



URGE YOUR SENATORS AND REPRESENTATIVES TO SUPPORT THE HOUSE LANGUAGE FOR REGIONAL TRANSPORTATION PLANNING ORGANIZATIONS

—Updated April 21, 2012—

ACTION NEEDED: Urge your Senators and Representatives to support the House language for state DOT “cooperation” with non-metropolitan local officials in the statewide transportation planning process (including the establishment of Regional Transportation Planning Organizations for areas outside of MPOs), as part of the pending House-Senate conference committee on the federal surface transportation reauthorization bills (H.R. 4348 / S. 1813).

BACKGROUND: As part of the pending 2012 SAFETEA-LU surface transportation reauthorization process, the National Association of Development Organizations (NADO) supports modifying the statewide transportation planning guidelines for state DOT collaboration with non-metropolitan local elected and appointed officials. As the gateway for accessing federal surface transportation funding and decision making, it is important for local officials serving non-metropolitan areas to have a more clearly defined and enhanced role in the statewide transportation planning and programming framework.

On February 3, the U.S. House Transportation and Infrastructure Committee approved the “American Energy and Infrastructure Jobs Act of 2012”, a five-year, \$262.9 billion bill (H.R. 7). The committee proposal included NADO-championed language, based on legislation (H.R. 1565) introduced by Reps. Tim Walz (D-MN) and Richard Hanna (R-NY), that would strengthen the role of rural local officials by giving federal recognition for Regional Transportation Planning Organizations (RTPOs) for areas outside of Metropolitan Planning Organizations (MPOs).

Under the statewide planning section (Sec. 5204), the House bill includes language that state DOTs may establish and designate Regional Transportation Planning Organizations (RTPOs) to assist with the planning, coordination, and implementation of statewide strategic long-range transportation plans and the statewide transportation improvement program (STIP)—the proposed list or program of federally funded transportation projects.

Four Cs of Federal Transportation Planning Dialogue

Under federal transportation planning rules, the statewide and metropolitan transportation planning processes are guided by four levels of intergovernmental collaboration and outreach. Each of the following definitions holds a specific meaning that state DOTs must follow with their local government partners.

- **Consideration** means that one or more parties takes into account the opinions, actions, and relevant information from other parties in making decisions or determining a course of action.
- **Consultation** means that one or more parties confer with other identified parties in accordance with an established process and, prior to taking action(s), consider the views of the other parties and periodically inform them about action(s) taken.
- **Cooperation** means that the parties involved in carrying out the transportation planning and programming processes work together to achieve a common goal or objective.
- **Coordination** means the cooperative development of plans, programs, and schedules among agencies and entities with legal standing and adjustment of such plans, programs, and schedules to achieve general consistency, as appropriate.

Rather than the current level of “consultation,” long-range transportation plans and the STIP shall be developed in “cooperation” with nonmetropolitan local officials, under the House bill, including through RTPOs. States are also required to “cooperate” with non-metropolitan local officials or, if applicable, through RTPOs on project selection. If a state chooses not to establish or designate RTPOs, the state shall “consult” with affected non-metropolitan local officials to determine projects that may be of regional significance.

The House bill also sets the population threshold for new Metropolitan Planning Organizations (MPOs) at 100,000, rather than the current requirement of 50,000 within an urbanized area. The approximately 200 existing MPOs with populations between 50,000 – 200,000 are grandfathered under the House plan and can retain their MPO designation unless the governor and units of local government that together represent 75 percent of the affected population agree to terminate the designation. In addition, the House inserted a new provision that would permit the governor to modify an MPO TIP when the MPO and the state fail to agree on programming a project of statewide significance on the Interstate. This is very problematic since a governor may add a project to the TIP without the approval of the MPO, and the MPO would be required to amend the long-range plan to be consistent with the TIP.

On March 14, the U.S. Senate passed “Moving Ahead for Progress in the 21st Century” (S. 1813), a two-year, \$109 billion SAFETEA-LU reauthorization measure. The bill aims to maintain existing transportation funding levels, adjusted for inflation, in FY2012 and FY2013. In the original Senate Environment and Public Works Committee (EPW) draft of the highway title, the committee elevated the role of non-metropolitan local elected officials in the state transportation planning process. However, during the EPW markup, the committee adopted an amendment by Sen. Michael Crapo (R-ID) that reset the state DOT-rural local official relationship to the current status of “consultation,” rather than the terms of “coordination” and “cooperation” proposed in the committee’s original text. Meanwhile, the Senate Banking Committee kept the original and stronger EPW requirements in the transit planning section.

Since the two main Senate committees with jurisdiction over the statewide and metropolitan planning sections had different language, there was a need to reconcile these competing versions before or during the Senate floor debate. As a result, the bipartisan leadership of the EPW and Banking committees accepted compromise language into the final manager’s amendment that was championed by Sens. Amy Klobuchar (D-MN) and Lamar Alexander (R-TN). The final Senate language on the state-local collaboration in non-metropolitan areas is based on the current Federal Highway Administration-Federal Transit Administration regulations negotiated in the early 2000s by the American Association of State Highway and Transportation Officials (AASHTO), National Association of Development Organizations (NADO), and the National Association of Counties (NACo).

