

## VOLUME II, SECTION VII.

### ALTERNATIVE MODELS OF METROPOLITAN PLANNING ORGANIZATIONS

#### Introduction.

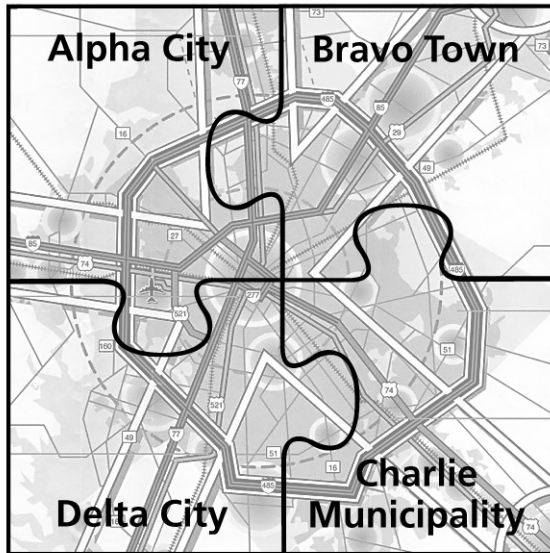


Figure VII-1 Single MPO for Urbanized Area

A 1995 study by the U.S. Advisory Commission on Intergovernmental Relations (ACIR) noted that MPOs are not all alike, and they should not be expected to perform alike.<sup>1</sup> The MPO models considered in prior chapters may be characterized broadly as interlocking political entities within an urbanized area, for which the MPO has jurisdiction over transportation planning. As such, the MPO is a federative organization, wherein consensus building and decision-making are internalized within the MPO, and whereby it speaks with one voice on behalf of its constituency. This arrangement is depicted in Fig VII-1.

In juxtaposition to the prior MPO models, the present chapter considers alternative models of MPOs, ones in which several contiguous MPOs together comprise a larger urbanized area. Such MPOs may have formal or informal linkages amongst themselves, but transportation planning jurisdiction is generally not ceded to any supervening regional entity. As such, it is a confederative organization, depicted as in Figure VII-2, wherein regional consensus building is either ad hoc between the MPOs, or is externalized to a higher jurisdictional level, most often the State Department of Transportation (SDOT).

MPOs have been in existence for over twenty years, and it was in the scheme of their design that there should be neither mega-MPOs nor mini-MPOs. By design, all

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<sup>1</sup> U.S. Advisory Commission on Intergovernmental Relations Report, MPO Capacity, Report No. A-130, May 1995, p.1. The report went on to comment that MPOs differ in some of the following respects: some are large; some are small; some have significant technical and political independence from the state DOT; some are largely dependent on the SDOT; some are old and well established; some are new and still finding their way; some cross state lines; some do not; some are in areas with multiple MPOs; some serve the whole area; some have serious air quality and congestion problems; some do not. Some are in growing areas; some are in stable or declining areas

MPOs were “plain vanilla” – that is, organizations, the jurisdictions of which would include urbanized areas with a population greater than 50,000, plus contiguous areas that

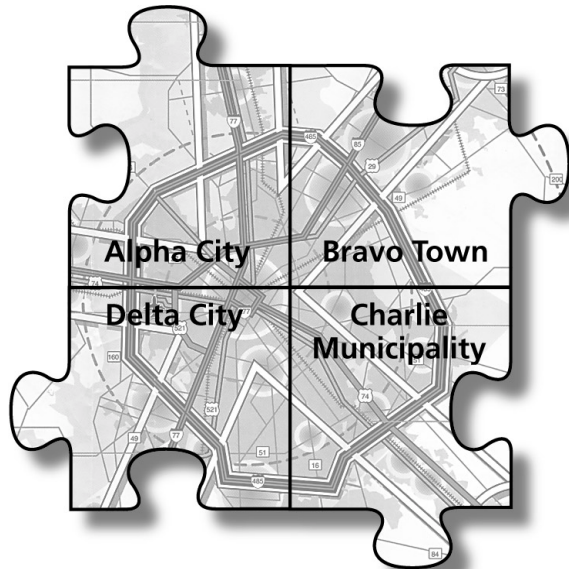


Fig VII-2 Multiple MPO Model

are forecast to become urbanized within the ensuing twenty years.<sup>2</sup> Some MPOs, such as New York City, were of mega-magnitude at birth. In other cases, smaller MPOs sprang into existence, covering urbanized areas that were at some distance from one another. However, growth patterns for many have expanded the jurisdictional boundaries of the separate MPOs to the point of contiguity. As a consequence, while local MPO practices still address the needs of the local constituency, their effects spill over into adjacent MPOs. Conversely, some issues and problems are of such magnitude that they affect all of the MPOs as a group. Many such regional

issues can not be addressed piecemeal, but rather demand a coordinated response by all contiguous MPOs.

At the same time, however, each of the multiple MPOs, and the communities they serve, have their own individual histories, identities, customs, and political cultures. Individual MPOs are microcosms of such values and identities, which do not immediately evaporate as soon as MPO jurisdictions come into contact. This is to say, there is an inevitable tension between regionalism and parochialism that stands at the very center of the debate as to whether a single MPO or multiple MPOs serve their respective constituencies better.

MPO structures and processes that have been in place over an extended period of time have achieved a modus operandi that presumably suits its constituency to greater advantage than disadvantage in the local manifestation. Such local advantages and disadvantages, however, may not be universal, and replacing a given MPO structure with one borrowed from another area could conceivably bring with it more cost than benefit. In all, it is a delicate minefield to traverse.

As a part of this study, we asked a cross-section of persons involved in the MPO processes in the urbanized areas with which this study is concerned:<sup>3</sup> “*how desirable are multiple MPOs for your metropolitan area?*” The response was interesting: 73% of the respondents from the single-MPO area favored the single MPO model, while 74.5% of respondents from the multiple-MPO areas prefer that model or a variant of it. Respon-

<sup>2</sup> 23 U.S.C. § 13(c)(1)(2).

