

ACT 132

S.B. NO. 1180

A Bill for an Act Relating to Metropolitan Planning Organizations.

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

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

**“CHAPTER
METROPOLITAN PLANNING ORGANIZATIONS**

§ -1 Statement of purpose. The legislature finds that 23 United States Code sections 134-135 and 49 United States Code sections 5303-5304, as amended, and federal regulations adopted pursuant thereto, and other federal laws require that metropolitan planning organizations be designated based on a minimum population threshold as defined in federal law to act as a decision-making agency and to receive certain funds for the purpose of carrying out a continuing, cooperative, and comprehensive transportation planning process.

Metropolitan planning organizations have their own policy board and staff. It is the responsibility of the policy board to make decisions that are the result of the continuing, cooperative, and comprehensive transportation planning process, and the organization's staff support and provide technical resources to the policy board. The continuing, cooperative, and comprehensive planning process is designed to provide both orderly and reasoned metropolitan transportation planning within the framework of federal law, and adequate and informed representation from state and county governments, operators of public transportation receiving federal funds, the public at large, and others as identified in 23 Code of Federal Regulations section 450 subpart C.

§ -2 Definitions. For purposes of this chapter:

“Comprehensive agreement” means the executed agreement between the member jurisdictions or authorities of a metropolitan planning organization concerning the organization and structure of the metropolitan planning organization, the roles and responsibilities of its member jurisdictions or authorities, and the provision of funding and membership dues.

“Employees” means an executive director of a metropolitan planning organization, and all staff of a metropolitan planning organization.

“Member jurisdiction or authority” means a local or state jurisdiction or a local or regional authority that has entered into a comprehensive agreement to support the metropolitan planning process and that is provided representation on the metropolitan planning organization's policy board.

“Metropolitan planning organization” means a metropolitan planning organization designated or redesignated under 23 United States Code section 134, as amended.

“Policy board” means the policy decision-making body of a metropolitan planning organization.

“Transportation management area” means a transportation management area identified and designated pursuant to 23 United States Code section 134, as amended.

§ -3 Establishment of metropolitan planning organizations; duties. (a) Metropolitan planning organizations shall be designated pursuant to 23 United States Code section 134(d)(1) and shall meet all requirements of 23 United States Code sections 134-135 and 49 United States Code sections 5303-5304, as amended, and any federal regulations adopted pursuant thereto.

(b) A metropolitan planning organization shall:

- (1) Operate according to executed comprehensive agreements, including any supplemental agreements, between the State, county, and other operators of public transportation receiving federal funds; and
- (2) Facilitate and support the continuing, cooperative, and comprehensive transportation planning process between the State, county, and

other operators of public transportation receiving federal funds, including the consideration of projects and strategies that support national planning factors as defined in 23 United States Code section 134, regional goals and objectives, and consideration of plans and planning activities of others as they affect transportation.

- (c) A metropolitan planning organization may:
 - (1) Assign to staff members duties not defined or designated by federal law, this chapter, or executive agreement;
 - (2) Enter into agreements with the State, county, other operators of public transportation receiving federal funds, and other entities as needed to fully comply with all requirements of federal law and this chapter;
 - (3) Be placed within a state or county agency, as appropriate, for administrative purposes only;
 - (4) Contract to purchase goods and services, including professional and technical assistance and advice;
 - (5) Contract for or accept revenues, compensation, proceeds, and gifts or donations or grants in any form from any public agency; and
 - (6) Contract with other state or local agencies and quasi-public or private organizations for the use of their staff resources to assist the metropolitan planning organization in its functions.

§ -4 Transportation management area metropolitan planning organizations. (a) Pursuant to 23 United States Code section 134(k), a metropolitan planning organization serving an urban area with a population of 200,000 or more shall be designated a transportation management area.

(b) Pursuant to section 26-35, the transportation management area metropolitan planning organizations shall be attached to the department of transportation for administrative purposes only. The respective policy boards and not the department of transportation shall be responsible for the management of transportation management area metropolitan planning organizations as it pertains to 23 United States Code sections 134-135 and 49 United States Code sections 5303-5304. The various roles and responsibilities of transportation management area metropolitan planning organizations and the department of transportation regarding the administration of the transportation management area metropolitan planning organization may be further defined by agreement between the two entities.

(c) This chapter shall apply to transportation management area metropolitan planning organizations.

(d) Notwithstanding any law to the contrary, transportation management area metropolitan planning organizations shall be exempt from section 26-35, except subsections (a)(7) and (8), and (b).

§ -5 Oahu transportation management area metropolitan planning organization revolving fund. (a) There is established in the state treasury a revolving fund to be known as the Oahu transportation management area metropolitan planning organization revolving fund to be administered by the department of transportation in accordance with federal law and into which shall be deposited:

- (1) Member financial dues;
- (2) All revenues from the operations of the Oahu transportation management area metropolitan planning organization;
- (3) Appropriations by the legislature out of the state highway fund to the Oahu transportation management area metropolitan planning organization revolving fund;

- (4) Federal funds or grants; and
- (5) Gifts, grants, and any other moneys made available to the fund.

