



CHAMBER ACTION

The Committee on State Administration recommends the following:

Committee Substitute

Remove the entire bill and insert:

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 membership provisions; limiting application of specified provisions prohibiting conflicts of interest; 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



28 | effect; providing for recording of such agreements in
29 | public records; providing an effective date.

30 |
31 | WHEREAS, in pursuit of the implementation of federal law
32 | and pursuant to section 339.175, Florida Statutes, metropolitan
33 | planning organizations (M.P.O.'s) are created by interlocal
34 | agreement between the Department of Transportation, acting on
35 | behalf of the Office of the Governor, and various local
36 | governmental entities primarily, including counties and
37 | municipalities, and

38 | WHEREAS, local governments, such as counties and
39 | municipalities, are not "agencies" pursuant to, and are
40 | consequently exempt from, chapter 120, Florida Statutes, the
41 | Administrative Procedure Act, and

42 | WHEREAS, it is only because the Department of
43 | Transportation, a state agency subject to the Administrative
44 | Procedure Act, is a party to the interlocal agreement creating
45 | M.P.O.'s that M.P.O.'s are defined as "agencies" pursuant to the
46 | Administrative Procedure Act, and therefore made subject to the
47 | act, and

48 | WHEREAS, most M.P.O.'s have jurisdiction within only a
49 | single county, and

50 | WHEREAS, M.P.O.'s are essentially nonregulatory
51 | organizations, and

52 | WHEREAS, most of the membership of an M.P.O. consists of
53 | county commissioners and city commissioners, and

54 | WHEREAS, citizens, attorneys, and others dealing with
55 | M.P.O.'s are generally unfamiliar with the Administrative



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56 Procedure Act, and

57 WHEREAS, the Administrative Procedure Act has caused
58 confusion and created additional bureaucracy for local
59 government officials and the general public, a result that the
60 act was specifically intended to avoid, and

61 WHEREAS, because of the essentially nonregulatory, local
62 governmental nature of M.P.O.'s, M.P.O.'s and citizens dealing
63 with M.P.O.'s will be better served by having M.P.O.'s exempted
64 from the Administrative Procedure Act, and

65 WHEREAS, towards the implementation of federal law and
66 pursuant to section 339.175, Florida Statutes, providing for the
67 creation of Metropolitan Planning Organizations "to encourage
68 and promote the safe and efficient management, operation, and
69 development of surface transportation systems that will serve
70 the mobility needs of people and freight within and through
71 urbanized areas of this state while minimizing transportation-
72 related fuel consumption and air pollution," and

73 WHEREAS, Florida law provides for various local
74 governmental entities, primarily counties, municipalities, and
75 certain intermodal agencies, to combine together as an M.P.O.
76 for transportation planning and development purposes, and

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

80 WHEREAS, there is no specific provision of state law which
81 specifically provides for individual M.P.O.'s or local
82 governmental entities to join together for the purpose of
83 coordinating transportation planning and development on a



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84 regional basis, and

85 WHEREAS, it is the purpose of this act to provide a
86 nonexclusive means for individual M.P.O.'s and local
87 governmental entities to work together for the purpose of
88 coordinating transportation planning and development on a
89 regional basis, and

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

96
97 Be It Enacted by the Legislature of the State of Florida:

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

101 120.52 Definitions.--As used in this act:

102 (1) "Agency" means:

103 (a) The Governor in the exercise of all executive powers
104 other than those derived from the constitution.

105 (b) Each:

106 1. State officer and state department, and each
107 departmental unit described in s. 20.04.

108 2. Authority, including a regional water supply authority.

109 3. Board.



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110 4. Commission, including the Commission on Ethics and the
111 Fish and Wildlife Conservation Commission when acting pursuant
112 to statutory authority derived from the Legislature.

113 5. Regional planning agency.

114 6. Multicounty special district with a majority of its
115 governing board comprised of nonelected persons.

116 7. Educational units.

117 8. Entity described in chapters 163, 373, 380, and 582 and
118 s. 186.504.

119 (c) Each other unit of government in the state, including
120 counties and municipalities, to the extent they are expressly
121 made subject to this act by general or special law or existing
122 judicial decisions.

123

124 This definition does not include any legal entity or agency
125 created in whole or in part pursuant to chapter 361, part II, a
126 metropolitan planning organization created pursuant to s.
127 339.175, any separate legal or administrative entity of which a
128 metropolitan planning organization is a member, which separate
129 legal or administrative entity is created pursuant to s.
130 339.175, an expressway authority pursuant to chapter 348, any
131 legal or administrative entity created by an interlocal
132 agreement pursuant to s. 163.01(7), unless any party to such
133 agreement is otherwise an agency as defined in this subsection,
134 or any multicounty special district with a majority of its
135 governing board comprised of elected persons; however, this
136 definition shall include a regional water supply authority.