<sup>3</sup> That is, the three urban areas considered in this chapter, as well as the MPOs in Denver, Seattle, Phoenix and Dallas.

dents also elaborated upon advantages and disadvantages of the respective models. Common to both groups, however, is that notwithstanding the disadvantages of their particular MPO model, it was deemed preferable to the alternative.

This result is not surprising. As a general proposition, governmental institutions tend to prefer incremental change, rather than radical change. Paraphrasing Graham Allison's bureaucratic model of decision-making:<sup>4</sup> *how you stand depends upon where you sit*. That is to say, there is an inherent parochialism involved at every level. If the respondents perceive that their particular system is working well for their MPO, then there is no need for change, or if any change is to be made at all, then the less the better.

Yet, circumstances change and institutions adapt. Daily, urban areas expand and contract in response to population and economic dynamics. Shortly, the United States will commence the 2000 decennial census. When the results are made known, state governors will move for corresponding reapportionments of the MPOs. Large single MPOs will become even bigger, the boundaries of smaller MPOs will come to abut other MPOs, and new MPOs will come into existence.

Along with these ebbs and flows, there is an undercurrent suggesting variously, bigger is better, regional is better. For example, as we shall discuss later, in 1992 – following the results of the 1990 census -- Governor Chiles of Florida sought to reapportion the Tampa Bay area MPOs into a single one, and so also the Southeast Florida MPOs. However, the several MPOs inaugurated practices that alleviated his concerns, and he was dissuaded from doing so. More recently, in North Carolina, there has been some legislative initiative to consolidate multiple MPOs into single urban MPOs. If single MPOs are to accrete more territory within their jurisdictional limits, there will conceivably come a point where they are so large as to be unresponsive to individual community needs, and hence, arguably ineffective. Accordingly, the regional v. parochial debate will continue into the future. What will change is the order of magnitude, shifting the decimal point to the right a bit, every five years or so. The salient points of the continuing debate are and will be, as noted earlier:

...that whatever its structure, the MPO's planning process needs to be inclusive and collaborative.<sup>5</sup>

State departments of transportation (SDOT) traditionally have been the clearing-houses and arbiters between all individual MPOs within a state. Implicit is that MPOs are autonomous, discrete entities to be treated more or less equally. But, no longer is the SDOT function quite that simple, as the needs of a region may well exceed the sum of the needs of its individual MPOs. Hence, the ongoing search for a regional voice and identity. Florida's Governor and North Carolina legislators have each sounded the call resonantly, and it has been heard. The urban groupings of MPOs, which we consider in this chapter, each have responded to the call, and each in a different way.

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<sup>4</sup> Graham T. Allison, Essence of Decision: Explaining the Cuban Missile Crisis 144-84 (1971).

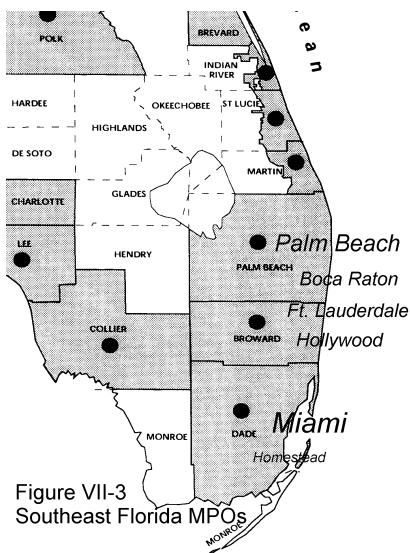
<sup>5</sup> McDowell, chapter, p.2

We will consider three sets of MPOs, covering the urbanized areas of Charlotte, North Carolina; Tampa Bay, Florida; and the Southeast Florida counties of Miami-Dade, Broward, and Palm Beach. The MPOs in the Charlotte area coordinate informally, on an ad-hoc issue-related basis. In Southeast Florida, the MPOs coordinate along functional lines in areas of mutual interest. In the Tampa Bay area, the MPOs have created an oversight MPO that coordinates individual MPO response to regional issues. In many ways, these three approaches may be seen as steps in an evolutionary process.

## The Central Questions.

The central questions before us in this chapter are: “Do the multiple-MPO models offer advantages over the single MPO model?” And if so, relating to the Denver experience: “Could such a model be retrofitted, and with what feasibility?”

## Multiple MPOs to be Considered.



The experiences of eleven MPOs will be assessed, focusing on the regional mechanisms they have achieved for inter-MPO coordination. The discussion is based upon on-site visits to six MPOs, in-person interviews and discussion with MPO staff directors of eight MPOs, and a review of documents and information obtained from them. The discussion will also rely upon the results of an MPO Questionnaire. In some cases, the Questionnaire was completed by telephone interview, and in others, the Questionnaire was transmitted and returned in written form. There were 51 respondents from among the eleven MPOs. While no specific attribution will be made to any respondent directly, some of the respondents’ comments and suggestions have been incorporated into the analysis and discussion. Following are the sets of MPOs to be considered in this chapter.

Southeast Florida. There are three county MPOs in Southeast Florida: Dade (Miami-Dade MPO), Broward County MPO, and Palm Beach County MPO). The major cities included within these three MPOs are West Palm Beach, Boca Raton, Fort Lauderdale, Hollywood and Miami. [Fig VII-3].<sup>6</sup>

- Tampa Bay Area. There are four MPOs which include the major cities of Tampa, St. Petersburg, and Clearwater: Pinellas County MPO, Hillsborough

<sup>6</sup> Mr. Jose-Luis Mesa, Director, MPO Secretariat, Miami-Dade County MPO was interviewed at length. Also, Bruce B. Wilson, Director of the Transportation Planning Division, Department of Planning and Environmental Protection, Broward County Commission. The author thanks these people for their time, their insight and their reflections based upon their long experience with MPOs.