(b) Except as otherwise provided by federal law, expenditures from the Oahu transportation management area metropolitan planning organization revolving fund may be made; provided that no expenditure shall be made from and no obligation shall be incurred against the revolving fund in excess of the amount standing to the credit of the revolving fund or for any purpose for which the revolving fund may not lawfully be expended. Nothing in sections 37-31 to 37-41 shall require the proceeds of the revolving fund to be reappropriated annually.

(c) The Oahu metropolitan planning organization shall report annually to the legislature no later than twenty days prior to the convening of each regular session beginning with the regular session of 2016 on a detailed accounting of the activities of the revolving fund for the previous year.

§ -6 Metropolitan planning organization policy boards; membership and meetings. (a) Policy board membership shall be established by comprehensive agreement, including any applicable supplemental agreements and bylaws.

(b) As appropriate, any agreement or committee bylaws that establish policy board membership may also include specifications regarding ex officio membership, terms and term limits of members, member alternates, quorum, and other considerations as permitted by law.

§ -7 Staff and funding. (a) Each policy board shall appoint a full-time executive director of the metropolitan planning organization who shall be independent of state and county agencies, notwithstanding any other law to the contrary. Duties of the executive director may be established by the policy board or in the comprehensive agreement.

(b) A policy board may employ staff as needed. The executive director shall be responsible for the hiring and management of staff. The executive director and staff for a metropolitan planning organization shall not be subject to chapter 76. All other benefits generally applicable to the officers and employees of the State shall apply to staff members of the metropolitan planning organization and be retroactive to the effective date of initial hiring for existing staff.

(c) All employees of a metropolitan planning organization shall be exempt from chapter 76 but shall be eligible to receive the benefits of any state or federal employee benefit program generally applicable to officers and employees of the State.

§ -8 Member financial dues. (a) The policy board shall identify the member financial dues necessary to sustain the metropolitan planning organization. The member financial dues shall be provided by interagency agreement with the members.

(b) Member financial dues received by a metropolitan planning organization shall be used to fund the unified planning work program.

(c) A policy board may allocate collective financial resources to fund a unified planning work program.

§ -9 Meetings. (a) Notwithstanding any law to the contrary, meetings of policy boards, advisory committees, or subcommittees shall be subject to part I of chapter 92.

(b) Participation by members of any other board in a meeting of a policy board shall be permitted interaction as provided in section 92-2.5(h).

(c) Less than a quorum of policy board members may discuss metropolitan planning organization business, without limitation, outside of a duly noticed meeting of the policy board.

(d) A majority of the membership of a policy board or committee of a policy board shall constitute a quorum to do business.

§ -10 **Conflict between laws.** If a conflict between any provision of this chapter and any federal law or regulation relating to metropolitan planning organizations arises, federal law or regulation shall govern.

§ -11 **Annual reports.** A metropolitan planning organization shall submit an annual report to the legislature of all activities conducted by the organization during the year immediately preceding the submission of the report. The annual report shall be submitted to the legislature no later than twenty days prior to the convening of each regular session beginning with the regular session of 2016.”

SECTION 2. Section 279A-8, Hawaii Revised Statutes, is amended to read as follows:

“[§279A-8 Oahu ~~[Metropolitan Planning Organization]~~ metropolitan planning organization; effect on funding.] The provisions of this chapter do not affect the entitlement of the ~~[Metropolitan Planning Organization]~~ metropolitan planning organization for the island of Oahu or any other county to unconditionally receive and administer transportation planning funds pursuant to ~~[Section 112 of the Federal Aid Highway Act of 1973.]~~ 23 United States Code section 134, as amended.”

SECTION 3. Chapter 279E, Hawaii Revised Statutes, is repealed.

SECTION 4. Upon the repeal of chapter 279E, Hawaii Revised Statutes, pursuant to section 3 of this Act:

- (1) Any balance remaining in the Oahu metropolitan planning organization revolving fund under section 279E-5, Hawaii Revised Statutes, shall be transferred to the Oahu transportation management area metropolitan planning organization revolving fund established under section 1 of this Act; and
- (2) Any expenses and liabilities of the Oahu metropolitan planning organization revolving fund under section 279E-5, Hawaii Revised Statutes, shall be transferred to the Oahu transportation management area metropolitan planning organization revolving fund established under section 1 of this Act.

SECTION 5. There is appropriated out of the state highway fund the sum of \$500,000 or so much thereof as may be necessary for fiscal year 2015-2016 to be deposited into the Oahu transportation management area metropolitan planning organization revolving fund.

The sum appropriated shall be expended by the Oahu metropolitan planning organization for the purposes of this Act.

SECTION 6. No officer or employee affected by this Act shall suffer any loss of employment, seniority, benefit, leave, service credit, or other emolument as a consequence of this Act.

SECTION 7. Statutory material to be repealed is bracketed and stricken.
New statutory material is underscored.

SECTION 8. This Act shall take effect on July 1, 2015.
(Approved June 19, 2015.)