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137 Section 2. Paragraph (a) of subsection (1), paragraph (b)
138 of subsection (2), and subsection (5) of section 339.175,
139 Florida Statutes, are amended to read:

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

161 (1) DESIGNATION.--

162 (a)1. An M.P.O. shall be designated for each urbanized
163 area of the state; however, this provision shall not require
164 that an individual M.P.O. be designated for each individual



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165 urbanized area of the state. Such designation shall be
166 accomplished by agreement between the Governor and units of
167 general-purpose local government representing at least 75
168 percent of the population of the urbanized area; however, the
169 unit of general-purpose local government that represents the
170 central city or cities within the M.P.O. jurisdiction, as
171 defined by the United States Bureau of the Census, must be a
172 party to such agreement.

173 2. More than one M.P.O. may be designated within an
174 existing metropolitan planning area only if the Governor and the
175 existing M.P.O. determine that the size and complexity of the
176 existing metropolitan planning area makes the designation of
177 more than one M.P.O. for the area appropriate.

178
179 Each M.P.O. required under this section must be fully operative
180 no later than 6 months following its designation.

181 (2) VOTING MEMBERSHIP.--

182 (b) In metropolitan areas in which authorities or other
183 agencies have been or may be created by law to perform
184 transportation functions and are performing transportation
185 functions that are not under the jurisdiction of a general
186 purpose local government represented on the M.P.O., they shall
187 be provided voting membership on the M.P.O. In all other
188 M.P.O.'s where transportation authorities or agencies are to be
189 represented by elected officials from general purpose local
190 governments, the M.P.O. shall establish a process by which the
191 collective interests of such authorities or other agencies are
192 expressed and conveyed.



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193 (5) POWERS, DUTIES, AND RESPONSIBILITIES.--The powers,
194 privileges, and authority of an M.P.O. are those specified in
195 this section or incorporated in an interlocal agreement
196 authorized under s. 163.01. Each M.P.O. shall perform all acts
197 required by federal or state laws or rules, now and subsequently
198 applicable, which are necessary to qualify for federal aid. It
199 is the intent of this section that each M.P.O. shall be involved
200 in the planning and programming of transportation facilities,
201 including, but not limited to, airports, intercity and high-
202 speed rail lines, seaports, and intermodal facilities, to the
203 extent permitted by state or federal law. No member of any
204 M.P.O. established pursuant to this section shall cast a vote on
205 any matter that would provide direct financial benefit to the
206 member, his or her immediate family, or his or her employer,
207 pursuant to s. 112.3143, or otherwise create a conflict of
208 interest under state law.

209 (a) Each M.P.O. shall, in cooperation with the department,
210 develop:

211 1. A long-range transportation plan pursuant to the
212 requirements of subsection (6);

213 2. An annually updated transportation improvement program
214 pursuant to the requirements of subsection (7); and

215 3. An annual unified planning work program pursuant to the
216 requirements of subsection (8).

217 (b) In developing the long-range transportation plan and
218 the transportation improvement program required under paragraph
219 (a), each M.P.O. shall provide for consideration of projects and
220 strategies that will:



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221 1. Support the economic vitality of the metropolitan area,
222 especially by enabling global competitiveness, productivity, and
223 efficiency;

224 2. Increase the safety and security of the transportation
225 system for motorized and nonmotorized users;

226 3. Increase the accessibility and mobility options
227 available to people and for freight;

228 4. Protect and enhance the environment, promote energy
229 conservation, and improve quality of life;

230 5. Enhance the integration and connectivity of the
231 transportation system, across and between modes, for people and
232 freight;

233 6. Promote efficient system management and operation; and

234 7. Emphasize the preservation of the existing
235 transportation system.

236 (c) In order to provide recommendations to the department
237 and local governmental entities regarding transportation plans
238 and programs, each M.P.O. shall:

239 1. Prepare a congestion management system for the
240 metropolitan area and cooperate with the department in the
241 development of all other transportation management systems
242 required by state or federal law;

243 2. Assist the department in mapping transportation
244 planning boundaries required by state or federal law;

245 3. Assist the department in performing its duties relating
246 to access management, functional classification of roads, and
247 data collection;



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248 | 4. Execute all agreements or certifications necessary to
249 | comply with applicable state or federal law;

250 | 5. Represent all the jurisdictional areas within the
251 | metropolitan area in the formulation of transportation plans and
252 | programs required by this section; and

253 | 6. Perform all other duties required by state or federal
254 | law.

255 | (d) Each M.P.O. shall appoint a technical advisory
256 | committee that includes planners; engineers; representatives of
257 | local aviation authorities, port authorities, and public transit
258 | authorities or representatives of aviation departments, seaport
259 | departments, and public transit departments of municipal or
260 | county governments, as applicable; the school superintendent of
261 | each county within the jurisdiction of the M.P.O. or the
262 | superintendent's designee; and other appropriate representatives
263 | of affected local governments. In addition to any other duties
264 | assigned to it by the M.P.O. or by state or federal law, the
265 | technical advisory committee is responsible for considering safe
266 | access to schools in its review of transportation project
267 | priorities, long-range transportation plans, and transportation
268 | improvement programs, and shall advise the M.P.O. on such
269 | matters. In addition, the technical advisory committee shall
270 | coordinate its actions with local school boards and other local
271 | programs and organizations within the metropolitan area which
272 | participate in school safety activities, such as locally
273 | established community traffic safety teams. Local school boards
274 | must provide the appropriate M.P.O. with information concerning



275 future school sites and in the coordination of transportation
276 service.