County MPO, Pasco County MPO, and Springhill/Hernando County MPO. [Figure VII-4].<sup>7</sup>

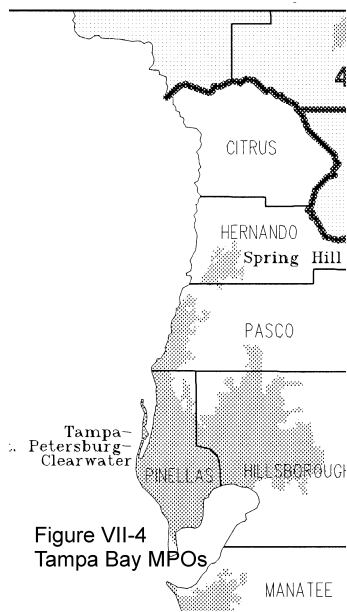


Figure VII-4  
Tampa Bay MPOs

- Greater Charlotte Area.<sup>8</sup> The MPOs covering the greater Charlotte NC urbanized area are substantially different from the Florida MPOs. The urbanized area transects the state boundary, and extends to include portions of York County, South Carolina (Rock Hill/Ft. Mill Area Transportation Study) [Figure VII-5]. Also, the three North Carolina MPOs include all of Mecklenburg, Gaston and Cabarrus Counties, and contiguous portions of Union and Rowan Counties.

### Outline of Analysis.

This chapter will be divided into seven parts, which will be bifurcated and will appear in two separate volumes of this overall MPO study:

- Part I will examine the legislative environment and statutory requirements for transportation planning in Florida and the Carolinas, and appears in this Section VII of Volume II. Subsequent parts, however, analyzing the mechanisms for inter-MPO coordination in the several urbanized areas, will appear in Section IX of Volume III of the study.
- Part II will discuss the greater Charlotte area, looking at the MPOs individually, and in the context of their informal mechanisms for regional coordination.

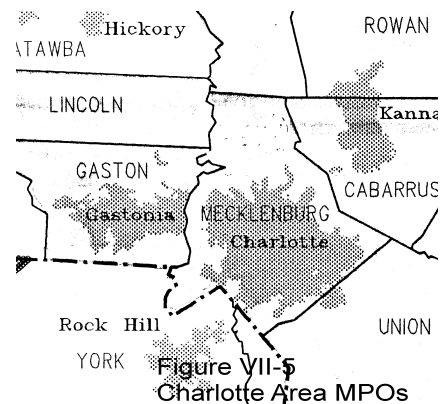


Figure VII-5  
Charlotte Area MPOs

<sup>7</sup> Ms. Sarah Ward, Pinellas County MPO was interviewed at some length. Also, conversations were held with Ms. Lucilla Ayer, Hillsborough County MPO. The author thanks these people for their time, their insight and their reflections based upon their long experience with MPOs.

<sup>8</sup> Extensive conversations were held with Ms. Sarah W. LaBelle, Coordinator and Planner, Cabarrus/South Rowan MPO, Mr. Robert W. Cook, Senior Transportation Planner, Gaston Urban Area MPO, Mr. Timothy D. Gibbs, Transportation Planning Coordinator, Charlotte-Mecklenburg Planning Commission, and Mr. Russell B. Hawes, Transportation Planner, York County Government (Rock Hill/Fort Mill SC MPO). The author thanks these people for their time, and valuable reflections on their MPO experience in the greater Charlotte NC area.

- Part III will discuss the Palm Beach-Broward-Miami MPO experiences individually, but with particular attention to the methods and practices that they have achieved for regional coordination along functional lines.
- Part IV will discuss the Tampa Bay Area MPOs in the context of their oversight regional MPO organization.
- Part V will generalize and summarize major aspects, advantages and disadvantages, emerging from an analysis of the three different MPO models.
- Part VI will offer concluding observations, and
- Part VII will assess whether a multiple MPO model can be applied to the Denver MPO.

## PART I

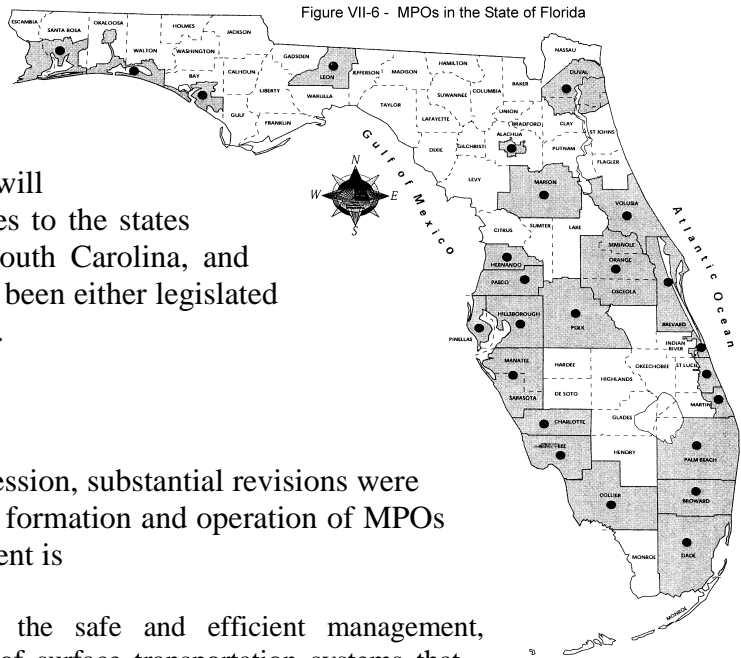
### LEGISLATIVE ENVIRONMENT AND STATUTORY REQUIREMENTS

Earlier chapters have addressed federal statutory requirements for MPOs in general, and have discussed various state requirements for transportation planning. This part will continue the discussion as it relates to the states of Florida, North Carolina and South Carolina, and how the federal requirements have been either legislated or implemented within these states.

