

APPENDIX

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Senator Pratt Submissions

The Task Force recommends a modified Council of Governments model made up of 40 members

7 Seats representing each County

- 4 year staggered terms
- Must be a currently seated county commissioner
- Chosen by the respective board

33 Seats proportionally allocated for cities & Townships

- 4 year staggered terms
- Must be a currently elected official from a city or township
- Chosen by a committee of representatives within a district

For MPO purposes, 4 MPO members are:

- Commissioner of Transportation
- 1 Non-Motorized transportation rep appointed by Commissioner of Transportation
- 1 public transit rep appointed by Commissioner of Transportation
- 1 freight transport rep appointed by Commissioner of Transportation
- Vote only on MPO decisions
- Advisory in all other decisions

The Board selects a Chair and hires an Executive Director to manage staff.

The governing body of each home rule charter or statutory city and town in each Metropolitan Council district shall appoint a member to serve on a municipal committee for the council district. If a city or town is in more than one council district, the governing body must appoint a member to serve on each council district's municipal committee. A member appointed to a council district's municipal committee must reside in the council district. If a district is wholly contained within a municipality, the city council will choose a representative. The municipal committee must meet at least quarterly to discuss issues relating to the Metropolitan Council. Municipal committee meetings are subject to the Minnesota Open Meeting Law, chapter 13D.

Effective January 1, 2027

Met Council Reform Task Force Governance Model Comparison

Benefit	COG	Elect	Staggered Terms
Accountability	✓	✓	✗
To Residents	✓	✓	✗
To Local Government	✓	✗	?
Transparency	✓	✓	✗
Credibility	✓	✓	✗
Continuity	✓	?	✓
Collaboration	✓	✗	✗
Accessibility	✓	✓	?
Non-Partisan	✓	✗	✗
Reduce Special Interest Influence	✓	✗	✓

For the Task Force to recommend that the operations construction depending on what you decide] of Metro Transit be separated from the Metropolitan Council, by January 1, 2027. The Task Force recommends that the legislature work on potential legislation and create a working group of all the necessary stakeholders to recommend options on how to implement such a separation.”

Commissioner Bigham
Submissions

January 15, 2024

To: Metropolitan Governance Task Force

From: Washington County Commissioner Karla Bigham in coordination with the AMC Met Council Advisory Committee

Subject: AMC Comments and Recommendations on Metropolitan Council Governance

Comments and Recommendations:

The seven metro counties agree that increasing accountability, transparency, and proportional representation are the driving principles behind all recommendations. These items are tied to shifting representation to the metro area from state-wide oversight and clarifying who Metropolitan Council members are ultimately accountable to. The information below represents the seven metro counties' desire to meet these needs.

- Council of Governments (COG) model
 - All seven metro counties support discussing the details of a COG model with the following general ideas:
 - All seven metro counties should have a Commissioner on the COG
 - Proportional representation is the top priority
 - There is not agreement on how many districts there should be or how the votes should be counted (weighted voting) but districts to the best of the ability should not cross county lines
 - Local elected officials would need to either serve on the COG or appoint those who would serve
 - The Chair of the COG should be determined via a process that has the region supporting the person as opposed to being someone who is accountable to the Governor or state-level governments
- Other models and changes
 - Direct election of members to a council is supported by only one county
 - There is no support from counties for the current nomination and appointment process
 - There is interest in staggered terms but not as a stand-alone solution
 - Any governance changes would not occur prior to January, 2027
- Council Core Functions and Performance
 - Transit implementation and operations should be separated from the MPO Transportation Planning Agency
 - Counties agree that a reformed Council would need to immediately address the funding structure and relationship between the Metro HRA and other regional HRAs related to administration of housing vouchers
 - Performance measures, especially related to funding for transportation and transit projects, should be part of any proposal to ensure member accountability and financial transparency

Signed, the AMC Met Council Advisory Committee Members:

- Washington County Commissioner Karla Bigham, Task Force Member
- Anoka County Commissioner Scott Schulte
- Carver County Commissioner Tom Workman
- Dakota County Commissioner Mary Liz Holberg
- Hennepin County Commissioner Kevin Anderson
- Ramsey County Commissioner Rafael Ortega
- Scott County Commissioner Jon Ulrich
- Washington County Commissioner Stan Karwoski

Senator Dibble
Submissions

Senator Dibble Proposal

Twin Cities Metropolitan Governance

Two bodies

- Metropolitan Regional Civic Council
- Metropolitan Regional Local Government Council

Regional Civic Council

- 19 members: 16 elected to represent districts, 3 at large, appointed by the Governor
- All districts to be equal in size. Districting consistent with laws allowing for creation of minority opportunity districts
- Staggered terms
- Gubernatorial appointees serve a set term
- Chair elected by the body from their own
- Non-partisan elections, funded by with a public election finance system similar to Minnesota Legislature's public finance system
- All tax and bonding provisions, and all discretionary policy decisions, and responsibility for delivery of public services (transit, sewers, etc.) originate from the directly elected body
- Salary is the average of metro area county commissioners
- Includes a dedicated and fiscal research and analysis staff (including staff dedicated to supporting work and office of individual members)
- Members are encouraged and incented to avail themselves of national and international educational opportunities on issues of regional governance, planning and services

Local Government Council

- Comprised of locally elected officials
- Two types of districts: County Districts and Municipal (cities and townships) Districts, apportioned proportionally according to population
- County appointees selected by a caucus of counties
- Municipal appointees selected by a like caucus of cities and townships
- Number of members should be at least as large as Regional Civic Council, with sufficient number to ensure proportionality (or providing for weighted voting), and allowing for greater County representation
- Each County must have at least one seat
- County districts would not cross county boundaries
- Municipal districts could be categorized as central cities, fully developed and emerging suburbs
- Terms to be staggered
- Appointees serve a set term
- Shall be consulted by Regional Civic Council on all major policy decisions
- Shall have the power by majority vote to require the Regional Civic Council to reconsider any major policy decisions
- Shall have the power, via two-thirds vote to veto major actions of the Regional Civic Council (paired with the ability for the Regional Civic Council to override via two-thirds vote).
- Must ratify any new major policy power or expansion of scope, authority and duties of the Regional Civic Council (except those mandated and directed by the Legislature)
- Hold an equal number of voting seats on Committees of the Regional Civic Council
- Members paid for additional time and responsibilities (within bounds of state law and state constitution)
- Members are encouraged and incented to avail themselves of national and international educational opportunities on issues of regional governance, planning and services

Commissioner Greene
Submissions

Directly Elected Metropolitan Council

Guiding principles: Accountability, Transparency, Regional Vision, Proportionality, Simplicity, No Taxation Without Representation

Directly elected Metropolitan Council

- Districts proportional by population
- Constituents: residents of the region
- Size: similar to current
- Non-partisan
- 4-year staggered terms
- Governed by open meeting law
- Full time
- Salaried
- Staffed
- Elect their own chair
- Choose the regional administrator
- Redistricted every decade after the census
- Responsibilities (same as current)
 - Sewer
 - Metro Transit
 - Transit planning
 - Housing
 - Regional planning

Proposed Principles

1. **Fair representation/proportionality:** Each resident of our region has an equal stake in our shared future and therefore deserves an equal voice. Therefore, any system for choosing Met Council members must ensure that each member represents the same number of residents.
2. **Regional self-determination:** The Met Council only provides services to the metro region, not the whole state. Accordingly, the people and communities of the region should be selecting the Met Council members, not statewide officials.
3. **Accountable to the residents of the metro region:** The Met Council should be accountable to the residents of the metro region and shall serve at the behest of the residents of the metro.
4. **Adequate pay for the work of a Met Council member:** The responsibility of a Met Council member is at least a half-time position and potentially greater. Met Council members should devote sufficient time and attention to the important business of the Council, including meetings with stakeholders and constituents. The Met Council pay should reflect the amount of work and time required for a member to effectively serve, making them better able to set a vision for the organization, to be responsive and accountable to their constituents, and to advocate for the region.

Mayor Hovland
Submissions

METROPOLITAN GOVERNANCE TASK FORCE COMMENTS

The Co-Chairs of the legislatively created Metropolitan Governance Task Force (“Task Force”), at a regularly scheduled meeting on January 10, 2024, determined, in conjunction with Task Force members, that comments from members on the work-to-date of the Task Force, consistent with its Duties (hereinafter defined), should be provided to the Co-Chairs by end-of-business on Monday, January 15, 2024.

Your undersigned will not be in personal attendance at meetings of the Task Force scheduled for January 17, 2024 and January 24, 2024, due to prior commitments. While I may be able to attend one or both of the next two meetings virtually, my schedule is uncertain, so I am therefore making the effort to provide as much information and observation as possible, as the city representative on the Task Force, to my fellow members of the Task Force, though the window in which to provide this information has been very limited in time.

I. BACKGROUND AND GENERAL OBSERVATIONS

In the 2023 Minnesota legislative session, a Metropolitan Task Force (“Task Force”) was created¹ for the following purpose:

A Metropolitan Governance Task Force is established to study and make recommendations to the legislature on reform and governance of the Metropolitan Council.²

The membership of the Task Force was described within that enabling legislation and the Duties of the Task Force were described therein as follows:

Duties.

The task force must study and evaluate options to reform and reconstitute governance of the Metropolitan Council. The study must include an analysis of the costs and benefits of:

- (1) direct election of members to the Metropolitan Council;
- (2) a combination of directly elected and appointed members to the Metropolitan Council;
- (3) a council of governments which would replace the current Metropolitan Council;
- (4) reapportioning responsibilities of the Metropolitan Council to state agencies and local units of government;
- (5) adoption of a home rule charter for governance of the Metropolitan Council; and

¹ Minn. Laws 2023, Ch. 68 (article 4, sec. 123 for Task Force description (see Attachment No. 1)

² Article 4, sec. 123, subd. 1 (see Attachment No. 1)

(6) any other regional governance approaches that are viable alternatives to the current structure of the Metropolitan Council.³

The Task Force began its duties, as charged by the legislature, on August 9, 2023 and has met on a regular schedule with more than a dozen meetings since that date.

Over the last several months, the Task Force has gone about its work with general presentations from the State Auditor⁴, the Metropolitan Council (the “Council”), has had informational presentations on other types of regional governance models, and taken testimony from legislators and members of the public on various perspectives and concerns relating to the existing governance of the region by the Council, all consistent with the legislatively prescribed Duties of the Task Force.

While, during the course of its work, the Task Force has received presentations regarding various governance structures and taken public testimony on alternative governance structures for our metropolitan region, it has not fulfilled all of its legislatively defined responsibilities in that there has not been conducted a cost/benefit analysis of any specific governance models as required in the enabling legislation. The enabling legislation was for the Task Force to study and make recommendations for the governance of our region and specifically prescribed a study of the costs and benefits of various governance models.⁵ As stated above, to date, the Task Force has not conducted this type of analysis.⁶

It is also further suggested that the Task Force has not identified specific problems that would be resolved by a governance change of the existing form of governance for the Metropolitan Council.

Further, while acknowledging that Task Force members and members of the public have articulated individual concerns and disagreements relating to specific decisions made by the Council, and though these concerns are important to the discussion and should be considerations for regional policymaking and operational purposes generally, these criticisms regarding decisions by the Council, in and of themselves, and the outcomes of those decisions, should not be conflated with the notion that those decisions would have been different or not made at all, if we had a different form of regional governance.

As the Task Force has learned, the Metropolitan Council, in its current structure, has defined powers that allow it to plan and operate regional-level infrastructure that includes

³ Article 4, sec. 123, subd. 4 (see Attachment No. 1)

⁴ A 2011 OLA report examined transit governance, and made recommendations for the governance of the Council, but did so without a comprehensive examination of the Council’s full scope of operations and services.