Specifically, the final Senate version:

- Requires each state DOT to develop and implement a documented process for incorporating the input of local elected and appointed officials from outside the areas of MPOs into statewide transportation plans and investment programs—*the gateway for accessing federal surface transportation funding*
- Clarifies that the rural official consultation process must be “separate and discrete” from the state DOT’s public involvement process, giving more weight to local government officials in recognition of their significant transportation responsibilities, including ownership of roads, bridges, airports, and transit systems
- Adds a federal definition of a Rural Planning Organization (RPO) as an organization that “is responsible for the planning, coordination, and implementation of statewide transportation plans and programs outside of

metropolitan areas, with an emphasis on addressing the needs of rural areas of the state; and is not designated as a tier I MPO, a tier II MPO, or a nonmetropolitan planning organization”

- Requires, within 180 days of the date of enactment and at least every five years thereafter, that state DOTs must seek feedback from local officials, including RPOs, regarding the consultation process

The final Senate bill (S. 1813, MAP-21) also establishes a new definition for a “nonmetropolitan area” as a small urbanized area between 50,000–200,000 population, as calculated according to the most recent decennial census, along with nonurbanized areas. The Senate sets the population threshold for MPOs at 200,000, with a new multi-step process for existing small urban MPOs in areas between 50,000–200,000 population to maintain their MPO status.

During the floor debate, the Senate adopted language by Sen. Jeanne Shaheen (D-NH) and others that:

- Allows existing MPOs in areas with 50,000–200,000 population to apply for a Tier II MPO designation to the U.S. DOT Secretary without the approval of the applicable governor
- Allows MPOs that receive a negative determination from the U.S. DOT Secretary to receive a one-year extension and technical assistance from the U.S. DOT to meet the new minimum requirements for Tier II MPOs without the support of the governor
- Requires the U.S. DOT Secretary to provide a substantive written justification to MPOs that are deemed unqualified to continue as an MPO
- Clarifies the minimum requirements for a Tier II MPO designation: To meet new federal legislation and regulatory standards, the amendment specifies that the MPO must have the “staffing capability,” rather than the “staffing resources,” and the technical capacity to conduct the necessary “travel demand model and forecasting,” rather than “modeling,” for the relevant size of the MPO

HOUSE-SENATE CONFERENCE COMMITTEE PROCESS: Starting the week of April 23, 2012, staff for the various House and Senate transportation committees will begin preparing for the House-Senate conference committee. Both chambers are also expected to take the formal actions required to initiate the conference committee this week. Since the House Republican leadership could never secure the floor votes needed to pass the five-year, \$260 billion package (H.R. 7) assembled by the Transportation and Infrastructure, Ways and Means, and other related committees, the House is technically using its three-month extension bill (H.R. 4348) as the conference vehicle with the Senate’s two-year, \$109 billion measure (S. 1813). The House extension bill includes provisions that would accelerate approval of the Keystone XL Pipeline and steer penalties from the Deepwater Horizon oil spill to Gulf Coast states, as well as some environmental streamlining provisions and other bill language that were part of the multi-year bill (H.R. 7). However, in reality, the House-Senate negotiators are planning informally to use many of the provisions included in the House’s multi-year bill (H.R. 7) as part of the House-Senate conference deliberations.

Since the 2005 SAFETEA-LU surface transportation law (P.L. 109-59) expired on September 30, 2009, most federal highway, transit, safety and other related programs are now operating under the 9th short-term extension. The current extension expires on June 30, 2012.

For more information, contact NADO Director of Legislative Affairs Deborah Cox at 202.624.8590 or dcox@nado.org.

Level of Participation for Rural Local Officials / Regional Transportation Planning Organizations (RTPOs)		
	Senate Highway and Transit Planning Titles (S. 1813 – Final Floor Version)	House T&I Proposal Highway and Transit Planning Titles (H.R. 7)
Scope of Planning Process	<i>Consultation</i>	<i>Cooperation</i>
Long-Range Statewide Plan	<i>Consultation</i>	<i>Cooperation</i>
Statewide Transportation Improvement Program (STIP) Development (<i>List of Projects</i>)	<i>Consultation</i>	<i>Cooperation</i>
Project Selection	<p><i>Cooperation</i> for Nonmetropolitan Planning Organizations</p> <p><i>Consultation</i> for affected nonmetropolitan local officials responsible for transportation</p>	<i>Cooperation</i>
Regional Transportation Planning Organization (RTPO) or Rural Planning Organization (RPO) Definitions	<p>Nonmetropolitan Planning Organization means an organization that was designated as an MPO before the new law and is not designated as a tier I MPO or tier II MPO (<i>Note: Serves urbanized population between 50,000-200,000</i>)</p> <p>Rural Planning Organization means an organization responsible for the planning, coordination, and implementation of statewide transportation plans and programs outside of metropolitan areas and is not designated as a tier I MPO, tier II MPO, or a nonmetropolitan planning organization</p>	<p>States may establish and designate Regional Transportation Planning Organizations (RTPOs) to enhance the planning, coordination, and implementation of statewide strategic long-range transportation plans and STIP</p> <p>Grandfathers existing MPOs, but creates a new urbanized population threshold of 100,000 for new MPOs designated after enactment of new law</p>

U.S. Senate
Committee on Environment and Public Works
(Oversight of Highway Title of SAFETEA-LU)

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Jeff Merkley (D-OR)

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Minority:

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Mike Crapo (R-ID)*

Lamar Alexander (R-TN)

Mike Johanns (R-NE)*

John Boozman (R-AR)*

**Member of the Senate EPW Subcommittee on
Transportation and Infrastructure*

U.S. Senate
Committee on Banking, Housing, and Urban Affairs
(Oversight of Transit Title of SAFETEA-LU)

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Minority:

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Mike Crapo (R-ID)*

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Jim DeMint (R-SC)*

David Vitter (R-LA)

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**Member of the Senate Banking Subcommittee on
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U.S. House of Representatives

Committee on Transportation and Infrastructure

(Oversight of Highway and Transit Titles of SAFETEA-LU)

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Minority:

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Jerry F. Costello (D-IL)
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**Member of the House Transportation and Infrastructure
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