#### The State of Florida.

During the 1999 legislative session, substantial revisions were made to the statutes governing the formation and operation of MPOs within the state. The legislative intent is

to encourage and promote the safe and efficient management, operation, and development of surface transportation systems that will serve the mobility needs of people and freight within and through urbanized areas of this state while minimizing transportation-related fuel consumption and air pollution.<sup>9</sup>



<sup>9</sup> Fla. Stat. Ch. 339.175 (1999).

Florida MPOs are tasked to develop transportation plans and programs, considering all modes of transportation on a continuing, cooperative and comprehensive basis,<sup>10</sup> specifically:

- To be in cooperation with state and public transit operators,<sup>11</sup>
- To provide for development and integrated management and operation of transportation systems and facilities,<sup>12</sup>
- To function as an intermodal system for the metropolitan area.<sup>13</sup>

Designation of MPOs. The Florida statutes require that an MPO is to be designated for each *urbanized* area of the state.<sup>14</sup> Presently, there are twenty-five MPOs within the state of Florida [Figure VII-6]. While the Florida MPOs under consideration in this study coincide with county jurisdictions (which is the case with 60% of Florida MPOs), there is diversity within the remaining 40%. Some MPOs in Florida comprise multiple counties, while others comprise urban areas that include portions of neighboring counties, as may be noted on Figure VII-6.

An MPO is designated by agreement between the Governor and general-purpose local governments representing not less than 75% of the population of the urbanized area. The governments of the central city or cities, however, must be party to such an agreement.<sup>15</sup> More than one MPO may be designated within an existing MPO area only if the Governor and the existing MPO agree that the size and complexity of the existing metropolitan planning area makes such action appropriate.<sup>16</sup>

Boundaries of an MPO. The jurisdictional boundaries of an MPO are as agreed upon by the Governor and the applicable MPO, provided that the boundaries *must* include at least the existing urbanized area and the contiguous area expected to become urbanized within a 20-year forecast period.<sup>17</sup> This area may or may not encompass the entire metropolitan statistical area or the consolidated metropolitan statistical area.<sup>18</sup>

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<sup>10</sup> Id. The Florida statute incorporates the 3-C language directly from §1203(a)(2), Pub. L. No. 105-178.

<sup>11</sup> Id.

<sup>12</sup> Id.

<sup>13</sup> Id.

<sup>14</sup> Fla. Stat. Ch. 339.175(1)(a)1. The statute, however, does not define “urbanized.” 23 U.S.C. §134(b)(1) and Pub. L. 105-178 §1203(b)(1), however, both define an urbanized area to be that area with a population of more than 50,000 persons.

<sup>15</sup> Fla. Stat. 339.175(1)(a)1.

<sup>16</sup> Fla. Stat. Ch. 339.175(1)(a)2.

<sup>17</sup> Fla. Stat. Ch. 339.175(1)(c). The statute defines existing urbanized area and the contiguous area expected to become urbanized within a 20-year period as a “*Metropolitan Planning Area.*”

<sup>18</sup> Id. However, if an urbanized area is designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act, 42 U.S.C. §§ 7401 et seq., certain additional rules apply, as provided for in Fl. Stat. Ch. 339.175(1)(d).

## **Amalgamation or Division of MPO Jurisdictions.**

**Amalgamation of MPOs.** The statutes provide for adjustment of MPO boundaries if an urbanized area is designated as a non-attainment area under the Clean Air Act [42 U.S. C. §§ 7401 et seq.]. Under such circumstances, the boundaries of an existing MPO *shall be retained*, except that they *may be adjusted* by agreement between the Governor and the affected MPOs. However, if more than one MPO has authority within a non-attainment area, MPOs are required to consult with one another to coordinate plans and programs within the combined air shed.<sup>19</sup> The language falls far short of requiring amalgamation of MPOs within an affected area, merely requiring policy coordination. While there are no statutes on point, in recent years, there has been some consideration for amalgamating MPOs.<sup>20</sup>

**Division of MPOs.** There is also statutory provision for splitting a large MPO into smaller ones, if the existing MPO and the Governor so agree, and if the planning process is so large and complex that such action is deemed appropriate.<sup>21</sup>

**Voting Membership.** The Florida statutes concerning voting membership in an MPO require that it consist of not fewer than 5 nor more than 19 *apportioned* members, the exact number to be determined by the Governor on a geographic-population ratio basis, based upon agreement among the affected units of general purpose local government.<sup>22</sup> In the event the number of affected local government units exceeds the maximum allowable voting membership of the MPO, the statutes permit *apportionment* of membership among the local government units,<sup>23</sup> and allow for *alternating voting memberships* between them.<sup>24</sup> The rules for achieving either are complex. However, without reciting or condensing the rules, as a general proposition, the statutes require that:

- Not less than 1/3 of the MPO must be County Commissioners.<sup>25</sup>
- All voting members must be elected officials of general-purpose governments,<sup>26</sup> with the exception that the following categories of persons may be included as voting members, provided that by their inclusion, not less than 20% of the MPO membership consists of county commissioners.<sup>27</sup>

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<sup>19</sup> Fla. Stat. 339.175(1)(d).

<sup>20</sup> Discussion with Mr. Mesa, Miami-Dade MPO, 11/5/99.

<sup>21</sup> Fla. Stat. 339.175(1)(a)2.

<sup>22</sup> Fla. Stat. Ch. 339.175(2)(a).

<sup>23</sup> Fla. Stat. Ch. 339.175(3).

<sup>24</sup> Fla. Stat. Ch. 339.175(2)(a).

<sup>25</sup> Id. There are two exceptions to this. (1) If an MPO has more than 15 members and is located in a county with a five-member county commission, then county commissioners may comprise less than 1/3 of the MPO membership, provided that *all county commissioners be members*. (2) If an MPO has 19 members, and is located in a county with no more than 6 county commissioners, then, similarly, less than 1/3 membership is permissible, but *all six commissioners must be on the MPO*.

