HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 807 Metropolitan Planning Organizations
SPONSOR(S): Diamond and Toledo
TIED BILLS: **IDEN./SIM. BILLS:** SB 984

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Infrastructure Subcommittee	13 Y, 0 N	Johnson	Vickers
2) Local, Federal & Veterans Affairs Subcommittee	11 Y, 0 N	Darden	Miller
3) Government Accountability Committee			

SUMMARY ANALYSIS

Metropolitan Planning Organizations (MPOs) are federally-mandated transportation planning organizations designated to develop and maintain transportation plans and to ensure that federal funds support local transportation priorities. Federal law requires MPOs be designated in urbanized areas with populations of greater than 50,000. Section 316.175, F.S., provides state requirements regarding MPOs, including requirements for membership of an MPO governing board.

Current law allows between five and 25 voting members on an MPO and provides requirements regarding who may be a member of an MPO.

The bill provides that an MPO created after July 1, 2018 as a result of a combination or merger of two or more MPOs, must have at least five members

The bill also makes technical changes to the MPO statute.

The bill is not expected to have a fiscal impact on state or local governments.

The bill provides an effective date of July 1, 2018.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Federal Law
Metropolitan Planning Organizations (MPOs) are federally-mandated transportation planning organizations comprised of representatives from local governments and transportation authorities. The MPO's role is to develop and maintain the required transportation plans for a metropolitan area and to ensure that federal funds support local priorities. Federal law requires MPOs in urbanized areas with a population of more than 50,000 individuals.[1]

State Law
Section 339.175, F.S., provides state law regarding MPOs and generally mirrors applicable federal law.

Role and Responsibilities
MPOs carry out four primary activities:

- Developing and maintaining a Long-Range Transportation Plan, addressing no less than a 20-year planning horizon.
- Updating and approving a Transportation Improvement Program, a four-year program for highway and transit improvements.
- Developing and adopting a Unified Planning Work Program, identifying the MPO's budget and planning activities to be undertaken in the metropolitan planning area.
- Preparing a Public Participation Plan, describing how the MPO involves the public and stakeholder communities in transportation planning.

Florida MPO Board Composition
Florida has 27 MPOs[2] ranging in size from six to 29 members, including both voting and nonvoting members. In Florida, the average size of an MPO's governing board is approximately 16 members, with 14 voting members and two nonvoting members. MPOs serving areas with a population greater than one million people generally have larger boards with an average of 18 voting members and four nonvoting advisors. MPOs serving populations below 200,000 people generally have the smallest boards with an average of 11 voting members and two nonvoting members.[3]

Federal law allows the state and units of local government to largely determine the MPO's composition.[4] Florida law refers to this process as "apportionment."[5] The Governor apportions the membership of the MPO with the agreement of the affected local governments.[6] Each MPO reviews the composition of its membership in conjunction with each decennial census. Each existing and emerging MPO must submit a Membership Apportionment Plan meeting federal and state requirements.[7]

The MPO voting membership, as reflected in the Membership Apportionment Plan, must consist of at least five, but no more than 25 apportioned members. The exact number of members is determined on an equitable geographic-population ratio basis by the Governor, based on an agreement among the

[1] 23 U.S.C. s. 134.
[2] A list of Florida's MPOs and links to each specific MPOs website is available at https://www.mpoac.org/ (last visited November 9, 2017).
[3] Florida Department of Transportation *MPO Program Management Handbook*. Chapter 1.3.2. Available at: http://www.fdot.gov/planning/policy/metrosupport/FDOT%202017%20MPO%20Handbook.pdf (last visited November 16, 2017).
[4] 23 U.S.C. 134(d), 23 C.F.R. 450.310.
[5] Section 339.175(4), F.S.
[6] Section 339.175(4)(a), F.S.
[7] These requirements are contained in s. 339.175(3), F.S., s. 339.175(4), F.S., and 23 C.F.R. 450.310.

affected units of general-purpose local government, as required by federal rules and regulations.[8] In determining the composition of the MPO board:

- With the exception of instances in which all of the county commissioners in a single-county MPO are members of the MPO governing board, county commissioners must compose at least one-third of the MPO governing board membership. A multicounty MPO may satisfy this requirement by any combination of county commissioners from each of the counties constituting the MPO. In cases where the MPO has more than 15 voting members with a 5-member county commission, or the MPO comprises 19 members with a 6-member county commission, the county commissioners can comprise less than one-third of the voting members.
- All voting members must be elected officials[9] of general purpose local governments, except that an MPO may include as part of its apportioned voting members a member of a statutorily authorized planning board, an official of an agency that operates or administers a major mode of transportation, and/or an official of Space Florida.
- County commissioners must compose not less than 20 percent of the voting membership of the MPO governing board if an official of an agency that operates or administers a major mode of transportation has been appointed to the MPO.[10]
- Any authority or agency created by law to perform transportation functions that is not under the jurisdiction of a local government represented on the MPO may be provided voting membership on the MPO.[11]
- Any county chartered under Subsection 6(e), Article VIII of the State Constitution[12] may elect to have its county commission serve as the MPO board if the MPO jurisdiction is wholly contained within the county. In addition, the voting membership of any MPO, whose geographical boundaries include any "county," as defined in s.125.011(1), F.S., must include an additional voting member appointed by that city's governing body for each city with a population of 50,000 or more residents.[13]
- Florida law requires Department of Transportation (DOT) representatives to serve as nonvoting advisors to MPO governing boards. DOT is represented by the District Secretary or his or designee. The MPO may appoint additional nonvoting advisors as deemed necessary.