⁵ See Article 4, sec. 123, subd. 4 (see Attachment No. 1).

⁶ There will be no opportunity to complete this critical work of cost/benefit analysis as the report of the Task Force is due to the legislature by February 1, 2024.

wastewater, transit, and parks.⁷ Existing state laws directly tether the Council to the Governor, the Legislature, local officials, and citizens. These laws include gubernatorial appointment of members, concurrent with a gubernatorial term, the screening of candidates via a statutorily defined nominating process methodology with seven members, three of whom must be local elected officials. Senate confirmation of the Chair and Council is required by law, and numerous longstanding and regularly meeting advisory committees that require membership by local officials and citizens, such as the Transportation Advisory Board, also give guidance to the Council. Such requirements were put into place by design to ensure the Council has sufficient authority to effectively operate the region’s infrastructure, while remaining accountable to various perspectives, needs and interests. Finally, while the Council has taxing authority, the Council’s property tax levy is limited by the legislature. It is worthy of note that there has been little to no examination by the Task Force of the structures that importantly underpin the existing governance of the Council.

II. STATUTORY DUTIES OF THE TASK FORCE TO STUDY AND EVALUATE OTHER FORMS OF GOVERNANCE FOR THE METROPOLITAN REGION⁸

The Task Force had presentations from the Denver, Colorado and Portland, Oregon regions on their regional governance models. The Task Force also discussed at its meeting on January 3, 2024, the following governance models: Council of Governments, Elected Model – Home Rule Charter and a variation of our existing metropolitan governance model with staggered terms for its members.

A. A Directly Elected Council Model.

While there are proponents for the direct election of members to the Council, with or without a home rule charter for governance, on balance, your undersigned believes there are more negatives than positives to such a governance model.

An elected Council would establish another layer of elected government, could easily expand the authorities of the Council, would be more costly for taxpayers, could duplicate services provided by local governments, would be subject to influence from special interests, and could parochialize the Council.

An elected Council would be more likely to insert itself into local land use decisions. An elected Council would create a regional “legislature” distinct from the Council’s current structure as a regional entity providing limited regional planning and infrastructure. By law, the Council’s current structure requires it to work closely with local governments (its most numerous constituency), state policymakers and other stakeholders. Statutory and other accountability measures provide for review and recourse of regional decisions by state and local officials and others who have important stakes in those decisions.

⁷ See Attachment No. 2.

⁸ Article 4, sec. 123, subd. 4, subsections (1) through (6).

Studies of the Portland model of governance, for example, have noted the high cost of elections and strong role of the development community in funding those elections to be able to influence those elections.

The Metropolitan Council was created to address a limited scope of issues that could not and cannot be adequately addressed by local governments or the Legislature. It was not created to be a legislative body and its responsibilities do not lend itself to an elected model. In some ways, it functions as a state agency, but it is a local unit of government. This matters for various reasons. Its structure, by design, connects the Council in important ways to both state and local policymakers, and in ways distinct from any state agency, and provides for structured accountability to a wider range of stakeholders. Further, much of the Council's funding comes from regional taxpayers and user fees, not from the state.

B. Council of Governments Model (COG).

This model would have the Council be comprised of locally elected government officials. This governance structure has been proposed in recent years by Anoka, Scott, Dakota, and Carver County officials and is used in other areas of the country. A COG structure was not recommended by the Citizens League, Metropolitan Area League of Women Voters, Metro Cities or the Governor's Blue-Ribbon Panel, all of which have examined and made recommendations for governance, in recent years, the most recent recommendations coming in 2020 from the Blue-Ribbon Panel established by Gov. Tim Walz.

Opposition to this COG model has focused on a variety of potential infirmities, including conflicts of interest due to the nature of the Council's responsibilities that include regulatory powers and the fiduciary duty of local officials to the jurisdiction to which they are elected. Local officials would face "divided loyalties" when making regional level decisions that affect local communities, including their own. City officials have also identified this model as one that would be inherently parochial, not balanced by population, impractical for city officials to serve, creating a myriad of ethical concerns, and "disturbing" the balance with respect to the functions of local governments. City officials have also questioned how this COG model (or an elected model) would improve operational governance in the region. This model of governance also precludes service on the Metropolitan Council by individuals from other sectors (businesses, non-profits, agencies, and other citizen representatives).

Proponents of COGs argue that they are common across the country. However, COGS tend to be limited in their scope of policy and responsibility, usually concentrated in the area of transportation. There is no comparable entity to the Metropolitan Council in its scope of functions and responsibilities in the United States. Proponents have also suggested that local officials on the Council (by default) would provide more accountability and transparency, while, in practice, such a model reduces actual and broader accountability.

A COG structure for the Council, which would include city elected officials, would also mean a very limited pool of applicants for Council seats. Metropolitan Council members spend

between 40-60 hours per month for committee meetings, preparation and briefings, participation in advisory committees and partner events, regular engagement with Council members' district stakeholders, training and attending district meetings and events. Most city officials have full time jobs and other responsibilities, unlike county commissioners, who are full time public servants. There is, accordingly, a barrier of impracticability to local elected officials being involved as there is insufficient time available for a job, volunteer work for a city as an elected official and Council membership, at the same time. This constraint on time availability would therefore limit the pool of applicants in terms of age, diversity, geography, etc.

Metropolitan city officials have also made clear in the past their opposition to a regional government comprised solely of county officials.

C. Other Recent Recommendations on Regional Governance.

Several comprehensive evaluations of the governance of the Council in recent years have been conducted, by a wide range of stakeholders. None have recommended an elected City Council or council of governments structure for the Council. All organizational evaluators have recommended staggered terms and increased transparency on the selection of Council members as "good government" improvements. These include the recommendations of The Citizens League⁹, Metropolitan League of Women Voters¹⁰, the Governor's Blue-Ribbon Commission in 2020¹¹, and the recommendations of Metro Cities.¹²

These evaluations of our existing regional governance model were conducted by a wide range of regional stakeholders, including local officials, academicians, citizens and business representatives. Their respective studies of our region's governance model were smart and in-depth and recommended pragmatic changes to our existing governance model.

What is notable is that these separate studies, conducted over the last decade, are in concurrence on changes that would improve our regional governance, namely four-year staggered terms for members, and specific recommendations that would provide for a more inclusive and transparent processes for appointing members to the Metropolitan Council.

These studies recommended governance modifications that would add political diversity while maintaining a continuity of knowledge on the body appropriate for a long-range planning body, add more voices and transparency to the nominating process, all without upsetting important balances in the governance of the region.

Finally, the legislative focus on governance in recent years has been on models (elected and Council of Governments (COG) model) that would eliminate the existing system of regional

⁹ See Attachment No. 4.

¹⁰ See Attachment No. 5.

¹¹ See Attachment No. 6.

¹² See Attachment No. 7.

government without consideration for potentially significant consequences. The Council, in its present form, is able to act regionally by virtue of its structures, which allows it to fulfill its statutory functions for the orderly and cost-efficient provision of regional level infrastructure.

III. THE ISSUE OF WHETHER THE OPERATIONS OF METRO TRANSIT SHOULD BE SEPARATED FROM THE POLICYMAKING DECISIONS BEING MADE ON TRANSIT OPERATIONS BY THE METROPOLITAN COUNCIL¹³

A. Historical Overview.

- The legislature created both the Met Council and the Metropolitan Transit Commission (MTC) in 1967. At that time, the Met Council members and Chair, along with the MTC chair, were appointed by the governor.
- The 8 MTC commissioners were initially appointed by local governments (2 Minneapolis, 2 St. Paul/Ramsey Co, 2 suburban Hennepin Co, 1 Anoka/Washington counties and 1 Dakota/Scott/Carver counties).
- In the mid-1970s, this appointment process was changed. To improve accountability and strengthen the relationship between the MTC and the Council, each MTC commissioner was appointed by 2 Metropolitan Council members.
- The relationship between MTC and the Council was not always smooth and at one point, a policy dispute about light rail vs busways had to be resolved by the legislature.
- The MTC was seen as non-responsive to regional transit needs and so the legislature created the Metropolitan Transit Demonstration Program in 1981, which was to be administered by MNDOT. This was the precursor to a more permanent Replacement Service (opt out) program.
- Policy disagreements between the Council and the MTC were, in large part, the logical result of a governance structure that relied on two separate policy boards and staffs, with different visions and, to a great extent, different policy agendas and priorities. When those boards did not agree, particularly on major policy issues, tensions between the agencies would appear.
- In several ways described above, the MTC was accountable to the Council but it was always difficult for the MTC board to accept a policy direction different from what they had concluded was the right way to proceed. Moreover, it can also be argued that the lack of Council authority to approve the MTC's annual operating

¹³ The information for this section was provided by Met Council staff at the request of the undersigned Task Force member.

budget severely weakened the Council ability to provide an effective policy direction in pressing operational matters. The Council had a stronger oversight over capital investments but those decisions, with the exception of the "fixed-guideway" policy, were not nearly as relevant as the operational decisions in that time period.

- Policy differences between the Council and MTC and between the MTC and local communities were also exacerbated by financial difficulties to expand and even maintain transit services throughout the region. There seemed to be an almost constant need to search for new operating funding sources to supplement passenger fares which were decreasing rapidly as a percentage of total expenditures.
- Because of concerns about the governance structure, the lack of MTC responsiveness to community needs, and the serious financial problems experienced by the regional transit system, the Legislature created a special 10-member Legislative Commission on Metropolitan Transit in 1983. The recommendations of the Commission lead to the creation of a new agency, the Regional Transit Board (RTB), during the 1984 legislative session.
- The creation of the RTB responded to several legislative objectives, including:
 - To separate operations from planning, limiting the role of the MTC primarily to operational functions and giving the RTB approval over both the MTC's operating and capital budgets
- The RTB had very strong oversight authority over the MTC. The authority to approve the MTC operating budget was a significant departure from the more limited role the Council had had previously. The 8 members of the newly created RTB were appointed by the Metropolitan Council and the chair was appointed by the Governor.
- The 3 members of the revamped MTC appointed by the RTB elected their own chair among themselves.
- This "cascading" appointment procedure raised serious accountability questions because of the further separation of successive boards from elected officials. Furthermore, the addition of a new agency between the Council and the MTC, with clear authority over transit operations, resulted in even more serious policy conflicts than those that had occurred under the previous governance structure. The relationship between the RTB and the MTC became increasingly strained as time went by and those conflicts were further magnified by the presence of new transit players (i.e. RRA's and Suburban Transit Systems) with significant policy differences with the RTB.