<sup>26</sup> Id.

<sup>27</sup> Id.

- 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 the Spaceport Florida Authority.<sup>28</sup>
- If the entire MPO jurisdiction is contained wholly within a chartered county,<sup>29</sup> and the county opts to have its entire county commission serve as the MPO, the Governor must then appoint four additional voting members, as follows:<sup>30</sup>
  - One must be an elected official representing a municipality within the county.
  - The second must be an expressway authority member.
  - The third must be a person who does not hold elected office and who resides in the unincorporated portion of the county.
  - The fourth must be a school board member. An appointed alternate member must be an elected official serving the same governmental entity as does the regular member.<sup>31</sup>

**Non-voting Membership.** Representatives of the Department of Transportation serve as non-voting members of an MPO in an unspecified number,<sup>32</sup> and nonvoting advisors may be appointed by an MPO as it deems necessary.<sup>33</sup>

**Advisory Committee to the MPO.** Florida statutes mandate that there be two advisory committees within an MPO – a technical advisory committee (TAC) and a citizens advisory committee (CAC). The constituency of these committees is defined, but there is no requirement as to the number of persons constituting such committees.

- **Constituency of TAC.** The TAC should include planners, engineers, representatives of local aviation authorities, port authorities, public transit authorities or representatives of aviation departments, seaport departments, and public transit departments of municipal or county governments. Also, the school superintendent of each county within the jurisdiction of the MPO (or his designee), and other appropriate representatives of affected local governments.<sup>34</sup>

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<sup>28</sup> Id.

<sup>29</sup> Florida Constitution, §6(e), Art. VIII.

<sup>30</sup> Fla. Stat. Ch. 339.175(3)(a).

<sup>31</sup> Fla. Stat. Ch. 339.175(3)(a).

<sup>32</sup> Id.

<sup>33</sup> Id.

<sup>34</sup> Fla. Stat. Ch. 339.175(5)(e).

- **Constituency of CAC.** The membership of the CAC must reflect a broad cross section of local residents with an interest in the development of the transportation system. Minorities, the elderly and the handicapped must be adequately represented.<sup>35</sup> However, an alternative program or mechanism to ensure citizen involvement in the transportation planning process is permissible, with the approval of the DOT and the applicable federal governmental agency.<sup>36</sup>

**Authority and Responsibilities of the MPO.** The MPO is the forum for cooperative decision-making by officials of the affected governmental entities. Moreover, the MPO is tasked to manage a 3-C process resulting in the development of plans and programs that are consistent, to the maximum extent feasible, with the approved comprehensive plans of the local governments within the MPO's jurisdictional boundary.<sup>37</sup> The MPOs are to be involved in the planning and programming of transportation facilities, to include airports, intercity and high-speed rail lines, seaports and intermodal facilities. In cooperation with DOT, three specific requirements are placed upon the MPOs:

1. Development of a long-range transportation plan (LRTP),<sup>38</sup> addressing minimally a twenty-year planning horizon.<sup>39</sup>
2. Preparation of an annually updated Transportation Improvement Program (TIP),<sup>40</sup> giving reasonable opportunity for comment on the proposed program to the public.<sup>41</sup>
3. Preparation of an annual unified planning work program.<sup>42</sup> This document is to list all planning tasks to be undertaken during the program year, and a budget for each task.<sup>43</sup>

**Metropolitan Planning Organization Advisory Council.** The Florida legislature went on to create an MPO Advisory Council (MPOAC), the requirement for which is not mandated by federal law. It consists of one representative from each of the 25 Florida

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<sup>35</sup> Fla. Stat. Ch. 339.175(5)(f)1.

<sup>36</sup> Fla. Stat. Ch. 339.175(5)(f)2.

<sup>37</sup> Fla. Stat. Ch. 339.175(4).

<sup>38</sup> Fla. Stat. Ch. 339.175(5)(a)1.

<sup>39</sup> Fla. Stat. Ch. 339.175(6). This section of the statute specifies matters that are to be considered in the formulation of the LRTP.

<sup>40</sup> Fla. Stat. Ch. 339.175(5)(a)2.

<sup>41</sup> Fla. Stat. Ch. 339.175(7). This section of the statute goes on to specify who is to be given opportunity for comment. Additionally, MPOs are tasked to submit annually to the DOT, a list of project priorities. This list must be approved by the TAC and CAD prior to submission. A financial plan, indicating how the TIP can be implemented must also accompany the TIP. In short, this section establishes, in great detail, the process and procedures to be following in generating the TIP, and gives guidance as to what matters must be considered in the process.

<sup>42</sup> Fla. Stat. Ch. 339.175(5)(a)3.

<sup>43</sup> Fla. Stat. Ch. 339.175(8).

MPOs,<sup>44</sup> and its purpose is to *augment*, but not supplant, the role of the individual MPOs in the cooperative transportation planning process.<sup>45</sup> The MPOAC is assigned two broad responsibilities:

1. To assist MPOs in carrying out the urbanized area transportation planning process by serving as the principal forum for collective policy discussion.<sup>46</sup>
2. To serve as a clearinghouse for review and comment by MPOs on the Florida Transportation Plan and on other issues required to comply with federal or state law.<sup>47</sup>

The governing board of the MPOAC consists of one representative and an alternate from each constituent MPO, certified by the respective MPOs as qualified to act on its behalf. The representative and alternate must sit on the governing board of the MPO.<sup>48</sup> Each MPO casts one vote on matters brought before the governing board. This ensures that the constituency of the voting members of the MPOAC are all elected officials.