277 (e)1. Each M.P.O. shall appoint a citizens' advisory
278 committee, the members of which serve at the pleasure of the
279 M.P.O. The membership on the citizens' advisory committee must
280 reflect a broad cross section of local residents with an
281 interest in the development of an efficient, safe, and cost-
282 effective transportation system. Minorities, the elderly, and
283 the handicapped must be adequately represented.

284 2. Notwithstanding the provisions of subparagraph 1., an
285 M.P.O. may, with the approval of the department and the
286 applicable federal governmental agency, adopt an alternative
287 program or mechanism to ensure citizen involvement in the
288 transportation planning process.

289 (f) The department shall allocate to each M.P.O., for the
290 purpose of accomplishing its transportation planning and
291 programming duties, an appropriate amount of federal
292 transportation planning funds.

293 (g) Each M.P.O. may employ personnel or may enter into
294 contracts with local or state agencies, private planning firms,
295 or private engineering firms to accomplish its transportation
296 planning and programming duties required by state or federal
297 law.

298 (h) There shall exist a chair's coordinating committee
299 consisting of the M.P.O.'s serving Hernando, Hillsborough,
300 Manatee, Pasco, Pinellas, Polk, and Sarasota Counties ~~Any group~~
301 ~~of M.P.O.'s which has created a chair's coordinating committee~~
302 ~~as of the effective date of this act and is located within the~~



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303 ~~same Department of Transportation District which is comprised of~~
304 ~~four adjacent M.P.O.'s must continue such committee as provided~~
305 ~~for in this section. Such committee must also include one~~
306 ~~representative from each M.P.O. contiguous to the geographic~~
307 ~~boundaries of the original committee. The committee must, at a~~
308 minimum:

309 1. Coordinate transportation projects deemed to be
310 regionally significant by the committee.

311 2. Review the impact of regionally significant land use
312 decisions on the region.

313 3. Review all proposed regionally significant
314 transportation projects in the respective transportation
315 improvement programs which affect more than one of the M.P.O.'s
316 represented on the committee.

317 4. Institute a conflict resolution process to address any
318 conflict that may arise in the planning and programming of such
319 regionally significant projects.

320 (i)1. Findings and intent.--The Legislature finds that
321 Florida's rapid growth in recent decades has caused many
322 urbanized areas subject to M.P.O. jurisdiction to become
323 contiguous to one another. As a result, various needed
324 transportation projects will likely cross from the jurisdiction
325 of one M.P.O. into the jurisdiction of another M.P.O. To more
326 fully accomplish the purposes for which M.P.O.'s have been
327 mandated pursuant to federal law, the Legislature finds that
328 various M.P.O.'s will need to develop coordination mechanisms
329 with one another in an effort to expand and improve
330 transportation within the state. The Legislature recognizes that



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331 the appropriate method of coordination between M.P.O.'s will
332 vary depending upon the project involved and given local and
333 regional needs. Consequently, the Legislature finds it
334 appropriate to set forth a flexible methodology that can be
335 utilized by M.P.O.'s to coordinate with other M.P.O.'s and
336 appropriate political subdivisions as circumstances demand.

337 2. Interlocal coordination.--Any M.P.O. is authorized to
338 join with any other M.P.O. or any individual political
339 subdivision for the purpose of coordination of activities or
340 toward the achievement of an activity or activities of any
341 federal or state transportation planning or development goal or
342 purpose consistent with federal or state law. When an M.P.O.
343 determines that it is appropriate to join with any other M.P.O.
344 or any political subdivision for the purpose of coordination of
345 activities, the M.P.O. or political subdivision shall effectuate
346 coordination by entering into an interlocal agreement pursuant
347 to s. 163.01, which agreement shall, at a minimum:

348 a. Create a separate legal or administrative entity for
349 coordination of the transportation planning or development
350 activities intended to achieve the goal or purpose.

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

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

354 d. Describe the precise organization of the entity, who
355 shall have voting rights on the governing board, whether
356 alternate voting members shall be provided for, how voting
357 members shall be appointed, and what the relative voting



358 strength of each constituent M.P.O. or political subdivision
 359 shall be.

360 e. Specify the manner in which the parties to an
 361 interlocal agreement will provide from their treasuries for the
 362 financial support of the entity and payment of costs and
 363 expenses of the entity.

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

366 g. Specify how members of the entity shall resolve any
 367 disagreement between themselves with regard to interpretation of
 368 the interlocal agreement or dispute relating to the operation of
 369 the entity.

370
 371 Any interlocal agreement entered into pursuant to this
 372 subparagraph shall become effective only upon its recordation in
 373 the official public records of each county in which a member of
 374 the entity created by the interlocal agreement shall have a
 375 voting member. Nothing in this paragraph shall be interpreted or
 376 construed to require any two or more M.P.O.'s to merge, combine,
 377 or otherwise join together as a single M.P.O.

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