

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1999

SESSION LAW 2000-80
HOUSE BILL 1288

AN ACT TO RECOGNIZE METROPOLITAN PLANNING ORGANIZATIONS IN STATE LAW AND TO PROVIDE A PROCESS FOR VOLUNTARY EVALUATION OF METROPOLITAN PLANNING ORGANIZATION BOUNDARIES, STRUCTURE, AND GOVERNANCE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 136-200 is amended by adding a new subsection to read:

"(1a) 'Consolidated Metropolitan Planning Organization' means a metropolitan planning organization created on or after January 1, 2001, through a memorandum of understanding by the consolidation of two or more metropolitan planning organizations in existence prior to January 1, 2001, and in accordance with 23 U.S.C. § 134."

Section 2. G.S. 136-200(2) is rewritten to read:

"(2) 'Department' means the North Carolina Department of Transportation."

Section 3. G.S. 136-200(4) is rewritten to read:

"(4) 'Metropolitan Planning Organization' or 'MPO' means an agency that is designated or redesignated by a memorandum of understanding as a Metropolitan Planning Organization in accordance with 23 U.S.C. § 134."

Section 4. Article 16 of Chapter 136 of the General Statutes is amended by adding a new section to read:

§ 136-200.1. Metropolitan planning organizations recognized.

Metropolitan planning organizations established pursuant to the provisions of 23 U.S.C. § 134 are hereby recognized under the law of the State. Metropolitan planning organizations in existence on the effective date of this section continue unaffected until redesignated or restructured in accordance with the provisions of and according to the procedures established by 23 U.S.C. § 134 and this Article. The provisions of this Article are intended to supplement the provisions of 23 U.S.C. § 134. In the event any provision of this Article is deemed inconsistent with the requirements of 23 U.S.C. § 134, the provisions of federal law shall control."

Section 5. Article 16 of Chapter 136 of the General Statutes is amended by adding a new section to read:

§ 136-200.2. Decennial review of metropolitan planning organization boundaries, structure, and governance.

(a) Evaluation. – Following each decennial census, and more frequently if requested by an individual metropolitan planning organization, the Governor and the Secretary of Transportation, in cooperation with the affected metropolitan planning organization or organizations, shall initiate an evaluation of the boundaries, structure, and governance of each metropolitan planning organization in the State. The goal of the evaluation shall be to examine the need for and to make recommendations for adjustments to metropolitan planning organization boundaries, structure, or governance in order to ensure compliance with the objectives of 23 U.S.C. § 134. The Secretary shall submit a report of the evaluation process to the Governor and to the Joint Legislative Transportation Oversight Committee.

(b) Factors for Evaluation. – The evaluation of the area, structure, and governance of each metropolitan planning organization shall include all of the following factors:

- (1) Existing and projected future commuting and travel patterns and urban growth projections.
- (2) Integration of planning with existing regional transportation facilities, such as airports, seaports, and major interstate and intrastate road and rail facilities.
- (3) Conformity with and support for existing or proposed regional transit and mass transportation programs and initiatives.
- (4) Boundaries of existing or proposed federally designated air quality nonattainment areas or air-quality management regions.
- (5) Metropolitan Statistical Area boundaries.
- (6) Existing or proposed cooperative regional planning structures.
- (7) Administrative efficiency, availability of resources, and complexity of management.
- (8) Feasibility of the creation of interstate metropolitan planning organizations.
- (9) Governance structures, as provided in subsection (c) of this section.

(c) Metropolitan Planning Organization Structures. – The Governor and Secretary of Transportation, in cooperation with existing metropolitan planning organizations and local elected officials, may consider the following changes to the structure of existing metropolitan planning organizations:

- (1) Expansion of existing metropolitan planning organization boundaries to include areas specified in 23 U.S.C. § 134(c).
- (2) Consolidation of existing contiguous metropolitan planning organizations in accordance with the redesignation procedure specified in 23 U.S.C. § 134(b).
- (3) Creation of metropolitan planning organization subcommittees with responsibility for matters that affect a limited number of constituent jurisdictions, as specified in a memorandum of understanding redesignating a metropolitan planning organization in accordance with the provisions of 23 U.S.C. § 134.

- (4) Formation of joint committees or working groups among contiguous nonconsolidated metropolitan planning organizations, with such powers and responsibilities as may be delegated to such joint committees pursuant to their respective memoranda of understanding.
- (5) Creation of interstate compacts pursuant to 23 U.S.C. § 134(d) to address coordination of planning among metropolitan planning organizations located in this State and contiguous metropolitan planning organizations located in adjoining states.
- (6) Delegation by the governing board of a metropolitan planning organization of part or all of its responsibilities to a regional transportation authority created under Article 27 of Chapter 160A of the General Statutes, if the regional transportation authority is eligible to exercise that authority under 23 U.S.C. § 134.

(d) Optional Governance Provisions. – In addition to any other provisions permitted or required pursuant to 23 U.S.C. § 134, the memorandum of understanding, creating, enlarging, modifying, or restructuring a metropolitan planning organization may also include any of the following provisions relating to governance:

- (1) Distribution of voting power among the constituent counties, municipal corporations, and other participating organizations on a basis or bases other than population.
- (2) Membership and representation of regional transit or transportation authorities or other regional organizations in addition to membership of counties and municipal corporations.
- (3) Requirements for weighted voting or supermajority voting on some or all issues.
- (4) Provisions authorizing or requiring the delegation of certain decisions or approvals to less than the full-voting membership of the metropolitan planning organization in matters that affect only a limited number of constituent jurisdictions.
- (5) Requirements for rotation and sharing of officer positions and committee chair positions in order to protect against concentration of authority within the metropolitan planning organization.
- (6) Any other provision agreed to by the requisite majority of jurisdictions constituting the metropolitan planning organization.

(e) Effect of Evaluation. – Upon completion of the evaluation required under this section, a metropolitan planning organization may be restructured in accordance with the procedure contained in 23 U.S.C. § 134(b)(5).

(f) Assistance. – The Department may provide staff assistance to metropolitan planning organizations in existence prior to January 1, 2001, that are considering consolidation on or after January 1, 2001. In addition, the Department may provide funding assistance to metropolitan planning organizations considering consolidation, upon receipt of a letter of intent from jurisdictions representing seventy-five percent (75%) of the affected population, including the central city, in each metropolitan planning organization considering consolidation."

Section 6. Article 16 of Chapter 136 of the General Statutes is amended by adding a new section to read:

"§ 136-200.3. Additional provisions applicable to consolidated metropolitan planning organizations.

(a) Limit on Basis for Project Objection. – Beginning with the 2004 State Transportation Improvement Program, neither the State nor a consolidated metropolitan planning organization shall have a basis to object to a project that is proposed for funding in the Transportation Improvement Program, provided that the project does not affect projects previously programmed, if the project is included in a mutually adopted plan developed pursuant to G.S. 136-66.2, and is consistent with the project selection criteria contained in the memorandum of understanding creating the consolidated metropolitan planning organization.

(b) Project Ranking Priorities. – Beginning with the 2004 State Transportation Improvement Program, and subject to the availability of funding, the Department of Transportation, when developing the Transportation Improvement Program, shall abide by the project ranking priorities approved by a:

- (1) Consolidated metropolitan planning organization for any project within its jurisdiction, if the project is not a National Highway System or bridge and Interstate maintenance program project.
- (2) Regional transportation authority created pursuant to Article 27 of Chapter 160A of the General Statutes, for any project that all metropolitan planning organizations within the authority's jurisdiction have delegated responsibility, if the project is not a National Highway System or bridge and Interstate maintenance program project."

Section 7. Article 16 of Chapter 136 of the General Statutes is amended by adding a new section to read:

"§ 136-200.4. Additional requirements for metropolitan planning organizations located in nonattainment areas.

(a) Consultation and Single Conformity Plan Required. – When an area of the State is designated as non-attainment under the federal Clean Air Act (42 U.S.C. § 7401, et seq.) all metropolitan planning organizations with at least twenty-five percent (25%) of their area of jurisdiction located within the boundaries of the nonattainment area shall consult on appropriate emissions reduction strategies and shall adopt a single, unified plan for achieving conformity. The strategies set forth in the unified plan shall be incorporated by each affected metropolitan planning organization into its respective long range transportation plan developed pursuant to 23 U.S.C. § 134(g).

(b) Effect of Failure to Adopt Required Plan. – If a metropolitan planning organization does not comply with the provisions of subsection (a) of this section within one year after designation of at least twenty-five percent (25%) of the metropolitan planning organization's area of jurisdiction as nonattainment under the federal Clean Air Act (42 U.S.C. § 7401, et seq.), the Department shall not allocate any of the following funds to projects within the metropolitan planning organization's area of jurisdiction:

- (1) One hundred percent (100%) State-funded road construction funds.

- (2) State matching funds for any road construction or transit capital project.
- (3) Federal congestion mitigation and air quality improvement program funds.

(c) Mandatory Evaluation and Report. – Each metropolitan planning organization located in whole or in part in areas designated as nonattainment under the federal Clean Air Act (42 U.S.C. § 7401 et seq.) shall complete the evaluation process provided for in G.S. 136-200.2 and submit its findings and recommendations to the Department of Transportation within one year of the effective date of designation as nonattainment. A metropolitan planning organization may request and be granted by the Department an extension if the metropolitan planning organization can show cause for the extension. Extensions shall be granted in no more than one year increments."

Section 8. This act becomes effective January 1, 2001.

In the General Assembly read three times and ratified this the 30th day of June, 2000.

s/ Marc Basnight
President Pro Tempore of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ James B. Hunt, Jr.
Governor

Approved 10:10 a.m. this 5th day of July, 2000