

§ 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.

(g) **Ethics Provisions.** – All individuals with voting authority serving on a metropolitan planning organization who are not members of the Board of Transportation shall do all of the following:

- (1) Except as permitted under this subdivision, no MPO member acting in that capacity shall participate in an action if the member knows the member, the member's extended family, or any business with which the member is associated may incur a reasonably foreseeable financial benefit from the matter under consideration, which financial benefit would impair the MPO member's independence of judgment or from which it could reasonably be inferred that the financial benefit would influence the member's participation in the action. An MPO member may participate in an action of the MPO under any of the following circumstances:
 - a. When action is ministerial only and does not require the exercise of discretion.
 - b. When the committee records in its minutes that it cannot obtain a quorum in order to take the action because the MPO member is disqualified from acting, the MPO member may be counted for

purposes of a quorum but shall otherwise abstain from taking any further action.

- (2) An MPO member shall have an affirmative duty to promptly disclose in writing to the MPO any conflict of interest or potential conflict of interest under subdivision (1) of this subsection. All written disclosures shall be a public record under Chapter 132 of the General Statutes and attached to the minutes of the meeting in which any discussion or vote was taken by the MPO related to that disclosure.
- (3) File a statement of economic interest with the State Ethics Commission in accordance with Article 3 of Chapter 138A of the General Statutes, for which the State Ethics Commission shall prepare a written evaluation relative to conflicts of interest and potential conflicts of interest and provide a copy of that evaluation to the MPO member. All statements of economic interest and all written evaluations by the Commission of those statements are public records as provided in G.S. 138A-23. The penalties for failure to file shall be as set forth in G.S. 138A-25(a) and (b).
- (4) File, with and in the same manner as the statement of economic interest filed under subdivision (3) of this subsection, an additional disclosure of a list of all real estate owned wholly or in part by the MPO member, the MPO member's extended family, or a business with which the MPO member is associated within the jurisdiction of the MPO on which the MPO member is serving. All additional disclosures of real estate filed by MPO members are public records under Chapter 132 of the General Statutes. The penalties for failure to file shall be as set forth in G.S. 138A-25(d).

(h) Confidential Information. – An MPO member shall not use or disclose any nonpublic information gained in the course of or by reason of serving as a member of the MPO in a way that would affect a personal financial interest of the MPO member, the MPO member's extended family, or a business with which the MPO member is associated.

(i) Definitions. – For purposes of this section, "extended family" shall have the same meaning as in G.S. 138A-3(25), "business with which associated" shall have the same meaning as in G.S. 138A-3(7), and "financial benefit" shall mean a direct pecuniary gain or loss or a direct pecuniary loss to a business competitor.

(j) Violations. – A violation of subdivision (1) of subsection (g) of this section shall be a Class 1 misdemeanor. An MPO member who knowingly conceals or knowingly fails to disclose information that is required to be disclosed on a required filing under subdivisions (3) or (4) of subsection (g) of this section shall be guilty of a Class 1 misdemeanor. An MPO member who provides false information on a required filing under subdivisions (3) or (4) of subsection (g) of this section knowing that the information is false is guilty of a Class H felony. If the State Ethics Commission receives written allegations of violations of this section, the Commission shall report such violations to the Director of the State Bureau of Investigation for investigation and referral to the District Attorney for possible prosecution. All written allegations or related documents are confidential and are not matters of public record.

(k) All individuals with voting authority serving on an MPO who are members of the Board of Transportation shall comply with Chapter 138A of the General Statutes and G.S. 143B-350 while serving on the MPO. (2000-80, s. 5; 2013-156, s. 1(b); 2014-58, s. 12(a); 2014-115, s. 56.6A(a); 2015-264, s. 72(a); 2017-6, s. 3; 2018-146, ss. 3.1(a), (b), 6.1.)