Additionally, there is an MPOAC Advisory Committee, responsible for the provision of guidance to the MPOAC regarding transportation issues, and which Committee assists in the preparation of the MPOAC agenda, and formulation of recommendations to be considered by the governing board.<sup>49</sup> The Advisory Committee consists of 25 voting members, the MPO staff director or his delegate, one from each of the MPOs.<sup>50</sup> Both the MPOAC Governing Board and the Staff Advisory Board meet once quarterly.<sup>51</sup>

## **The State of North Carolina.**

The Legislature of North Carolina, unlike that of Florida, has not yet enacted legislation to codify MPO jurisdiction, duties or responsibilities within the State. Rather, since the mid-60's, this has been accomplished through successive Memoranda of Understanding (MOU) between the State Department of Transportation and the local municipal governmental entities comprising the various MPOs.<sup>52</sup> We shall be concerned only with those MOUs affecting the three North Carolina MPOs in the Charlotte area:

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<sup>44</sup> Fla. Stat. Ch. 339-175(10)(b).

<sup>45</sup> Fla. Stat. Ch. 339-275(10)(a).

<sup>46</sup> Fla. Stat. Ch. 339-175(10)(c)5.

<sup>47</sup> Fla. Stat. Ch. 339.175(10)(c)6.

<sup>48</sup> Rule 35-1.002(2), By Laws of Florida MPOAC.

<sup>49</sup> Rule 35-1.003(2)(a), MPOAC By-Laws.

<sup>50</sup> Rule 35-1.005(1), MPOAC By-Laws.

<sup>51</sup> Rule 35-1.004(5) and Rule 35-1.005(9), MPOAC By-Laws.

<sup>52</sup> The MOU, dated November 2, 1992, by and between NCDOT and the City of Charlotte, et al., supercedes three prior MOUs, dated June 24, 1965, April 8, 1975, and December 21, 1981, respectively [p.3, MOU dated November 2, 1992].

- Mecklenburg-Union MPO (referred to as MUMPO)<sup>53</sup>
- Gaston Urbanized Area MPO<sup>54</sup>
- Cabarrus/South Rowan MPO<sup>55</sup>

**Controlling Legislation.** The precatory language of all three MOUs is identical, reciting 23 U.S.C. 134(a), the operative aspect of which requires that *metropolitan planning organizations, in cooperation with the State, shall develop transportation plans and programs for urbanized areas of the State.* Also recited are three state statutes, which regulate transportation planning within the state. The first requires each municipality, in cooperation with the NCDOT, to develop a comprehensive plan for a street system that will serve present and anticipated volumes of vehicular traffic in and around the municipality.<sup>56</sup> The second provides that such a plan *may* be adopted by both the governing body of the municipality and the NCDOT for future street and highway improvements in and around the municipality, by agreement between them.<sup>57</sup> The third provides that changes may be made to such plans by agreement between the municipality and the NCDOT.<sup>58</sup>

According to 1992 statistics, North Carolina is the fourth ranking state -- behind West Virginia, Delaware and Virginia -- in terms of percentage of highway mileage that is state-controlled.<sup>59</sup> Since 1931, exclusive control, management and responsibility for any prior existing county or township roads,<sup>60</sup> has been vested in the NCDOT. Moreover, the maintenance of all roads, other than streets in towns and cities,<sup>61</sup> is also vested in the NCDOT, as well as those highways entirely within the corporate limits of municipalities,

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<sup>53</sup> Memorandum of Understanding for Cooperative, Comprehensive, and Continuing Transportation Planning among the Governor of the State of North Carolina, the City of Charlotte, Town of Cornelius, Town of Davidson, Town of Huntersville, Town of Mathews, Town of Mint Hill, Town of Pineville, Mecklenburg County, Town of Weddington, Town of Indian Trail, Town of Stallings, Union County, and the North Carolina Department of Transportation in cooperation with the United States Department of Transportation, dated November 2, 1992 [hereafter, "Mecklenburg MOU"].

<sup>54</sup> Memorandum of Understanding, Agreement No. 1-4-93, for Continuing, Cooperative, and Comprehensive Transportation Planning between the Governor of the State of North Carolina, the City of Belmont, the City of Bessemer City, the Town of Cramerton, the Town of Dallas, the County of Gaston, the City of Gastonia, the City of Lowell, the Town of McAdenville, the City of Mount Holly, the Town of Ranlo, the Town of Spencer Mountain, the Town of Stanley, and the North Carolina Department of Transportation, in cooperation with the United States Department of Transportation, dated October 11, 1993 [hereafter, "Gaston MOU"].

<sup>55</sup> Memorandum of Understanding, Agreement No. 4-14-97, for Cooperative, Comprehensive, and Continuing Transportation Planning between the City of Concord, City of Kannapolis, Town of China Grove, Town of Landis, Town of Harrisburg, County of Cabarrus, County of Rowan, and the North Carolina Department of Transportation in cooperation with the United States Department of Transportation, dated June 9, 1997 [hereafter, "Cabarrus MOU"].

<sup>56</sup> NC Stat. Ch. 136, Art.3A, §136-66.2(a).

<sup>57</sup> NC Stat. Ch. 136, Art. 3A, §136-66.2(b).

<sup>58</sup> NC Stat. Ch. 136, Art. 3A, §136.66.2(d).

<sup>59</sup> It controls 83% of the highways within the state. Table 3, U.S. Advisory Commission on Intergovernmental Relations Report, MPO Capacity, Report No.. A-130, May 1995.

<sup>60</sup> NC Stat. Ch. 136, §18(2), NC Stat. Ch. 136, §51.