- 1994 Metropolitan Reorganization Act
 - The new law eliminated three metropolitan agencies (the RTB, the MTC and the Metropolitan Waste Control Commission (MWCC)) and consolidated all their powers and responsibilities in a new Metropolitan Council. Under the new structure, all transit services were consolidated under the Council, with the exception of the Suburban Transit Providers which maintained a certain level of autonomy with their independent individual boards and staff.
 - The new Council combined the old council's long-range range transportation planning responsibilities and all RTB planning and programming responsibilities under a new Metropolitan Transportation Services (MTS) division of the Council and all the former MTC operational responsibilities under the Council's Metro Transit division.
- In April 2008, Anoka, Dakota, Hennepin, Ramsey and Washington counties voted to impose a sales tax authorized by the Legislature and constituted a new Counties Transit Improvement Board (CTIB) to allocate the new sales tax revenues through a grant application process. Individual counties had a weighted vote on the CTIB, based on population and tax revenues, ranging from 47 percent for Hennepin County to 7 percent for Washington County. The Metropolitan Council was also represented on the CTIB with a 5 percent weighted vote. Scott and Carver counties were ex-officio members with no vote.
- Financial constraints and potential funding shortfalls added to the complexity of the transit governance structure. Both boards (CTIB and the Council) wanted to advance the transit agenda but funding constraints complicated the decision making process and there were legitimate questions about what was more important: developing new transitways or preserving the existing system?
- CTIB dissolved in 2017 following disputes among its members for the distribution of pooled resources, and due to lack of available state funding to advance transitway projects in the region. Counties in CTIB were limited to a 0.25 percent local option sales tax for transportation, whereas the state's other 82 counties could pass a 0.5 percent transportation sales tax. Dissolving CTIB was a path to increase transportation funding and to provide flexibility to counties to pursue their individual priorities. This change again had the effect of fragmenting transit governance. Instead of a combined board representing five counties, the Council worked with counties individually for transit operating and capital funding decisions.
- This new model enabled projects to proceed (SWLRT was able to advance into construction thanks to Hennepin County's increased revenue), but also yielded continued disagreement and fragmented funding decisions.

- For example, Anoka County disputed its share of NorthStar operating funding and withheld payment to the Council that other funding partners provided.
- The counties and Council also did not agree on responsibilities for long-term replacement and capital maintenance costs.
- In 2023 the Legislature placed responsibility for operations, maintenance, and long-term capital maintenance and replacement on the Council, with new sales tax funds as the expected revenue source for these new obligations.

B. Issues of Concern Regarding Separation of Policymaking From Operations.

- It isn't clear how a separate Metro Transit would address concerns about transitway capital projects and transit operations. There is still a need to determine what the problem is that the task force is trying to solve.
- It is difficult to speculate on the benefits or drawbacks of this change without knowing more specifics of how each board is governed and what responsibilities would change. It is unclear what assumptions are being made as part of this conversation. Key questions that would need to be addressed include:
 - Would contracted routes also be separated out from Met Council Transportation Services (MTS) and leave the Council alongside Metro Transit?
 - Who would manage and operate Metro Mobility (given that Metro Mobility service area is dependent on regular route service)? How does this connection between regular route transit service and Metro Mobility service work if the transit provider were to have its own governing board?
 - How would federal formula dollars for transit be distributed – through MTS/Met Council as the MPO? Would Metro Transit be a designated recipient for federal funds?
 - Would replacement service providers (“opt outs”) continue as-is, or would transit providers merge in this new structure?
- Separating Metro Transit from the Met Council would be a complex process that could add an additional level of governance and bureaucracy to the already complex spiderweb of the Met Council, MTS, Counties, Opt-Outs, etc.
- There is organic collaboration between Metro Transit and the divisions within Met Council and there are benefits to having other regional services and policies (such as housing) discussed along transit service. Coordinating these critical public services yields a better region.

- There are organizational and financial benefits to having key services such as HR and IT centralized and shared between Metro Transit and other divisions of the Met Council.
- Previous iterations of a separate transit governance structure, Metropolitan Transit Commission (MTC), the Regional Transit Board (RTB), and the Counties Task Improvement Board (CTIB), led to complicated governance structures and policy conflicts between those entities and the Met Council. Past changes to revise or improve governance models have often yielded different, new conflicts or struggles. More information is below in the historical overview section of this document.
- The Council has taken a big step recently with the adoption of the Transitway Advancement Policy, which informs an updated approach to building a transitway vision based on a local vision for transit service. The policy requires evaluation of project and system risks, and assignment or mitigation of risks in phased agreements with local partners. This ensures both the benefits and risks of projects are considered and discussed at each incremental step, and that the Council and its partners are aware of (and accountable to) project decisions throughout implementation.

C. Other Regions

Regarding the issue of potentially separating policymaking and operating powers, this Task Force may be well served by looking to the governance models of other peer regions around the country. In that endeavor, the Task Force will find it is not uncommon for regions with populations equivalent or greater than our own to vest policymaking and operating powers in their MPOS; these include Atlanta, Boston, Chicago, Denver, Portland and Seattle.¹⁴

IV. OBSERVATIONS ON OTHER ISSUES OF EXPRESSED CONCERN

A. 2011 Report on Transit Operations by the Office of the Legislative Auditor (“OLA”)

The 2011 Report of the OLA examined transit governance by the Council, and transit governance only. There was no comprehensive examination of the Council’s full scope of operations and services.

Since the issuance of that report by OLA, the Council has been the recipient of the following awards:

¹⁴ See Attachment No. 8 (p. 9 of History and Background of the Met Council by Taylor Koehler, September 23, 2023).

Innovative Transportation Solutions Award, WTS Minnesota, Metro Transit Micro (2023)
2025 Plan Leadership Award, from the Minneapolis Downtown Council for the METRO C Line (2018)
Better Government Award, from the State of Minnesota for the Metro Transit Technician Training Program (2018)
Certificate of Merit, APTA Bus Safety & Security Excellence Awards (2018)
Management Innovation Award, from the Minnesota Public Transit Association for the Metro Transit app (2017)
Gold Award for Safety, APTA (2017)
Innovative Transportation Solutions Award, WTS Minnesota, for the METRO A Line (2017)
Model Program Award, from the National Transit Institute, for the Metro Transit Technician Training Program (2017)
System of the Year, APTA (2016)
Gold Standard, TSA (2016)
Management Innovation Awards, Minnesota Public Transit Association, Student Pass (2015)
Partner of the Year, Visit Saint Paul. For efforts to support and enhance the tourism industry in St. Paul (2015)
Employer of the Year, WTS Minnesota (2015)
Progress Minnesota, Finance & Commerce. For the METRO Green Line's impact on the regional economy (2015)
Gold Level, American Public Transit Association (APTA) Sustainability Program (2014)
Gold Award, Bus Safety Excellence, APTA (2013)
Gold Standard, Transportation Security Administration (2013)¹⁵

The Council is operating an effective and efficient transit system under its existing form of governance, and indeed one of the best in the country.

B. Cost Overruns on SW LRT¹⁶

Southwest Light Rail Transit line is the third line of light rail transit in our metropolitan region overseen by the Council. The route for the 14 mile SW LRT Corridor was selected by the Hennepin County Rail Authority. It was always a known factor that going through the narrow Kenilworth Corridor would be an engineering challenge. SW LRT, the largest public works project in Minnesota history, has indeed had cost overruns and numerous revised projections on costs, but so have so many other large public works projects in other parts of the country. For example, the following are illustrative:

Big Dig – Boston: Initial Budget \$3B, Financial Cost \$22B
Maryland Purple Line LRT: Initial Budget \$5.6B, Current Budget \$9.4B

¹⁵ Information provided by Council staff at the request of the undersigned.

¹⁶ Information on cost overruns was requested by the undersigned Task Force member and supplied by the Council.

Hawaii LRT: Initial Budget \$5.12B, Current Budget \$12.07B

In our region, cost overruns are unusual. For example:

- A, C & D ABRT, Red and Orange Highway BRT, Green and Blue LRT, and Northstar all were completed under budget.
- Gold Line is highly likely to be completed under budget.
- Green Line Extension is the first transitway that will exceed budget. Blue Line Extension will have a higher budget than the current FTA approved budget because of a new alignment and the fact it will be built 10 years later than the timeline the budget is based upon.

It has been suggested that the Council is not a good project manager and MnDOT would be better at project management. For MnDOT, there would be case studies for major bridges (St. Croix, 494-Wakota, Hwy 53-Hibbing, Winona Hwy 43) that are relevant examples of regional major investments that had significant cost increases over initial budget. So, the conclusion that MnDOT would be a better project manager is not necessarily warranted. Public works projects are large, expensive, take longer than anticipated and cost more than originally anticipated. One cannot conflate project management with the form of governance.

C. **Metropolitan Council Role as the Metropolitan Planning Organization (“MPO”)**

The Metropolitan Planning Area (“MPA”) is the area of MPO jurisdiction for planning and programming the use of federal funds. Each MPO defines/selects boundaries for its metropolitan planning area.

The Metropolitan Council serves as the MPO for the Twin Cities region. The Council was first designated as the MPO in 1973 by Gov. Wendell Anderson and the Council’s status as the MPO has been reaffirmed by US DOT on four occasions (see Attachment No. 9 for description of MPO functions of the Council).

What is critically important for the Task Force to consider, and, indeed, even the legislature, is the fact that under federal law (23 U.S.C. § 134(d)), a MPO may only be redesignated by agreement between the Governor and units of general purpose local government that together represent at least 75% of the existing planning area population (including the largest incorporated city). This is a key procedural consideration in the process of thinking about potentially changing the form of governance of the Council. Its role as an MPO is presently well established and approval to change the MPO by redesignation is a distinct risk.

Cities, in particular, the Council’s key constituency from a volume standpoint, are not asking for and do not support the types of changes proposed (i.e., a COG or directly elected officials) by some in the legislature. Cities are responsible for implementing most regional decisions and policies and what cities recommend is a far less dramatic and does not disturb the Council’s role as the federally designated MPO. Securing support from local governments that

represent 75% of the existing planning area, population may be difficult, if not impossible, to achieve.

D. Suburban Transit Providers alleged to be at a Competitive Disadvantage With Metro Transit.¹⁷

Suburban transit providers have opined in some of the public sessions they are at a competitive disadvantage with Metro Transit when competing for regional transit dollars.

In the 2022 Regional Solicitation, all but one suburban transit project was funded. Funding for transit in the 2022 solicitation was as follows:

- Transit Expansion – two Metro Transit, two MVTA, one Southwest Transit and one Washington County project were funded (one SW Transit not funded)
- Transit Modernization – two Metro Transit, two MVTA, and one Minneapolis project were funded (City of Apple Valley project not funded)
- TDM – three Metro Transit, one MVTA, two non-profits were funded
- ARBT – Metro Transit (funded)

For the 2024 Solicitation, transit requests received from all applicants total \$59,407,622. The funding range is \$63M - \$88M. If TAB funds every project requested, plus the TDM set aside for 2026, it would be the \$64M minimum of the funding range.

	Apps Submitted	Reg. Sol. Amount Requested	
Transit Expansion	5	\$17,956,079	
Transit Modernization	4	\$16,451,543	
ABRT	1	\$25,000,000	\$59,407,622
Travel Demand Management	5	\$2,077,799	\$1,200,000 Set aside in 2022
2026 TDM set aside		\$4,200,000	

Additionally, the new sales tax for transit will assist all transit providers in the region. There will also be new micro transit opportunities for all providers that will be funded with that new money. The recent data tends to show suburban transit providers have not been competitively disadvantaged.

¹⁷ Source: TAB Coordinator, Transportation Advisory Board to the Council.

E. Outreach and Communications.

The Metropolitan Council can and should continue to improve its outreach with local officials, state lawmakers, members of the public, and the region's business and non-profit sectors, which discussions by this Task Force and the listening sessions, have well reflected. At the same time, the Council must retain the independence required to make difficult decisions that are important to achieving outcomes that advance our region on behalf of its current and future citizens. The need for more effective outreach and communications may or may not be more effective under a different regional governance model.