Membership Apportionment Plan Review and Governor Action

The MPO submits its Membership Apportionment Plan to DOT's MPO Statewide Coordinator. The MPO at the same time provides copies of the plan to the appropriate DOT District Planning Manager or designee. Within 14 calendar days after the end of the 30-day review period, DOT provides a recommendation to the Executive Office of the Governor. The recommendation will be for the Governor to either approve or disapprove the proposed Membership Apportionment Plan.[14] The Governor's approval of the Membership Apportionment Plan constitutes official designation of the MPO as required by federal and state laws. The MPO must appoint representatives to serve on the board within 60 days after the Governor has approved the proposed Membership Apportionment Plan. If a governmental entity fails to fill an assigned appointment to an MPO within 60 days after notification by the Governor of its duty to appoint, that appointment must be made by the Governor from the eligible representatives of that governmental entity.[15]

[8] Section 339.175(3)(a), F.S.
[9] As used in s. 339.175(3)(a), F.S., the term "elected official" excludes constitutional officers.
[10] Section 339.175(3)(a), F.S.
[11] Section 339.175(3)(b), F.S.
[12] This provision generally applies to Miami-Dade County.
[13] Section 339.175, F.S. Section 125.011(1), F.S., defines "county" as "any county operating under a home rule charter adopted pursuant to ss. 10, 11, and 24, Art. VIII of the Constitution of 1885, as preserved by Art. VIII, s. 6(e) of the Constitution of 1968, which county, by resolution of its board of county commissioners, elects to exercise the (county home rule powers under ch. 125, F.S.). Use of the word "county" (in s. 125.011, F.S.) shall include "board of county commissioners" of such county." This definition of county currently only applies to Miami-Dade County.
[14] *MPO Program Management Handbook*. Chapter 2.
[15] Section 339.175(4)(c), F.S.

Redesignation and Reapportionment
An existing MPO may be redesignated only by agreement between the Governor and units of local government that together represent at least 75 percent of the existing MPO population, including the largest incorporated city.[16] Redesignation of an existing MPO is required whenever the MPO proposes to make a substantial change in the proportion of its voting members, or a substantial change in the decision-making authority or responsibility of the MPO or in decision-making procedures established in the MPO's bylaws.[17]

Interlocal Agreements
The interlocal agreement is a standard document drafted specifically to address the metropolitan transportation planning requirements identified in federal and state law and regulations. The parties to this interlocal agreement are DOT and the governmental entities designated by the Governor for MPO membership, including nonvoting members.[18] After a new MPO has been designated by the Governor, or modifications to an existing MPO have been approved by the Governor, the DOT District meets with the responsible MPO staff to discuss the execution of a new or updated interlocal agreement.[19]

Proposed Changes

The bill creates s. 339.175(3)(a)2., F.S., providing that for MPOs designated on or after July 1, 2018, as a result of a combination or merger of individual MPOs, the voting membership must consist of at least five members, with the exact number determined on an equitable geographic-population ratio basis, based on an agreement among the affected units of general-purpose local government and the Governor, as required by federal regulations.

In accordance with federal regulations,[20] the Governor may also allow MPO members representing municipalities to alternate with representatives from other municipalities within the metropolitan planning area which do not have members on the MPO. Voting members must be elected officials of general-purpose local governments, one of whom may represent a group of general-purpose local governments through an entity created by an MPO for that purpose. An M.P.O. may include, as part of its apportioned voting members, a member of a statutorily authorized planning board, an official of an agency that operates or administers a major mode of transportation, or an official of Space Florida.

The bill also makes technical and conforming changes to s. 339.175(3), F.S.

B. SECTION DIRECTORY:

Section 1 amends s. 339.175, F.S., relating to metropolitan planning organizations.

Section 2 provides an effective date of July 1, 2018.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

[16] 23 C.F.R. 450.310(h).
[17] 23 C.F.R. 450.310(j).
[18] Section 339.175(2)(b), F.S.
[19] *MPO Program Management Handbook*. Chapter 2.
[20] 23 U.S.C. s. 134.

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES