

ACT 180

S.B. NO. 1215

A Bill for an Act Relating to Establishment of an Oahu Metropolitan Planning Organization and Policy Committee.

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

SECTION 1. Statement of purpose. The legislature finds that section 112 of the Federal-Aid Highway Act of 1973, section 9 of the Urban Mass Transportation Act of 1964, as amended, and other federal law require that a metropolitan planning organization be designated to act as an advisory urban transportation planning organization and to receive certain funds for the purpose of carrying out continuing, comprehensive, cooperative urban transportation planning. It is further suggested that the organization be established under specific state legislation to coordinate metropolitan transportation planning.

The Oahu Transportation Planning Program, a quasi-agency presently charged with coordinating transportation planning on Oahu has been unable to satisfy federal requirements for a "continuing, comprehensive, and cooperative," transportation planning process. As a result, the Federal Highway Administration and the Urban Mass Transportation Administration have decertified Oahu transportation programs for federal funding. This problem has resulted in statewide concern about the effects of decertification because of its impact on transportation programs and consequently employment and also because Oahu contains the greater part of the state's population and employment.

In order to be recertified, it is mandatory that a Metropolitan Planning Organization be established and designated by the State as soon as possible. Loss of all Federal planning and construction funds for transit and transportation will continue until this is done.

This MPO will be primarily an advisory body to the Legislature and the legislative body of the appropriate county in affairs involving the continuous, comprehensive, cooperative urban transportation planning for the county. The act is designed to provide the mechanism by which orderly and reasoned urban transportation planning can take place within the framework of Federal law and the need to provide for adequate and informed representation

from both the State and County governments and the public at large.

It is appropriate that each unit of general purpose government within the jurisdiction of the Metropolitan Planning Organization shall have adequate representation on the Metropolitan Planning Organization. The Metropolitan Planning Organization (MPO), will, utilizing input from appropriate state and city agencies, coordinate and develop a prospectus and a unified planning work program, a transportation plan and a transportation improvement program including an annual element of projects recommended for funding in order to provide this advice to legislative and government agencies. It is very important that the delineation of state and county functions relating to transportation within the metropolitan area be carefully considered in the designation of the MPO.

Hawaii's state government differs markedly from most mainland states. Hawaii has a two-tier government: the State and the various counties. The state government functions as a general purpose government having the responsibility for many programs, such as public education, health, welfare and judiciary, which are usually controlled by local government in mainland states. In addition, land use, through the State Land Use Commission, is generally determined by the State rather than by the counties as is usually the case on the mainland. In transportation, the state government has responsibility for such normally local government programs as airports, bikeways, harbors and waterways.

Hawaii's two-tier government did not come about by accident, it was the result of careful consideration and study of Hawaii's unique geographic configuration. As a state comprised of islands, Hawaii has four counties, each consisting of separate islands and consequently are not contiguous.

Because the State of Hawaii is comprised of islands, much of the transportation planning done by the State is designed to facilitate transportation solely within the county in which the project is built. Obviously, a state highway built on the island of Oahu will only serve that island. Hence, for example, the State's three major defense highways, H-1, H-2 and TH-3, which are all located on Oahu, while designated as state highways, serve only the transportation needs of the residents of Oahu. However, this is entirely consistent with the present delineation of roadway functions in Hawaii. The State is generally responsible for providing highway facilities that facilitate inter-community transportation, with the counties primarily responsible for local intra-community streets and roads. As a result, the State has by design a major portion of the responsibility for transportation in each county, and more importantly for that part of the transportation network most closely related to and impacting on planning in general and transportation planning in particular.

Unlike most mainland states, Hawaii has only one urbanized area, the City and County of Honolulu, where eighty-one percent (81%) of the state's population reside. In transportation, the State has programmed approximately \$149 million dollars in new highway facilities for Oahu in Fiscal Year 1976 as compared to approximately \$31 million dollars by the City and County of Honolulu. Additionally, the state's major airports and harbors are located on

Oahu. In short, the State has responsibility for most of the major transportation facilities and projects on Oahu and any designation of an MPO must take this into account. Designation of an MPO which does not provide for significant state participation simply does not recognize the existing delineation of state and county functions relating to transportation in Hawaii.

The MPO must be designed to prevent the type of situation which led to the decertification of the OTHP; it must have its own coordinating staff independent of either state or county agencies; it must be accessible and accountable to the public; and it must provide for public input.

The purpose of this Act is to establish and specify the role of the organization to be designated by the Governor as the MPO as required by 23 U.S.C. 134 and section 4(a) of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1603(a)), which requires comprehensive planning of transportation improvements.

SECTION 2. Establishment of Metropolitan Planning Organization.

There is established in each county with a population in excess of 200,000 a metropolitan planning organization called the Metropolitan Planning Organization, abbreviated by the letters MPO. The MPO shall be an advisory body responsible for carrying out continuing, comprehensive, transportation planning process in cooperation with the State and the appropriate county in order to advise appropriate state, county and federal agency regarding that process.

The MPO shall develop through continuing cooperative input from state and county planning agencies, the transportation plans and planning processes or policies enumerated herein and shall submit those plans and planning processes together with any other advice on transportation planning as may be required to the State Legislature, the State department of transportation, the State department of planning and economic development, the legislative body of the appropriate county, the transportation and planning agencies of the appropriate county, and appropriate federal agencies.

The MPO shall further assist and advise the State legislature, the State department of transportation, the State department of planning and economic development, the legislative body of the appropriate county and the transportation and planning agencies of the appropriate county in carrying out comprehensive metropolitan transportation planning embracing airports, bike-ways, harbors, highways, transit and waterways within the appropriate county. The MPO shall assist and advise such appropriate agencies in evaluating studies and programs related to transportation planning. The MPO shall recognize that all of its activities shall be primarily advisory, and that the policy making powers shall remain with the legislature or the legislative body of the appropriate county, whichever the case may be. The MPO is to develop and recommend policies, priorities, and techniques relating to transportation planning, and shall be directly accountable to the legislature and the legislative body of the county as an advisory body.

For administrative purposes only, each MPO shall be assigned in part to the Department of Transportation of the State of Hawaii and in part to the county.

Nothing in this law is intended to change the basic jurisdiction for planning responsibilities already given to the state and county agencies in existing statutes and ordinances. Those state and county agencies are to cooperate with the MPO by providing input from their present planning processes and the MPO will advise those agencies by way of submitting to them the coordinated plan which it develops.

SECTION 3. MPO membership. The MPO shall consist of a Policy Committee and appropriate staff. The MPO Policy Committee shall consist of nineteen members. These members shall include: Nine members of the legislative body of the appropriate county; five members of the State Senate who are residents of the county and who are appointed by the Senate President; and five members of the State House of Representatives who are residents of the county and who are appointed by the Speaker of the House.

Each member of the MPO Policy Committee who is a member of the State Legislature or the legislative body of the county shall serve for the same as the term of office for which he is elected. There shall be no remuneration for this service. Each member shall be appointed or selected within sixty days of the effective date of this chapter.

Vacancies in the MPO Policy Committee which occur shall be filled in the same manner in which the original member was appointed.

SECTION 4. Chairperson: function and term of office. The members of the MPO Policy Committee shall elect annually a chairperson on a rotating basis. No member shall serve as chairperson for more than one year per term of appointment.

The Chairperson shall place on the agenda for full hearing any issue, project or subject matter relating to transportation which is requested by at least five members of the MPO Policy Committee.

SECTION 5. Staff and funding. Each MPO shall have a full-time staff independent of state and county agencies. The MPO Policy Committee shall appoint all members of the staff, none of whom shall be subject to chapters 76 and 77 and part II of chapter 88. Nothing herein shall be deemed to prohibit the MPO from utilizing, through contractual arrangements, the staff resources of other local agencies, state agencies, and other quasi-public or private organizations to assist the MPO in its functions.

During the remainder of fiscal year 1975 and during fiscal year 1976 each such MPO is authorized to have not less than the equivalent staff positions authorized for the present organizations responsible for metropolitan transportation planning and designated in accordance with the provisions of 23 U.S.C. 134.

Any provision of law to the contrary notwithstanding, all officers and employees of the existing Oahu Transportation Planning Program are hereby transferred to the MPO for Oahu with their respective functions and duties, and shall continue to perform their functions and duties in accordance with this Act.

SECTION 6. Meetings. The MPO Policy Committee shall meet no less than twice a quarter. Notice of meetings shall be published in a newspaper of general circulation at least forty-eight hours in advance and such meetings shall be open to the public.

Where the MPO makes a decision concerning input to any of its advisory plans or procedures or any other matter than there shall be at least seven legislative members and five city or county council members of the Policy Committee present and the decision must be made by a majority vote of the entire membership of the MPO.

SECTION 7. Functions of the MPO. The functions of each Metropolitan Planning Organization shall include:

- (1) Serve in an advisory capacity to the Legislature, the legislative body of the county, and the appropriate state and county agencies in carrying out continuous, comprehensive and cooperative transportation planning and programming for the county as required by federal laws and rules.
- (2) Obtain information and plans from the appropriate county and state agencies to formulate a short-range six-year transportation plan for the county and an annual update of that plan, and a master multi-modal long range transportation plan for the county in order to advise the Legislature, the legislative body of the county, and other appropriate agencies regarding those plans.
- (3) Review the capital improvement programs of both the county and state for urbanized and rural areas of the county as they concern transportation.
- (4) Integrate transportation planning for the county with a statewide transportation planning program authorized by Act 218, SLH 1974.
- (5) Develop recommendations to the State Legislature and the legislative body of the county regarding transportation policy matters.
- (6) Act as liaison with the intermodal planning group of the Secretary of Transportation.
- (7) Coordinate the mathematical modeling essential to the transportation planning process of the county.
- (8) Ensure a continuing, comprehensive transportation planning process carried on cooperatively by the State and the county.
- (9) Develop a formula for the distribution of metropolitan planning funds which shall consider but not necessarily be limited to population, status of planning, and metropolitan area transportation needs, and submit this formula for approval by the Secretary of Transportation.
- (10) Receive and distribute, as necessary, federal funds under section 112 of the Federal-Aid Highway Act of 1973, the Urban Mass Transportation Act of 1964, as amended, section 13 of the Airport and Airway Development Act of 1970, as amended, and section 5 of the Urban Mass Transportation Act of 1964, as amended.
- (11) Receive and distribute, as necessary, such other funds as may become available to support metropolitan transportation.

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- (12) Advise on plans, projects and programs requiring action by the State Legislature or the legislative body of the County which have been submitted for review to the MPO.
- (13) Undertake such other functions as may become appropriate in an advisory capacity to ensure a joint planning process between the County and the State, and advise appropriate legislative bodies and agencies, as necessary.
- (14) If the MPO finds that it is necessary to have a citizens' advisory group to present technical or other expert opinions or facts to the MPO then such a group may be formed.

SECTION 8. The Governor of the State of Hawaii shall have the authority to appoint every agency in the State and in any county of the State which will exercise the duties of the A-95 clearing-house agency required by the United States Office of Management and Budget circular A-95.

SECTION 9. This Bill if enacted will be reviewed by the 1976 Legislature.

SECTION 10. **Effective date.** This Act shall take effect upon its approval.

(Approved June 2, 1975.)