<sup>61</sup> NC Stat. Ch. 136, §18(7)

which form a part of the state highway system.<sup>62</sup> The statewide system of roads and highways is developed and maintained:

commensurate with the needs of the State as a whole and it shall not sacrifice the general statewide interest to the purely local desires of any particular area.<sup>63</sup>

Additionally, in the planning process, the NCDOT is tasked to inform all municipalities of a planned transportation project, to which the affected municipalities may respond. NCDOT, in turn, will consider the views of the affected municipalities and counties, but will not be bound by such views.<sup>64</sup>

As the foregoing suggests, the extensive nature of the road system falling within the ambit of the NCDOT has resulted in a highly centralized and tightly controlled transportation planning process at the NCDOT level. Accordingly, there is an underlying tension between the historically top-down transportation planning process within the state, and the TEA-21 mandated process of bottom-up planning. It follows that the transportation-planning environment within the State is in a period of transition and flux.

**Proposed Legislation.** To date, there has been no legislation in North Carolina that codifies specifically either ISTEPA or TEA-21 requirements, other than that:

[t]he Department of Transportation shall have such powers as are necessary to comply fully with the provisions of the Intermodal Surface Transportation Efficiency Act of 1991...and all other federal aid acts and programs the Department is authorized to administer<sup>65</sup> [and]

...shall have such powers as are necessary to establish, administer, and receive federal funds for a transportation infrastructure banking program as authorized by the Intermodal Surface Transportation Efficiency Act of 1991...and the National Highway System Designation Act of 1995.<sup>66</sup>

In the past legislative session, however, two bills were introduced – one in the House and one in the Senate, implementing specifically TEA-21 requirements.

The first, House Bill 1288, would adopt 23 U.S.C. 134, empowering the Governor to designate MPOs for each urban area of the State with a population of more than 50,000.<sup>67</sup> It further provides for urban areas to be evaluated and adjusted following each decennial census,<sup>68</sup> and relates it to the NC statutes that govern agencies within the

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<sup>62</sup> NC Stat. Ch. 136, §66.1(1).

<sup>63</sup> NC Stat. Ch. 136, §44.1.

<sup>64</sup> NC Stat. Ch. 136, §11.1.

<sup>65</sup> NC Stat. Ch. 136, §18(12).

<sup>66</sup> NC Stat. Ch. 136, §18(12).

<sup>67</sup> §136-15.1(b) (New Section to be added), as proposed in House Bill 1288, General Assembly of North Carolina, Session 1999.

<sup>68</sup> §136-15.1(c) (New Section to be added), as proposed in House Bill 1288, General Assembly of North Carolina, Session 1999.

State.<sup>69</sup> This bill was merged with a Senate bill, to be discussed next, and referred to the Transportation Committee.

The second legislative initiative, Senate Bill 1164, implements 23 U.S.C. 134, but is more specific. Inter alia, it would require *a single MPO* to be designated for each urban economic region,<sup>70</sup> and that MPO boundaries reflect:

- (1) areas that capture current and projected commuting patterns;
- (2) the major regional transportation facilities...in their entirety; and
- (3) [are consistent] with federally designated metropolitan statistical area boundaries.<sup>71</sup>

In addition to these requirements, the Senate Bill would require adjustments to be made to planning areas *to reflect the most comprehensive boundary to foster an effective planning process that ensures connectivity between modes...and promotes efficient overall transportation investment strategies.*<sup>72</sup> The two bills were joined and referred to the Transportation Committee, to be considered in the next session of the General Assembly. Queried as to the possibility of passage of the house bill, its sponsor, Rep. Paul Luebke, replied:

[It m]ight pass in our so-called short-session, convening May 2000. However, at this point, there is still insufficient local support due to concerns about being “swallowed up” by the larger jurisdictions.<sup>73</sup>

The Senate Bill has the greatest impact upon MPO operations in the Charlotte area, as it would seek to amalgamate three MPOs into one. At the level of the frontline MPOs in the Charlotte area, the need for coordination between contiguous MPOs is recognized, but the potential amalgamation of MPOs into a super-MPO is viewed with some concern. This, and grassroots efforts to set up alternative systems of coordination/cooperation, will be discussed in Part IV below.

**Jurisdictional Boundaries of MPOs.** The urbanized areas of Gaston, Charlotte and Kannapolis-Concord-China Grove-Landis-Harrisburg, as defined by the U.S. Department of Commerce, Bureau of Census, plus those areas expected to become urbanized within a

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<sup>69</sup> §136-15.1(d) (New Section to be added), as proposed in House Bill 1288, General Assembly of North Carolina, Session 1999.

<sup>70</sup> §136-15.1(c) (New Section to be added), as proposed in Senate Bill 1164, General Assembly of North Carolina, Session 1999.

<sup>71</sup> §136-15.1(e) (New Section to be added), as proposed in Senate Bill 1164, General Assembly of North Carolina, Session 1999.

<sup>72</sup> §136-15.1(f) (New Section to be added), as proposed in Senate Bill 1164, General Assembly of North Carolina, Session 1999.

<sup>73</sup> Email from Rep. Paul Luebke, [Paull@ms.ncga.stat.nc.us](mailto:Paull@ms.ncga.stat.nc.us) to [jjervell@speedchoice.com](mailto:jjervell@speedchoice.com), dated 13 Oct 99.

twenty-year planning period, are designated “Planning Areas,” and delimit the jurisdictional boundaries of the respective MPOs.<sup>74,75</sup>

**Voting Membership of MPOs.** The MPOs are established with responsibility for coordinating transportation policy of member local governments within the Planning Areas, and as the forum for cooperative decision-making by elected officials of those governments.<sup>76</sup> Voting membership, however, is vested in a Transportation Advisory Committee [TAC], which is charged specifically with responsibility for carrying out the provisions of 23 U.S.C. 134. Voting members are the chief *elected* officials of the constituent municipalities or county governments, or their appointed representatives, plus a member of NCDOT.<sup>77</sup> Table VII-A below depicts the voting and non-voting constituency of the municipalities and counties within each MPO.

