most of the membership of an M.P.O. consists of
 44 county commissioners and city commissioners, and

45 WHEREAS, citizens, attorneys, and others dealing with
 46 M.P.O.'s are generally unfamiliar with the Administrative
 47 Procedure Act, and

48 WHEREAS, the Administrative Procedure Act has caused
 49 confusion and created additional bureaucracy for local
 50 government officials and the general public, a result that the
 51 act was specifically intended to avoid, and

52 WHEREAS, because of the essentially nonregulatory, local
 53 governmental nature of M.P.O.'s, M.P.O.'s and citizens dealing
 54 with M.P.O.'s will be better served by having M.P.O.'s exempted
 55 from the Administrative Procedure Act, and

56 WHEREAS, towards the implementation of federal law and
 57 pursuant to s. 339.175, Florida Statutes, providing for the
 58 creation of Metropolitan Planning Organizations "to encourage
 59 and promote the safe and efficient management, operation, and
 60 development of surface transportation systems that will serve



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61 the mobility needs of people and freight within and through
62 urbanized areas of this state while minimizing transportation-
63 related fuel consumption and air pollution," and

64 WHEREAS, Florida law provides for various local
65 governmental entities (primarily counties, municipalities, and
66 certain intermodal agencies) to combine together as an M.P.O.
67 for transportation planning and development purposes, and

68 WHEREAS, Florida law provides for all M.P.O.'s to combine
69 as a statewide council to collectively provide for
70 transportation planning and development purposes, and

71 WHEREAS, there is no specific provision of state law which
72 specifically provides for individual M.P.O.'s or local
73 governmental entities to join together for the purpose of
74 coordinating transportation planning and development on a
75 regional basis, and

76 WHEREAS, it is the purpose of this act to provide a
77 nonexclusive means for individual M.P.O.'s and local
78 governmental entities to work together for the purpose of
79 coordinating transportation planning and development on a
80 regional basis, and

81 WHEREAS, it is the intent of the Legislature that this act
82 shall in no way limit other legal methods or procedures
83 currently existing or which may hereinafter be provided for
84 permitting M.P.O.'s and local governmental entities to join
85 together for the purpose of coordinating transportation planning
86 and development on a regional basis, NOW, THEREFORE,

87

88 Section 1. Subsection (1) of section 120.52, Florida
89 Statutes, is amended to read:

90 120.52 Definitions.--As used in this act:



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- 91 (1) "Agency" means:
- 92 (a) The Governor in the exercise of all executive powers
- 93 other than those derived from the constitution.
- 94 (b) Each:
- 95 1. State officer and state department, and each
- 96 departmental unit described in s. 20.04.
- 97 2. Authority, including a regional water supply authority.
- 98 3. Board.
- 99 4. Commission, including the Commission on Ethics and the
- 100 Fish and Wildlife Conservation Commission when acting pursuant
- 101 to statutory authority derived from the Legislature.
- 102 5. Regional planning agency.
- 103 6. Multicounty special district with a majority of its
- 104 governing board comprised of nonelected persons.
- 105 7. Educational units.
- 106 8. Entity described in chapters 163, 373, 380, and 582 and
- 107 s. 186.504.

108 (c) Each other unit of government in the state, including

109 counties and municipalities, to the extent they are expressly

110 made subject to this act by general or special law or existing

111 judicial decisions.

112

113 This definition does not include any legal entity or agency

114 created in whole or in part pursuant to chapter 361, part II, a

115 metropolitan planning organization created pursuant to s.

116 339.175, any separate legal or administrative entity of which a

117 metropolitan planning organization is a member, which separate

118 legal or administrative entity is created pursuant to s.

119 339.175, an expressway authority pursuant to chapter 348, any

120 legal or administrative entity created by an interlocal



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121 agreement pursuant to s. 163.01(7), unless any party to such
122 agreement is otherwise an agency as defined in this subsection,
123 or any multicounty special district with a majority of its
124 governing board comprised of elected persons; however, this
125 definition shall include a regional water supply authority.

126 Section 2. Paragraph (a) of subsection (1) and paragraph
127 (h) of subsection (5) of section 339.175, Florida Statutes, are
128 amended, and paragraph (i) is added to said subsection (5), to
129 read:

130 339.175 Metropolitan planning organization.--It is the
131 intent of the Legislature to encourage and promote the safe and
132 efficient management, operation, and development of surface
133 transportation systems that will serve the mobility needs of
134 people and freight within and through urbanized areas of this
135 state while minimizing transportation-related fuel consumption
136 and air pollution. To accomplish these objectives, metropolitan
137 planning organizations, referred to in this section as M.P.O.'s,
138 shall develop, in cooperation with the state and public transit
139 operators, transportation plans and programs for metropolitan
140 areas. The plans and programs for each metropolitan area must
141 provide for the development and integrated management and
142 operation of transportation systems and facilities, including
143 pedestrian walkways and bicycle transportation facilities that
144 will function as an intermodal transportation system for the
145 metropolitan area, based upon the prevailing principles provided
146 in s. 334.046(1). The process for developing such plans and
147 programs shall provide for consideration of all modes of
148 transportation and shall be continuing, cooperative, and
149 comprehensive, to the degree appropriate, based on the
150 complexity of the transportation problems to be addressed.