V. CITY RECOMMENDATIONS ON FORM OF REGIONAL GOVERNANCE

A. Staggered Terms

The idea of staggered terms may seem like a *de minimus* reform suggestion to some on the Task Force, but let me suggest how staggered terms address certain concerns that have been raised relative to the existing Council governance model:

Perception that members are overly/only accountable to the Governor:

Staggered terms reduce ideological shifts in the make-up of the Council, which would be appropriate for the long-range functions and planning the Council is responsible for

Perception that Met Council is too staff driven:

Staggered terms allow for knowledge and experience continuity of Council members

Need for higher level of engagement by local officials and community members in the selection process for members of the Council:

Increase required number of members on the statutory nominating committee

Increase the number of local elected officials on the committee

To increase transparency in how members are selected (right now there is no required public comment period or requirement to make the Governor's nominees public):

Require that names of nominees be made public and that there be a public comment period before nominees are finalized and appointed – this would allow for

B. Selection Process

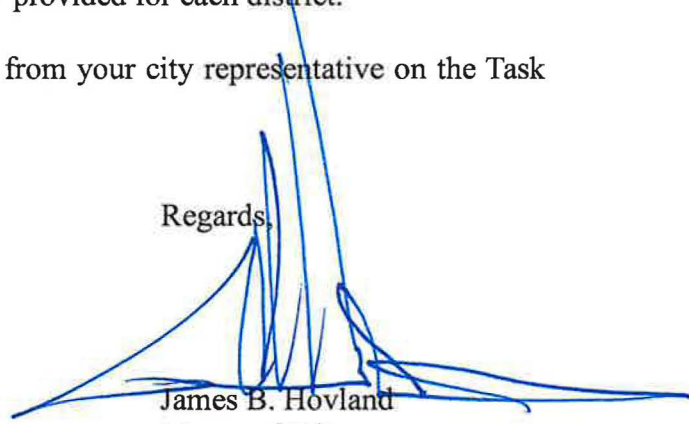
The existing selection process could use refinement to assure that the Nominating Committee for each District is properly composed and that the candidates advanced from each district reflect the interests of that District. The Governor should also be required to select a candidate of each district based upon the slate advanced by the Nominating Committee. This is how that process would and could work.

VI. CONCLUSION

Cities support common sense and careful changes to the Council's existing form of governance as described above.¹⁸ The suggested changes include four year staggered terms, for the reasons expressed herein, and a larger nominating committee of fifteen (15) members, the majority of whom would be locally elected officials such as 4 city elected officials, three county commissioners, and one township representative. Three names for each district should be advanced to the Governor for appointment consideration and the sitting Governor should be required to select an appointee from the list of finalists provided for each district.

Those are the careful and prudent suggestions from your city representative on the Task Force.

Regards,



James B. Hovland
Mayor of Edina

¹⁸ See also Attachment No. 10.

ATTACHMENT 1

Chapter 68

Sec. 123.

METROPOLITAN GOVERNANCE TASK FORCE.

Subdivision 1.

Established.

A Metropolitan Governance Task Force is established to study and make recommendations to the legislature on reform and governance of the Metropolitan Council.

Subd. 2.

Membership.

(a) The task force consists of the following members:

(1) four members of the senate, with two appointed by the senate majority leader and two appointed by the senate minority leader;

(2) four members of the house of representatives, with two appointed by the speaker of the house and two appointed by the minority leader of the house of representatives;

(3) one person representing cities in the metropolitan area, appointed by the Association of Metropolitan Municipalities;

(4) one county commissioner representing counties in the metropolitan area, appointed by the Association of Minnesota Counties;

(5) one person representing townships in the metropolitan area, appointed by the Minnesota Association of Townships;

(6) one person representing an employee collective bargaining unit of the Metropolitan Council, appointed by the Minnesota AFL-CIO;

(7) one person appointed by the governor;

(8) one person representing transit, appointed by Move Minnesota;

(9) one person representing institutions of higher education, appointed by the Office of Higher Education; and

(10) two members of the public, appointed by the Legislative Coordinating Commission.

(b) The appointing authorities under paragraph (a) must make the appointments by July 15, 2023.

Subd. 3.

Chair; other officers.

The task force must elect from among its legislative members a chair and vice-chair and any other officers that the task force determines would be necessary or convenient.

Subd. 4.

Duties.

The task force must study and evaluate options to reform and reconstitute governance of the Metropolitan Council. The study must include an analysis of the costs and benefits of:

(1) direct election of members to the Metropolitan Council;

(2) a combination of directly elected and appointed members to the Metropolitan Council;

(3) a council of governments which would replace the current Metropolitan Council;

(4) reapportioning responsibilities of the Metropolitan Council to state agencies and local units of government;

(5) adoption of a home rule charter for governance of the Metropolitan Council;
and

(6) any other regional governance approaches that are viable alternatives to the current structure of the Metropolitan Council.

Subd. 5.

State; metropolitan agencies must cooperate; subcommittees.

The Metropolitan Council and state and metropolitan agencies must cooperate with the task force and provide information requested in a timely fashion. The task force may establish subcommittees and invite other stakeholders to participate in the task force's study and development of recommendations.

Subd. 6.

Compensation.

Member compensation and reimbursement for expenses are governed by Minnesota Statutes, section 15.059, subdivision 3.

Subd. 7.

Grants.

The task force may accept grant funds from any federal, state, local, or nongovernmental source to support its work and offset any costs, provided accepting the money does not create a conflict of interest for the task force or its members. The Legislative Coordinating Commission may administer any grant money given to the task force.

Subd. 8.

Administrative support; staff.

The Legislative Coordinating Commission must provide meeting space, administrative support, and staff support for the task force. The task force may hold meetings in any publicly accessible location in the Capitol Complex that is equipped with technology that can facilitate remote testimony.

Subd. 9.

Open meeting law.

Meetings of the task force are subject to Minnesota Statutes, chapter 13D.

Subd. 10.

Report.

The task force shall report its findings and recommendations to the chairs and ranking minority members of the legislative committees with responsibility for or jurisdiction over the Metropolitan Council and metropolitan agencies. The report is due by February 1, 2024.

Subd. 11.

Expiration.

The task force expires on June 30, 2024.

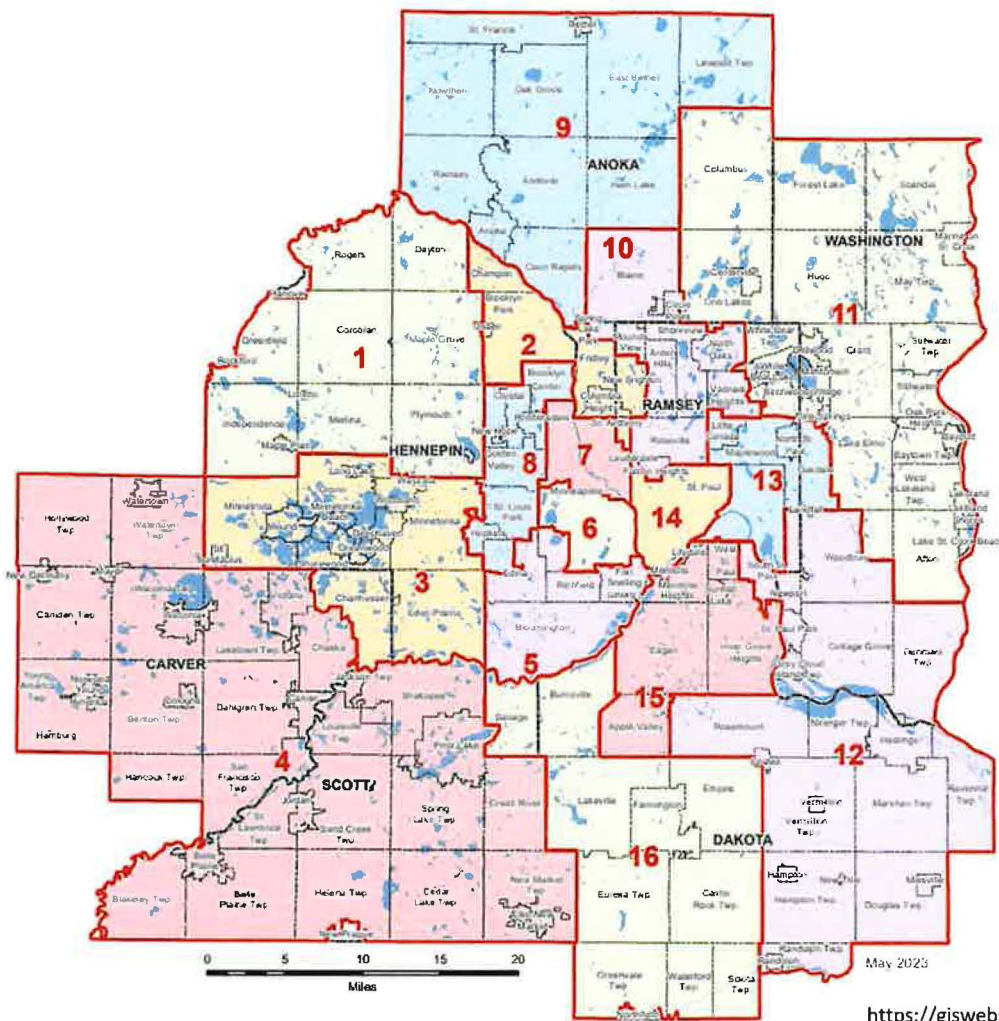
EFFECTIVE DATE; EXPIRATION; APPLICATION.

This section is effective the day following final enactment. Subdivision 5 applies in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington.

ATTACHMENT 2

Current Structure of Metropolitan Council





https://giswebsite.metc.state.mn.us/mapgallery/pdfs/Council_Districts_8x11.pdf

Council Members

- Minn. Stat. § 473.123
- Must live in district
- Appointed by governor
- Terms coterminous with governor
 - Redistricting impact



<https://metrocouncil.org/About-Us/Who-We-Are/CouncilMembers.aspx>

Council Members

- Must reflect demographic, political, and other metro area interests
- Must know about urban and metro affairs



<https://metrocouncil.org/About-Us/Who-We-Are/CouncilMembers.aspx>

Chair

- At large
- Duties:
 - Preside meetings
 - Principal legislative liaison
 - Present to governor/legislature
 - Principal spokesperson for council



Charlie Zelle

<https://metro council.org/About-Us/Who-We-Are/CouncilMembers/Chair-Charles-Zelle.aspx>

ATTACHMENT 3



Metropolitan Council

Overview of Transit, Transportation, and
Metropolitan Planning Organization roles



October 25, 2023



Contents

Our impact	2
Agency structure and domains	4
Metro Transit	7
METRO Projects	10
Metropolitan Transportation Services	19

Metropolitan Council

Our impact

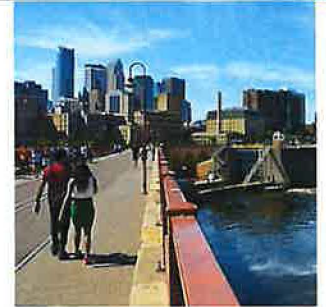
Creating the foundation for a thriving region



No one community can do it alone

Every single person and community makes up the fabric and essence of this region.