Table VII-A

MUMPO (no. of votes) <sup>78</sup>	Gaston MPO (no. of votes) <sup>79</sup>	Cabarrus MPO (no. of votes) <sup>80</sup>
Charlotte (9)	Belmont (1)	Kannapolis (1)
Cornelius (1)	Bessemer City (1)	Concord (1)
Davidson (1)	Cramerton (1)	China Grove (1)
Huntersville (1)	Dallas (1)	Landis (1)
Matthews (1)	Gaston County (1)	Harrisburg (1)
Mint Hill (1)	Gastonia (2)	Cabarrus Co. (1)
Pineville (1)	Lowell (1)	Rowan County (1)
Indian Trail (1)	McAdenville &	NCDOT (1)
Stallings (1)	Spencer Mtn . (1)	
Weddington (1)	Mount Holly (1)	
Union County (1)	Ranlo (1)	
Meck'burg Co. (3)	Stanley (1)	
NCDOT (1)	NCDOT (1)	
Total Votes: (23)	Total Votes: (13)	Total Votes: (8)
Non Voting Members: -Charlotte/Mecklenburg Planning Commission -Union County Planning Board -USDOT -Other invited agencies	Non Voting Mem- bers:  None	Non Voting Mem- bers:  -Federal Highway Administration -Other agencies, by invitation of TAC.

<sup>74</sup> The MPO system dates back to the 1960s, and North Carolina had earlier designated its MPOs as “Transportation Planning Study Areas.” Accordingly, MUMPO includes what was formerly called the “Charlotte Transportation Planning Study Area” [hereafter, “TSA”], and Gaston MPO includes the former Gaston TSA.

<sup>75</sup> § 1, ¶ 1, Mecklenburg MOU; § 1, ¶ 2, Gaston MOU; § 1, ¶ 2, Cabarrus MOU.

<sup>76</sup> § 1, ¶ 8b, Mecklenburg MOU; § 1, ¶ 8, Gaston MOU; § 1, ¶ 8, Cabarrus MOU.

<sup>77</sup> § 1, ¶ 4, Mecklenburg MOU; § 1, ¶ 8g, subparagraphs a-1, inclusive, Gaston MOU; § 1, ¶ 82g, subparagraphs a-h, inclusive, Cabarrus MOU.

<sup>78</sup> § 1, ¶ 4, Mecklenburg MOU.

<sup>79</sup> § 1, ¶ 8g, Gaston MOU.

<sup>80</sup> § 1, ¶ 8g, Cabarrus MOU.

With minor exceptions, a simple majority vote is sufficient to determine all issues before the TAC,<sup>81</sup> and the TAC may meet as often as appropriate or advisable to discharge its responsibilities.

**Technical Coordinating Committees.** The MOUs further provide for Technical Coordinating Committees [TCC] that are responsible for the review, guidance and coordination of the transportation planning process within the Planning Area, and for making recommendations to local and state governmental agencies, and to the TAC. Membership in the TCC includes technical representatives from *all* local and State governmental agencies concerned with the transportation planning process for the Planning Area, and for Gaston and Concord MPOs.<sup>82</sup> On the other hand, due to the dominance and centrality of Charlotte in Mecklenburg County, the constituency of the MUMPO TCC is more compact.<sup>83</sup>

**Administration and Operation of MPOs.** As Figure VII-7 shows, the major participants in any MPO are the Technical Committee, the MPO Policy Board and the MPO Staff. We have already discussed the first two of these, the TCC and Policy Board, which in North Carolina is the TAC. The third major participant is the MPO staff, which is surprisingly small, given their significant responsibilities.

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<sup>81</sup> § 1, ¶ 7, Mecklenburg MOU. The exceptions are as to roads that do not carry an I, U.S. or N.C. route designation, and are totally contained within a municipality's corporate limits; and MUMPO cannot override the decision of any local municipality for a road that does not carry an I, U.S. or N.C. route designation, when any portion of the project is within the municipality's corporate limits, except by ¾ majority of all votes to be cast. § 1, ¶ 8g, Cabarrus MOU. The Gaston MOU is silent as to the manner of voting.

<sup>82</sup> § 1, ¶ 10, Mecklenburg MOU; § 1, ¶ 9, Gaston MOU; § 1, ¶ 8g, Cabarrus MOU; § 1, ¶ 9, Cabarrus MOU. In the Gaston MPO, 25 representatives, or their designees are given membership in the TCC. They are the City or Town Managers of Belmont, Bessemer City, Cramerton, Dallas, Lowell, McAdenville, Mount Holly, Ranlo, Stanley (9); Director of Planning and Director of Central Transportation from Gaston County (2); Director of Planning, Senior Transportation Planner, Director of Public Works, City Engineer, City Traffic Engineer, and Director of Transit of the City of Gastonia (6); Director, Gaston Economic Development Commission (1); Director, Centralna Council of Governments (1); and six representatives from NCDOT (6). In the Cabarrus MPO, specifically named to the TCC are the following: Planners from the towns or cities of Kannapolis, China Grove, Landis, Harrisburg (4); Planning Director and Director of Public Works of Concord (2); Directors of Planning Department of Cabarrus and Rowan Counties (2); Director of Centralna Council of Governments (1); Director of Concord Municipal Airport (1); seven representatives of NCDOT (7); and representatives of the Federal Highway Administration and the U.S. DOT, who are non-voting advisory members.

<sup>83</sup> The TCC consists of the following: Charlotte DOT Director, Charlotte Engineering Department Director, Charlotte-Mecklenburg Planning Commission Director, Mecklenburg County Engineering Department Director, one representative from each of the towns of Cornelius-Matthews-Stallings, Director of Mecklenburg County Environmental Protection Agency, Union County Planning Director, NCDOT Public Transportation Division Director, NCDOT Highway Division Manager of Statewide Planning Branch, USDOT-Federal Highway Administration-NC Division Administrator, USDOT-Federal Transit Administration Region IV-Office of Planning Assistance Director, Charlotte/Douglas International Airport Aviation Director, and NCDOT Division Engineer for Division 10. [ § 1, ¶ 10, Mecklenburg MOU].