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151 (1) DESIGNATION.--

152 (a)1. An M.P.O. shall be designated for each urbanized
153 area of the state; however, this provision shall not require
154 that an individual M.P.O. be designated for each individual
155 urbanized area of the state. Such designation shall be
156 accomplished by agreement between the Governor and units of
157 general-purpose local government representing at least 75
158 percent of the population of the urbanized area; however, the
159 unit of general-purpose local government that represents the
160 central city or cities within the M.P.O. jurisdiction, as
161 defined by the United States Bureau of the Census, must be a
162 party to such agreement.

163 2. More than one M.P.O. may be designated within an
164 existing metropolitan planning area only if the Governor and the
165 existing M.P.O. determine that the size and complexity of the
166 existing metropolitan planning area makes the designation of
167 more than one M.P.O. for the area appropriate.

168
169 Each M.P.O. required under this section must be fully operative
170 no later than 6 months following its designation.

171 (5) POWERS, DUTIES, AND RESPONSIBILITIES.--The powers,
172 privileges, and authority of an M.P.O. are those specified in
173 this section or incorporated in an interlocal agreement
174 authorized under s. 163.01. Each M.P.O. shall perform all acts
175 required by federal or state laws or rules, now and subsequently
176 applicable, which are necessary to qualify for federal aid. It
177 is the intent of this section that each M.P.O. shall be involved
178 in the planning and programming of transportation facilities,
179 including, but not limited to, airports, intercity and high-



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180 speed rail lines, seaports, and intermodal facilities, to the
 181 extent permitted by state or federal law.

182 (h) There shall exist a chair's coordinating committee
 183 consisting of the M.P.O.'s serving Hernando, Hillsborough,
 184 Manatee, Pasco, Pinellas, Polk, and Sarasota Counties ~~Any group~~
 185 ~~of M.P.O.'s which has created a chair's coordinating committee~~
 186 ~~as of the effective date of this act and is located within the~~
 187 ~~same Department of Transportation District which is comprised of~~
 188 ~~four adjacent M.P.O.'s must continue such committee as provided~~
 189 ~~for in this section. Such committee must also include one~~
 190 ~~representative from each M.P.O. contiguous to the geographic~~
 191 ~~boundaries of the original committee. The committee must, at a~~
 192 minimum:

- 193 1. Coordinate transportation projects deemed to be
- 194 regionally significant by the committee.
- 195 2. Review the impact of regionally significant land use
- 196 decisions on the region.
- 197 3. Review all proposed regionally significant
- 198 transportation projects in the respective transportation
- 199 improvement programs which affect more than one of the M.P.O.'s
- 200 represented on the committee.
- 201 4. Institute a conflict resolution process to address any
- 202 conflict that may arise in the planning and programming of such
- 203 regionally significant projects.

204 (i)1. Findings and intent.--The Legislature finds that
 205 Florida's rapid growth in recent decades has caused many
 206 urbanized areas subject to M.P.O. jurisdiction to become
 207 contiguous to one another. As a result, various needed
 208 transportation projects will likely cross from the jurisdiction
 209 of one M.P.O. into the jurisdiction of another M.P.O. To more



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210 fully accomplish the purposes for which M.P.O.'s have been
211 mandated pursuant to federal law, the Legislature finds that
212 various M.P.O.'s will need to develop coordination mechanisms
213 with one another in an effort to expand and improve
214 transportation within the state. The Legislature recognizes that
215 the appropriate method of coordination between M.P.O.'s will
216 vary depending upon the project involved and given local and
217 regional needs. Consequently, the Legislature finds it
218 appropriate to set forth a flexible methodology that can be
219 utilized by M.P.O.'s to coordinate with other M.P.O.'s and
220 appropriate political subdivisions as circumstances demand.

221 2. Interlocal coordination.--Any M.P.O. is authorized to
222 join with any other M.P.O. or any individual political
223 subdivision for the purpose of coordination of activities or
224 toward the achievement of an activity or activities of any
225 federal or state transportation planning or development goal or
226 purpose consistent with federal or state law. When an M.P.O.
227 determines that it is appropriate to join with any other M.P.O.
228 or any political subdivision for the purpose of coordination of
229 activities, the M.P.O. or political subdivision shall effectuate
230 coordination by entering into an interlocal agreement pursuant
231 to s. 163.01, which agreement shall, at a minimum:

232 a. Create a separate legal or administrative entity for
233 coordination of the transportation planning or development
234 activities intended to achieve the goal or purpose.

235 b. Provide the purpose for which the entity is created.

236 c. Provide the duration of the agreement and the entity,
237 and how the agreement may be terminated, modified, or rescinded.

238 d. Describe the precise organization of the entity, who
239 shall have voting rights on the governing board, whether



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240 alternate voting members shall be provided for, how voting
 241 members shall be appointed, and what the relative voting
 242 strength of each constituent M.P.O. or political subdivision
 243 shall be.

244 e. Specify the manner in which the parties to an
 245 interlocal agreement will provide from their treasuries for the
 246 financial support of the entity and payment of costs and
 247 expenses of the entity.

248 f. Specify the manner in which funds may be paid to and
 249 disbursed from the entity.

250 g. Specify how members of the entity shall resolve any
 251 disagreement between themselves with regard to interpretation of
 252 the interlocal agreement or dispute relating to the operation of
 253 the entity.

254
 255 Any interlocal agreement entered into pursuant to this
 256 subparagraph shall become effective only upon its recordation in
 257 the official public records of each county in which a member of
 258 the entity created by the interlocal agreement shall have a
 259 voting member. Nothing in this paragraph shall be interpreted or
 260 construed to require any two or more M.P.O.'s to merge, combine,
 261 or otherwise join together as a single M.P.O.

262 Section 3. This act shall take effect upon becoming a law.