- **3,189,756 people** in 7 counties
- **3,120,266 people** in 141 cities
- **69,447 people** in 40 townships
- **430 residents** in Fort Snelling Unorganized Territory
- Native people from 11 federally recognized Minnesota tribes and many other tribal communities
- Growing diversity representing wide-ranging racial identities and ethnicities, with about 300 languages spoken at home





Agency structure and domains

Partnering on a shared vision

Making a strong system possible through planning, coordination, and operations



Long-range planning

Supporting cities and townships for the prosperity of the region



Environmental protection

Protecting public waterways and parklands to sustain our environment



Transportation services

Connecting people to places and keeping the economy moving

Metropolitan Council

Community Development

Housing, Development, and Contamination Clean Up Grants
MN 473.25-255

Regional Land Use Planning
MN 473.145, 473.861-867

Housing Services
MN 473.195

Regional Parks and Open Space planning and funding; MN 473.301-351

Wastewater
MN 473.511

Surface Water Quality
MN 473.157

Water Supply Planning
MN 473.1565

Environmental Services

Regional Transportation Planning
MN 473.146

Transitway Development
MN 473.399

Transit Services
MN 473.385

Transportation



Metro Transit

Metro Transit Overview



A division of the Metropolitan Council

- Operates bus, light rail, and commuter rail
- Serves over 70 communities
- Ridership at about 55% of pre-COVID ridership, providing an average of ~120-140K rides per weekday
- Current service about 75% of 2019 service levels

Metro Transit Overview - continued



- More than 2,700 employees
- 2023 operating budget: \$530.3M
- 2023-2028 capital program: \$6.75B
- Current initiatives include (examples)
 - Safety & Security Action Plan
 - Network Now
 - Speed & Reliability Program
 - Zero Emissions Bus Transition Plan
 - Ongoing workforce recruitment and development
 - Metro Transit Forward – creating a strategic vision to guide Metro Transit operations
- Ridership and crime data available online:
www.metrotransit.org/performance



METRO Projects for Metro Transit

METRO Projects Division

A new division of the Met Council

- Lead development of large new transitway projects
- Tasks include project development, engineering, construction
- Currently includes two LRT, two Dedicated BRT, and Arterial BRT
- Staffing includes partner agencies (MnDOT and County) and Consultants



METRO Projects

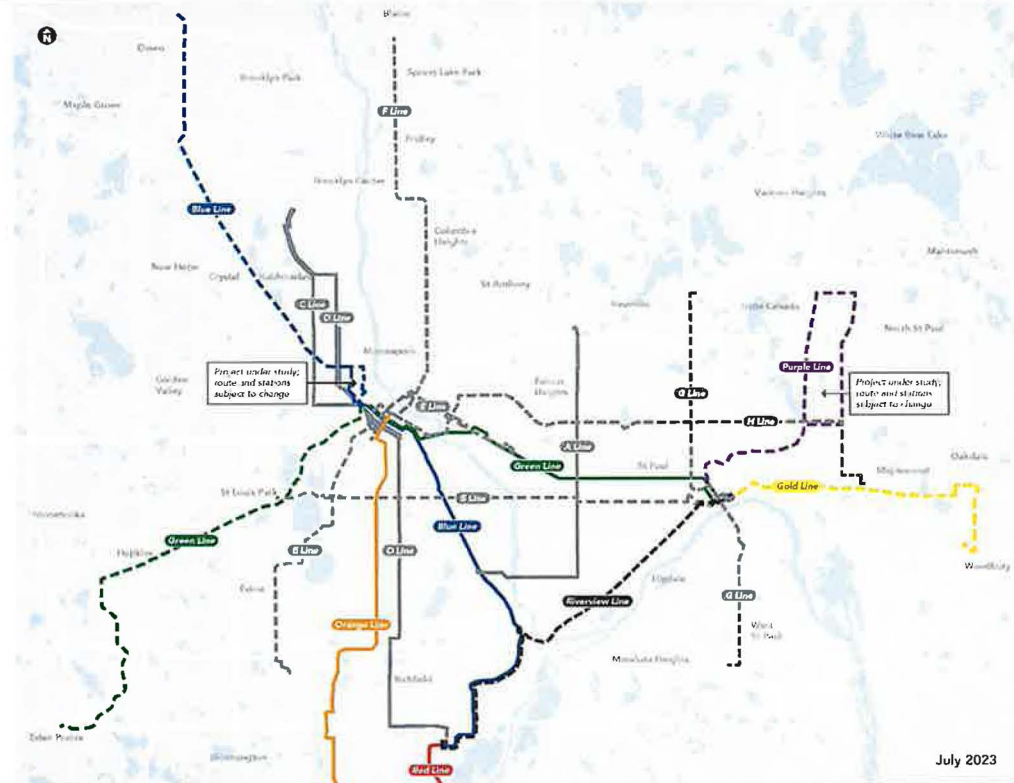


Legislative Direction

- **Guideways and Busways; Construction and Operations**
(MN Statute 473.4051)
- **Capital Maintenance**
(MN Statute 473.4051 subd 2a)
- **Light Rail Transit Municipal Consent**
(MN Statute 473.3994)
- **Corridor Management Committee**
(MN Statute 473.3994 subd 10)

Building the regional transit network

METRO line	Opened/Opening
Blue Line	2004
Red Line	2013
Green Line	2014
A Line	2016
C Line	2019
Orange	2021
D Line	2022
B Line	2025
E Line	2025
Gold Line	2025
F Line	2026
G Line	2027
H Line	2028
Green Line Extension	2027
Blue Line Extension	2030



METRO Transitways



Investments in Transitways

- **Completed Transitways**
 - Blue, Green, Red, Orange, A, C, D (+ NorthStar)
- **Transitways Under Construction**
 - Green Line Extension, Gold, B
- **Future Transitways**
 - Blue Line Extension, Purple, E, F, G, H, J, K, L, Riverview

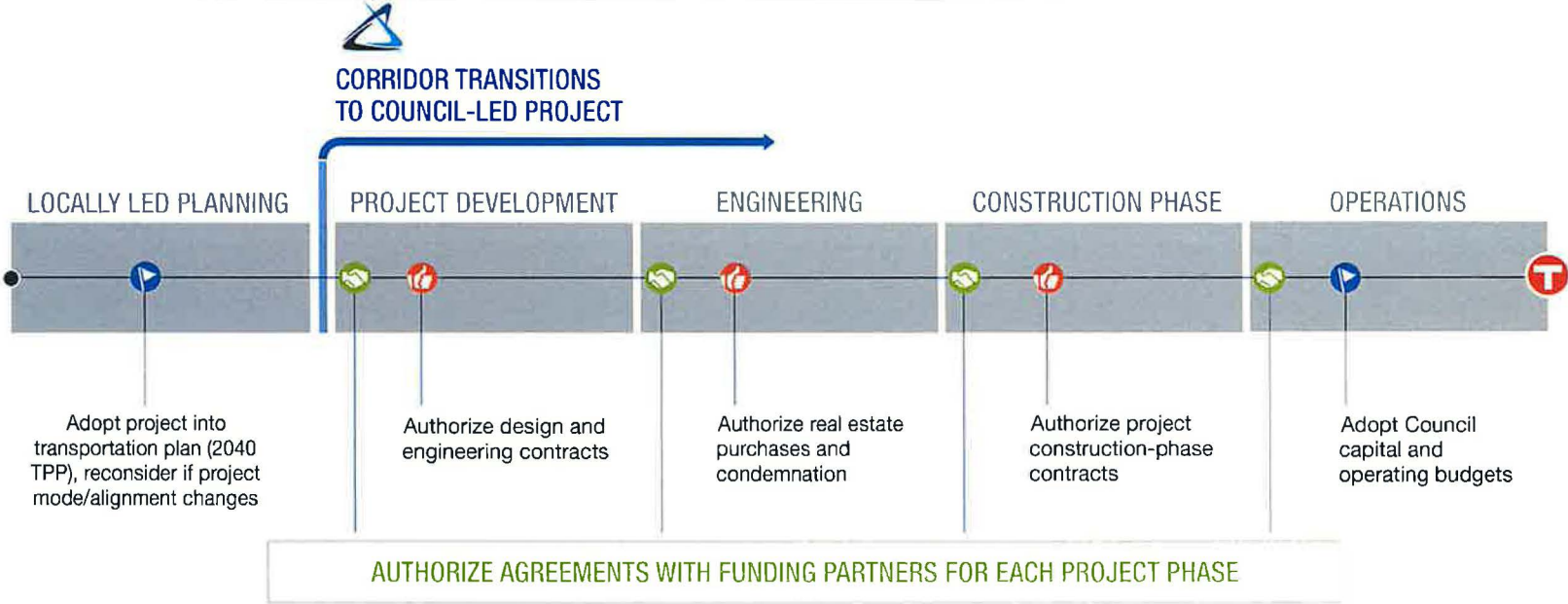
METRO Projects - Roles



Roles Depend on Mode

- **LRT/Dedicated BRT**
 - County leads planning and provides local share of development
 - METRO Projects leads project development, engineering, and construction
- **Highway BRT**
 - County leads planning and provides local share of development
 - METRO Projects leads project development, engineering
 - MnDOT and Metro Transit lead construction
- **Arterial BRT**
 - METRO Projects leads planning, engineering
 - City, County, MnDOT and/or Metro Transit lead construction depending on project

METRO Projects Development Process



Funding by Phase

100% County	100% County	50+% County Up to 50% Federal	50+% County Up to 50% Federal	100% Metro Transit
-------------	-------------	----------------------------------	----------------------------------	--------------------

Local involvement in METRO Projects



Advisory and Approval

- **Advisory Committee**
- **Corridor Management Committee**
 - LRT: 473.3994 Subd 10
 - BRT : Not required but utilized as standard of practice
- Advise and approve alignment, station locations, scope
- Approvals
- **Municipal Consent**
 - LRT: 473.2994
 - BRT: Not required but practice is to seek approval at municipal level of locally preferred alternative and pre-liminary plans

Public Engagement in METRO Projects



Functions and structure

On-going

- All Phases of the Project
- Focus of engagement changes based on the questions or needs of the project phase
- Issue tracking & resolution
- Considers stakeholder needs & relationship building

Advisory

- Business and Community Advisory Committees
- Boards and Organizations

Required

- Public Hearings
- Public Comment

Green Line Extension

2,350 events since 2012
54,000 participants engaged

Blue Line Extension

720 events since 2020
27,000 participants engaged



Metropolitan Transportation Services

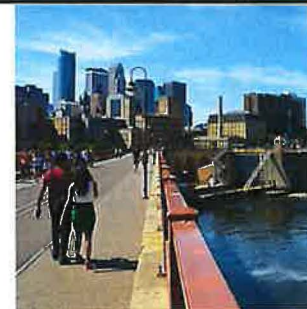
Transportation

Planning

- Designated as the region's Metropolitan Planning Organization (MPO) under 23 USC §134
 - "3C" Process
 - Long-range transportation plan
 - Transportation Improvement Program
 - Unified Planning Work Program
- Designate short-term federal funds programming in coordination with the Transportation Advisory Board (Regional Solicitation)

Transit Services

- Contract and coordinate metropolitan transit operations
 - Contracted fixed-route bus
 - Metro Mobility
 - Transit Link
 - Vanpool program
- Provide financial assistance to replacement service providers



Metropolitan Transportation Services



Legislative Direction- Transit Services

- **Contracted Transit Services**
(MN Statute 473.375)
- **Special Transportation Service (Metro Mobility)**
(MN Statute 473.386)
- **Replacement Service Provider Assistance**
(MN Statute 473.388)
- **Capital Improvement Plan**
(MN Statute 473.39)
- **Transportation Accessibility Advisory Committee**
(MN Statute 473.375)

Metropolitan Transportation Services

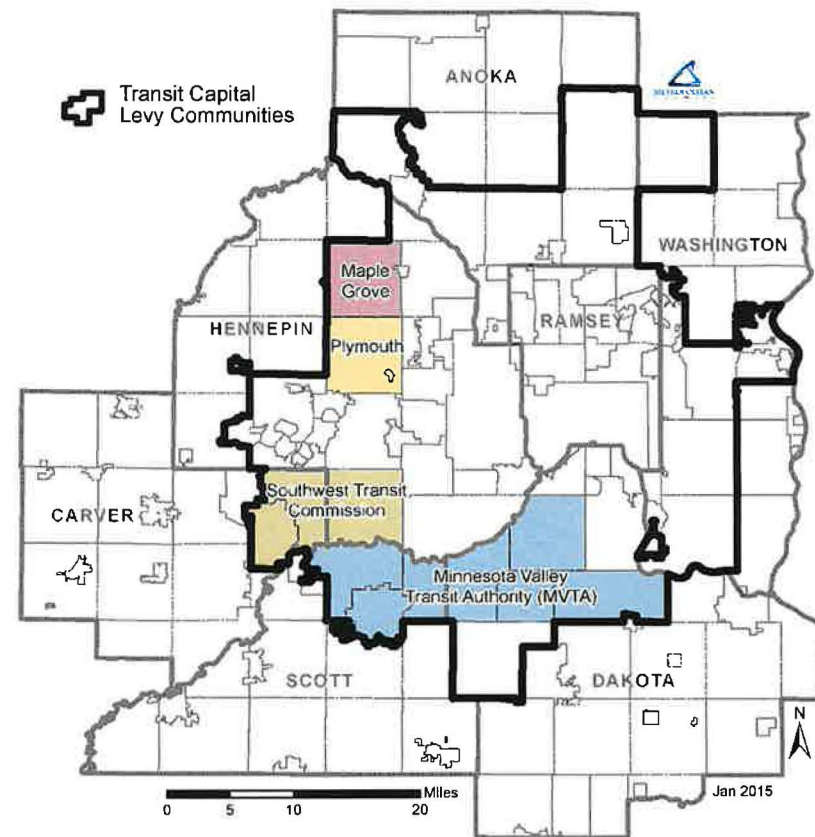
Contracted transit operations

- **Fixed route** – backbone of public transit
- **Metro Mobility**
 - A shared ride, public transportation service for certified riders who are unable to use regular fixed-route buses due to a disability or health condition.
 - Federal and State: Service guaranteed as a civil right under the Americans with Disabilities Act (ADA); additional state requirements in 473.386
- **Transit Link** – Shared-ride public transport where regular route transit is infrequent or unavailable
- **Metro Transit micro** – On-demand dial-a-ride service, 2022-2024 pilot project
- **Metro Vanpool** – Vanpools have five to 15 people sharing the ride to and from work an average of three or more days a week.
- **Regional Services** – includes fleet, technology, grants management, regional policy and provider performance reporting.



Replacement Service Providers

- 473.388 Replacement Service Providers
 - Minnesota Valley Transit Authority
 - SouthWest Transit
 - Maple Grove Transit
 - Plymouth Metrolink
 - University of Minnesota
- Met Council coordinates regional transit policy (473.371), fare system (473.408)
- Met Council funds, purchases, owns, and replaces over 300 vehicles and fare equipment used by replacement service providers
- Met Council passes through MVST funding under statutory and regional policy
- Met Council provides grants for transit providers including as federal match





Metropolitan Planning Organization

Transportation planning

Functions

- Highway Planning
- Transit Planning
- Airport Planning
- Freight Planning
- Travel Forecasting
- Corridor Studies
- Review transportation elements of local comprehensive plans



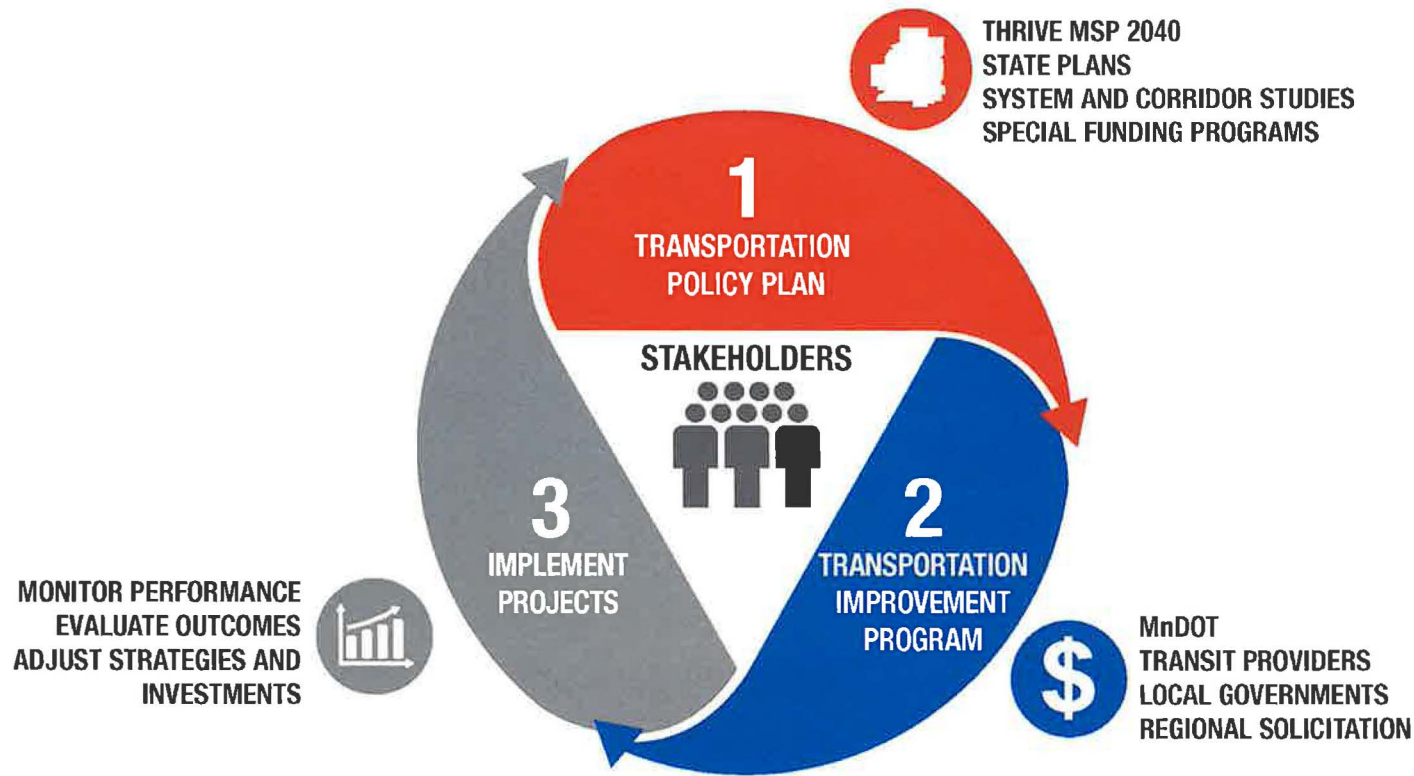
Metropolitan Planning Organization



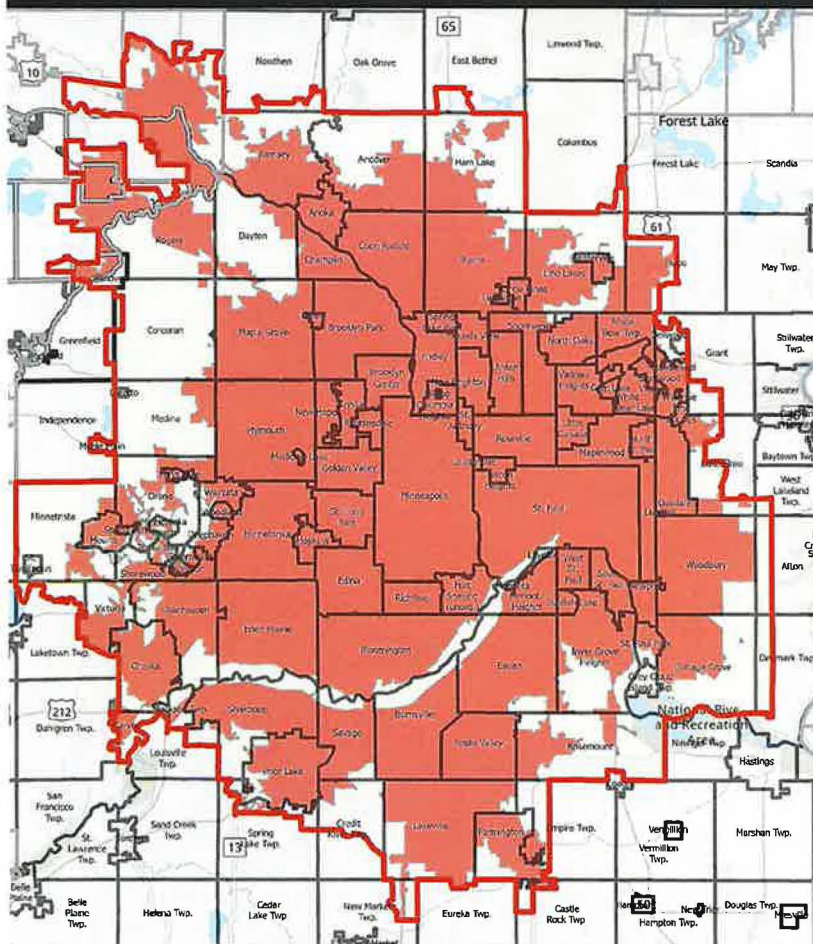
Legislative Direction – Transportation Planning

- **Designated Agency for Transportation Planning**
(MN Statute 473.146)
- **Evaluate Transportation System Performance**
(MN Statute 473.1466)
- **Administer ROW Acquisition Loan Program**
(MN Statute 473.167)
- **Highway Controlled Access Approval**
(MN Statute 473.166)
- **Review Comprehensive Plans and Matters of Metropolitan Significance**
(MN Statute 473.175, 473.173)

Metropolitan Planning Organization



Metropolitan Planning Organization



Designated MPO

- The Council is the designated regional Metropolitan Planning Organization (MPO) under federal and state law for the Twin Cities Urbanized Area (UZA) since 1973
- Federal agencies are fully aware of, and in approval of the Council's status as the legal MPO, including:
 - Numerous certifications of the region's planning processes, most recently in 2021
 - Council as recipient of regional federal transportation funds
 - Approval of the region's long-range transportation plan
 - Approval of the annual Transportation Improvement Program
- Where urbanized area extends beyond seven county planning area, further agreements define roles and responsibilities, funding processes
 - Wisconsin (leaves UZA 2023), Wright County, Sherburne County

Transportation Advisory Board



34-member board

- Created through state statute to advise Council's completion of MPO responsibilities
- 18 elected officials
 - 10 elected officials appointed by Metro Cities
 - 7 county board members
 - 1 Suburban Transit Association
- 4 agency members
 - Met Council, MnDOT, MPCA, MAC,
- 8 citizen members
- 4 transportation mode members
 - 2 transit, 1 freight, 1 non-motorized

**State Statute 473.146
Subd. 4. Transportation planning**

Transportation Advisory Board



Functions

- Provides forum for state, regional and local officials, transportation providers and community members
- Reviews and comments on regional and statewide plans
- Solicits, evaluates and recommends local and regional projects to receive federal transportation funding
- Recommends the region's Transportation Improvement Program
 - Includes all regional projects that have federal transportation funds being spent over the next four years
- New: Selects uses for active transportation funding from regional transportation sales tax (5% of 83%; ~\$25M/year)

Transportation Planning Process

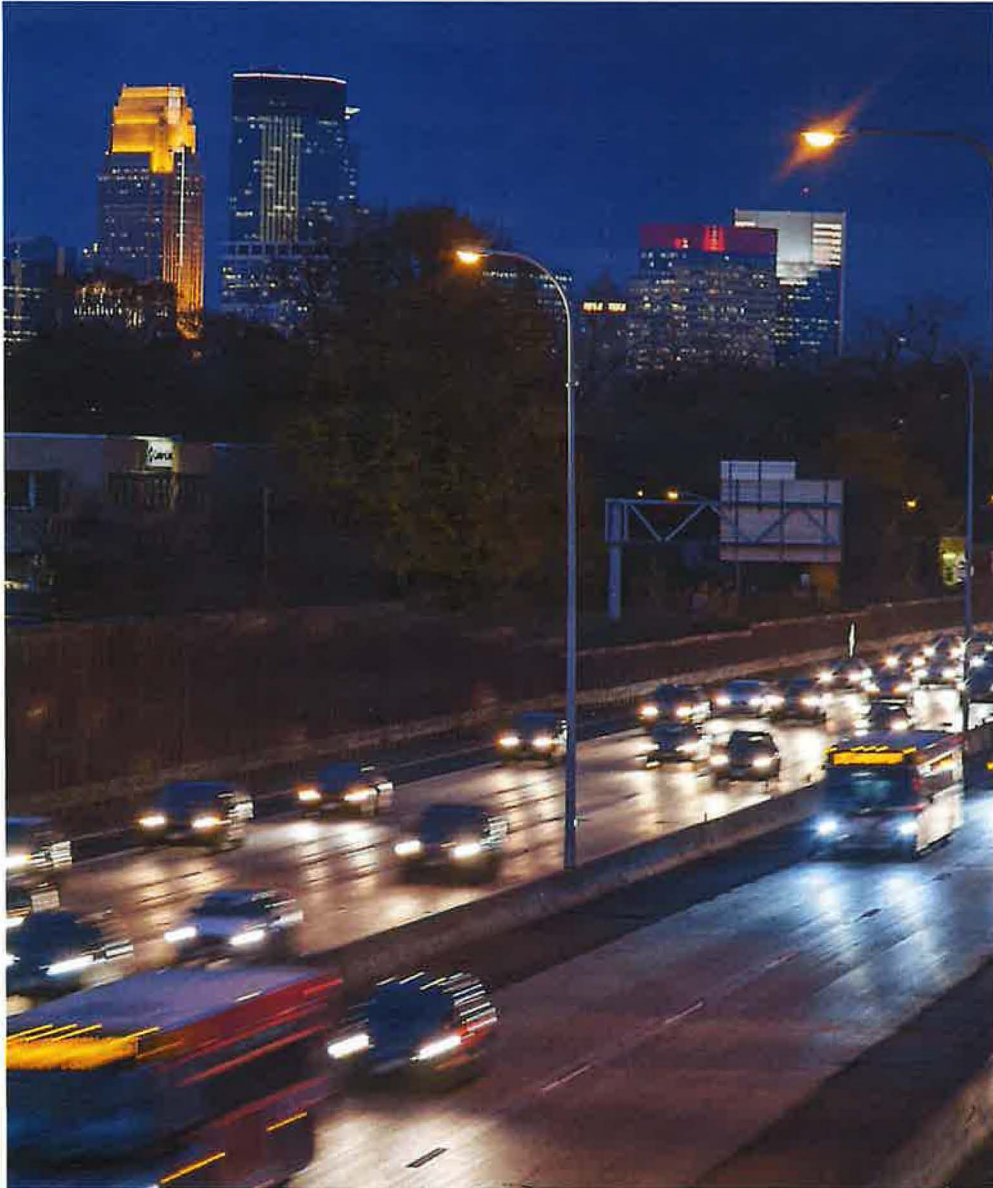
TRANSPORTATION PLANNING AND PROGRAMMING GUIDE

FOR THE TWIN CITIES METROPOLITAN AREA JANUARY 2020



Defining roles and responsibilities

- Transportation [Planning and Programming Guide](#)
 - Describes roles of transportation partners in planning and programming processes
 - Summarizes state and regional planning documents
 - Establishes processes for funding and programming
- [Memorandum of Understanding](#) between MnDOT and the Metropolitan Council; executed 2018
 - Documents *Continuing, Cooperative, and Comprehensive* (3C) planning process roles and responsibilities
 - Defines and delineates the TAB's role in project selection and planning processes
 - Includes federal certification of MPO role and concurrence of transit funding recipient designation



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ATTACHMENT 4

1. Overview and Purpose

- Citizens League's unique history with the Met Council
- Why a Citizens League Task Force in 2015, and who was a part of it?
- What was the scope, what did we learn, and what did we recommend?

2. Key Findings

- Met Council continues to be an important regional advocate.
- The current governance structure inhibits the Met Council's ability to effectively plan for the long-term and act as an independent advocate for the region.
- Challenges in the region have expanded and will continue to evolve due to changing demographics and the growth in poverty in the region.

3. Key Findings

- There are questions and concerns related to transportation governance including accountability and transparency, efficiency and effectiveness, and equity.
- Water quality and supply becoming regional concern with overlapping responsibilities with local and state government and Council's planning authority.

4. Recommendations

- Four-year, staggered terms for Council members. All appointed by the Governor. Chair appointed by and serves at the pleasure of the Governor.
- Strengthen the member selection process.
- Fully exercise the Council's current authority in statute to reduce concentrations of poverty and foster increased connections to social and economic opportunities.



ATTACHMENT 5

Council of Metropolitan Area Leagues of Women Voters

Testimony to the Governor's Blue Ribbon Committee on the Metropolitan Council

October 26, 2020

The Council of Metropolitan Area Leagues of Women Voters (CMAL) is an Inter-League Organization established under the auspices of the League of Women Voters of the United States. CMAL was established in 1962 with the purpose of increasing the knowledge of its members and the public with respect to regional government issues.

CMAL is a membership organization comprised of 19 local League of Women Voters chapters in the seven-county metro area, with approximately 1200 members.

Like all League of Women Voters entities, CMAL is political but strictly non-partisan. We do not support or endorse any candidate or political party.

From August 2018 to January 2019, CMAL engaged in a study of Metropolitan Council governance. A committee of eight League members from five of the seven metro area counties led it.

The study committee (1) conducted interviews with stakeholders, including Pat Nauman (Metro Cities), Alene Tchourumoff (Metropolitan Council), Pahoua Yang Hoffman (Citizens League) and Kathleen Salzman (Metropolitan Governance Transparency Initiative) (see p28 of report for complete list) (2) hosted a public forum for League members and the general public, (panel members were Deb Dyson (House Research), Keith Carlson (Minnesota Inter-County Association), Charlie Vander Aarde (Metro Cities) , and C. Terrence Anderson (University of Minnesota Center for Urban and Regional Affairs)), (3) reviewed the available literature, including the 2016 report from the Citizens League , the 2011 Legislative Auditor Report, historical reports from the Metropolitan Council library, and articles in the press, and, (4) with the help of 30 other League members, carried out interviews of over 50 local elected and appointed officials (mayors, county commissioners, city managers, county administrators, city community development and planning directors) (pg. 28-30) to gather their opinions of and interactions with the Metropolitan Council, utilizing a standardized questionnaire (pg. 33-36).

Based upon all of the above, the committee issued its report, Metropolitan Council Governance, to members in January 2019. The report included the results of the interviews with local officials (pg. 19-25), as well as, information regarding the pros and cons regarding Metropolitan Council governance issues (pg. 14-19).

In the interview process, we learned that interviewees felt the Metropolitan Council is working effectively with respect to the sewer system, transit/transportation (transit, BRT, LRT), livable communities grants, environmental cleanup grants, research, forecasting and planning assistance. The Metropolitan Council was seen as less effective with respect to communication, interaction with cities, public perception, transit in some cities or within cities, Comprehensive Planning (an onerous process every 10 years) that is harder on smaller cities with small staffs, and "one-size-fits-all" with little flexibility (pg. 20-21). We also learned that elected officials have a different relationship with the Metropolitan Council than do their city or county staff, who stated their appreciation of the technical assistance from the Metropolitan Council staff. We urge you to review the report in its entirety.

In January and February 2019, the 19 LWV local chapters held meetings to discuss the governance issues and to vote on the consensus questions presented in the report. In March 2019 the CMAL Board tallied the votes taken at these meetings and adopted its position on Metropolitan Council governance. Each of the following positions had the support of more than 80% of those participating.

- The Governor should appoint members of the Metropolitan Council.
- Members of the Metropolitan Council should be appointed to fixed, staggered terms, and should be removable only for cause.
- Metropolitan Council members should be required to have a regional perspective, knowledge of regional issues, demographic diversity, and the ability to meet the time requirements for serving in the office.
- Metropolitan Council members should not be local elected officials or be directly elected to the office of Metropolitan council member.
- A nominating committee should recommend a slate of Metropolitan Council nominees to the Governor.

Respectfully Submitted,

Karen Schaffer

Chair, Council of Metropolitan Area Leagues of Women Voters (CMAL)

1. C.M.A.L.

- Inter-League Organization under auspices of LWVUS and LWVMN
- Membership Organization
- Political but Nonpartisan
- Focus on Government Issues of the Metropolitan Area

2. Study of Metropolitan Council Governance

- August – December 2018
- Held Public Forum
- Conducted a Literature Review
- Coordinated Interview Teams
- Conducted Interviews of Relevant Stakeholders

3. LWV Positions are based on Consensus

- Consensus means...

4. Report to Members in January 2019

- 19 Local Chapters held Consensus Meetings
- The Pros & Cons of the Proposed Positions on the Governance Structure of the Metropolitan Council were discussed by the Membership
- Members Voted on Positions Statements
- Members' Votes were Tallied
- Positions Statements were Adopted

5. Through Consensus the C.M.A.L. Members Overwhelmingly Supported the following Positions:

6. Metropolitan Governance Positions

- Metropolitan Council Members should be appointed by the Governor
- Members should be appointed to fixed, staggered terms and removed only for cause
- Members should have a regional perspective, knowledge of regional issues, demographic diversity and the ability to meet the time requirements of service
- Members should not be local elected officials
- Members should not be directly elected to the Metropolitan Council
- A Nominating Committee should recommend a slate of candidates for the Metropolitan Council to the Governor

Press Release

The Council of Metropolitan Area Leagues of Women Voters (CMAL) announces its updated position on governance of the Metropolitan Council.

Based upon the report of its study committee, members of all local leagues across the metropolitan area overwhelmingly voted to support the following:

- Appointment of Metropolitan Council members and its Chair by the Governor,
- Fixed staggered terms for Metropolitan Council members with removal only for cause, and
- Metropolitan Council members should have a regional perspective, knowledge of regional issues, reflect demographic diversity and be able to meet the time requirements to serve effectively.

Members of all 19 chapters of the League of Women Voters in the 7-county metropolitan area participated in the voting process in January and February 2019.

In 2018, League members interviewed over 50 municipal and county elected officials and staff across the metropolitan area, asking a series of questions regarding their satisfaction with the Metropolitan Council. The respondents expressed high levels of satisfaction with the sewer system, transit and transportation, planning resources and technical expertise. The areas cited most often for improvement are its communication and interaction with cities and need to streamline the comprehensive planning process.

The CMAL committee launched its study after last spring's legislative bill to replace the appointment of citizens by the governor with the appointment of local elected city and county officials to the regional agency. CMAL in its 50+ year history had not addressed the issue of whether local elected officials could or should be appointed to serve on the Metropolitan Council. There was little support among participants for the appointment of local elected city and county officials to the Metropolitan Council.

March 19, 2019

ATTACHMENT 6

Executive Summary

On August 28, 2020, Governor Tim Walz issued Executive Order 20-88, establishing the Blue Ribbon Committee on the Metropolitan Council's Structure and Services (Committee) to review three identified issues: the role of elected versus appointed Metropolitan Council Members, the Metropolitan Council's role as a Metropolitan Planning Organization (MPO), and the effectiveness of the delivery of regional transit service. The Committee included a panel of civic, business, and academic leaders to provide for a broad range of input and expertise.

The Committee met over a three-month period, collecting a broad range of input through open (virtual) meetings. Information and testimony were received from state legislative staff, state agency representatives, Metropolitan Council staff, local government officials, and interested advocacy groups and civic organizations.

This report reflects the Committee's findings and consensus recommendations regarding the three issues that the Committee was directed to review in Executive Order 20-88.

- *The role of elected versus appointed Metropolitan Council members*

The Committee recommends that Metropolitan Council Members should be appointed by the governor and should not be directly elected to the Council. Metropolitan Council Members should not be sitting local elected officials. The Committee recommends a change in current law to establish four-year staggered terms for Council Members, and an expansion of the nominating committee to include a majority of local elected officials.

- *The Metropolitan Council's role as a Metropolitan Planning Organization ("MPO") and identify and evaluate the ways this federal designation may complement and conflict with the Council's responsibilities under Minnesota law*

The Committee finds that the U.S. Department of Transportation has determined that the Metropolitan Council is the properly designated MPO for the Twin Cities metropolitan area under federal law. Federal agencies have recognized the legal status of the Council as the region's MPO directly, through certification of the planning process and plan approval, and award of federal transportation funds.

- *The effectiveness of the delivery of regional transit service*

The Committee finds that the current regional transit model allows for conflicting priorities for investment, but also provides value in opportunities for local input. The Committee recognizes that stable and long-term funding have been a challenge for the regional transit system, and that there is a great deal of uncertainty moving forward as budget deficits loom and ridership trends were severely disrupted by the COVID-19 pandemic.

ATTACHMENT 7

Metro Cities' 2021 Legislative Policies (DRAFT) **Regional Governance, Transportation Advisory Board, and Regional Transit Systems (policies will receive final adoption on 11-19-20)**

Goals and Principles for Regional Governance

The Twin Cities metropolitan region is home to a majority of the state's population and businesses and is poised for significant growth in the next two decades. At the same time, the region faces significant challenges and opportunities. The responses to these opportunities and challenges will determine the future success of the region and its competitiveness in the state, national and world economies.

The Metropolitan Council was created to manage the growth of the metropolitan region, and cities are responsible for adhering to regional plans as they plan for local growth and service delivery.

The region's cities are the Metropolitan Council's primary constituency, with regional and local growth being primarily managed through city comprehensive planning and implementation, and the delivery of a wide range of public services. To function successfully, the Metropolitan Council must be accountable to and work in collaboration with city governments.

The role of the Metropolitan Council is to set broad regional goals and to provide cities with technical assistance and incentives to achieve those goals. City governments are responsible and best suited to provide local zoning, land use planning, development and service delivery. Any additional roles or responsibilities for the Metropolitan Council should be limited to specific statutory assignments or grants or authorization and should not usurp or conflict with local roles or processes, unless such changes have the consent of the region's cities.

Metro Cities supports an economically strong and vibrant region, and the effective, efficient and equitable provision of regional infrastructure, services and planning throughout the metropolitan area. Metro Cities supports the provision of approved regional systems and planning that can be provided more effectively, efficiently or equitably on a regional level than at the local level by individual local units of government.

The Metropolitan Council must involve cities in the delivery of regional services and planning and be responsive to local perspectives on regional issues and be required to provide opportunities for city participation on Council advisory committees and task forces.

The Metropolitan Council must involve cities at all steps of planning, review and implementation around the regional development guide, policy plans, systems statements, and local comprehensive plan requirements to ensure transparency, balance and Council adherence to its core mission and functions. These processes should allow for stakeholder input before policies and plans are released for comment and finalized. Any additional functions for the Council should not be undertaken unless authorized specifically by state law.

Regional Governance Structure

Metro Cities supports the appointment of Metropolitan Council members by the Governor with four-year, staggered terms for members to stabilize ideological shifts and provide for continuity of knowledge on the Council, which is appropriate for a long-range planning body. The appointment of the Metropolitan Council Chair should coincide with the term of the Governor.

Metro Cities supports a nominating committee process that maximizes participation and input by local officials. Metro Cities supports expanding the nominating committee from seven to 13 members, with a majority of a 13-member committee being local elected officials. Of the local officials appointed to a nominating committee, two thirds should be elected city officials, appointed by Metro Cities.

Consideration should be given to the creation of four separate nominating committees, with committee representation from each quadrant of the region.

Metro Cities supports having the names of recommended nominees or other individuals under consideration for appointment to the Council by the Governor to be made public at least 21 days prior to final selection by the Governor, and a formal public comment period before members are appointed to the Council.

Metro Cities supports the appointment of Metropolitan Council members who have demonstrated the ability to work with cities in a collaborative manner, commit to meet with local government officials regularly and who are responsive to the circumstances and concerns of cities in the district that they represent on the Council. Council members should understand the diversity and the commonalities of the region, and the long-term implications of regional decision-making. A detailed position description outlining the required skills, time commitment and understanding of regional and local issues and concerns should be clearly articulated and posted in advance of the call for nominees. **Metro Cities supports opportunities for local officials to provide input during the decennial legislative redistricting process for the Metropolitan Council and supports transparency in the redistricting process.**

Transportation Planning Process: Elected Officials' Role

The Transportation Advisory Board (TAB) was developed to meet federal requirements, designating the Metropolitan Council as the organization that is responsible for a continuous, comprehensive and cooperative (3C) transportation planning process to allocate federal funds among metropolitan area projects. Input by local officials into the planning and prioritization of transportation investments in the region is a vital component of these processes.

Metro Cities supports continuation of the TAB with a majority of locally elected municipal officials as members and participating in the process.

Regional Transit System

The Twin Cities Metropolitan Area needs a multi-modal regional transit system as part of a comprehensive transportation strategy that serves all users, including commuters and the transit dependent. The transit system should be composed of a mix of high occupancy vehicle (HOV) lanes, high occupancy toll (HOT) lanes, a network of bike and pedestrian trails, bus rapid transit, express and regular route bus service, exclusive transit ways, light rail transit, streetcars, and commuter rail corridors designed to connect residential, employment, retail and entertainment centers. The system should be regularly monitored and adjusted to ensure that routes of service correspond to the region's changing travel patterns.

Current congestion levels and forecasted population growth require a stable, reliable and growing source of revenue for transit construction and operations so that our metropolitan region can meet its

transportation needs to remain economically competitive. **Metro Cities supports an effective, efficient and comprehensive regional transit system as an invaluable component in meeting the multimodal transportation needs of the metropolitan region and to the region's economic vibrancy and quality of life.** Metro Cities recognizes that transit service connects residents to jobs, schools, healthcare and activity centers. Transit access and service frequency levels should recognize the role of public transit in addressing equity, including but not limited to racial and economic disparities, people with disabilities and the elderly. **Metro Cities supports strategic expansion of the regional transit system.**

Metro Cities supports a regional governance structure that can ensure a measurably reliable and efficient system that recognizes the diverse transit needs of our region and addresses the funding needs for all components of the system. These regional governance structures must work with and be responsive to the needs of the communities they serve.

Metro Cities recognizes the need for flexibility in transit systems for cities that border the edges of the seven-county metropolitan area to ensure users can get to destinations outside of the seven-county area. Metro Cities encourages the Metropolitan Council to coordinate with collar counties so that riders can get to and from destinations beyond the boundaries of the region.

Metro Cities opposes statutory changes restricting the use of local funds for planning or construction of transit projects. Restricting local planning and funding limits the ability of cities to participate in transit corridor planning and development. State and regional policymakers must coordinate with local units of government as decisions are made at the state level on transit projects that also involve municipal planning, funding and policy decisions.

Metro Cities is opposed to legislative or Metropolitan Council directives that constrain the ability of metropolitan transit providers to provide a full range of transit services, including reverse commute routes, suburb-to-suburb routes, transit hub feeder services or new, experimental services that may show a low rate of operating cost recovery from the fare box.

In the interest of including all potential options in the pursuit of a regionally balanced transit system, Metro Cities supports the repeal of the gag order on the Dan Patch Commuter Rail Line and opposes the imposition of legislative moratoriums on the study, planning, design, or construction of specific transit projects.

In the interest of safety and traffic management, Metro Cities supports further study of rail safety issues relating to water quality protections, public safety concerns relating to derailments, traffic implications from longer and more frequent trains and the sensitive balance between rail commerce and the quality of life impacts on the communities through which they pass.

The COVID-19 crisis has had dramatic effects on public transit service, including changing business practices that are likely to substantially reduce transit demand for the foreseeable future. Adverse economic effects threaten revenues available to fund transit operations. Suburban transit providers are concerned that funding challenges may be used to attempt to justify a repeal of their authorizing legislation and to consolidate transit services into a single regional entity. This would result in reverting to conditions existing nearly 40 years ago when inadequate service caused twelve suburbs to elect not to be part of the traditional transit system.

Metro Cities strongly supports the autonomy of suburban transit providers to conduct operations to meet demonstrated and unique needs in their designated service areas independent from the operations of other regional transit providers.

ATTACHMENT 8

Regional Governance Approaches

Area of Responsibility

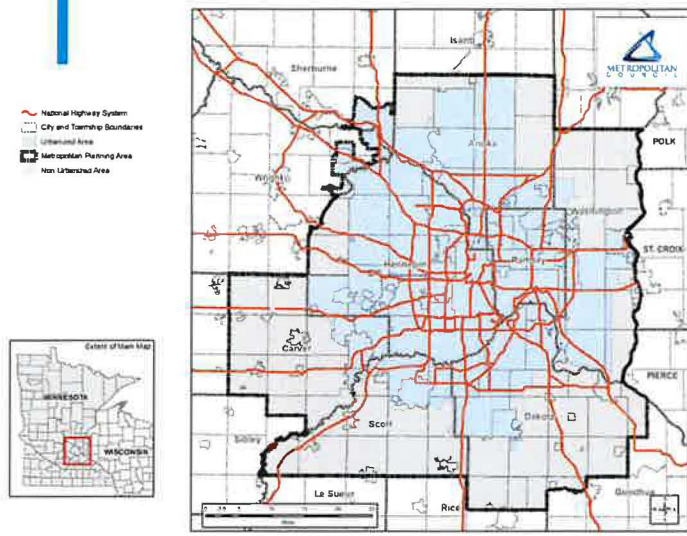
September 2008

Agency	Structure	Area of Responsibility	Notes	Geography	Estimated Population (most recent available)
Atlanta Area Regional Commission (AARC)	COG/AARC membership based	Transportation Growth Management / Land Use Housing Wastewater Transit Parks Solid Waste Environment/Water Resources Arts/Culture/Agri/ Other	16-member Board: County commission chair from each member county, mayor and 1 council member from Atlanta, one mayor from each member county and 2 mayors from Fulton county, one member from the GA Dept of Community Affairs, 15 other members selected by the Board's elected officials	10 member counties, City of Atlanta	~4.6 million
Illinois Metropolitan Area Planning Council (IMAPC)	Regional Planning Agency (Illinois Region IMAPC is the IMPO for the region, created in state law)		Board and Council - 101 municipal representatives on the Council, 21 gubernatorial appointees, 9 state officials, and 3 City of Boston officials.	101 municipalities	~4.5 million
Chicago Metropolitan Agency for Planning (CMAP)	Regional planning agency (formal subsidiary with an IMPO with the IMPO. Created by the IL legislature in 2004.		15 voting members distributed among the counties (formal subsidiary); appointed by the mayor and chair elected official of the county; 5 members appointed by the mayor of Chicago; 2 non-voting gubernatorial appointees; Exec. Director from the IMPO.	7 counties, 284 communities	~3.8 million
Illinois River Region Council of Governments (IRRCOG)	ARPO & Regional Planning Association; voluntary non-profit organization		One elected representative from each member jurisdiction in the Council; 26 jurisdictional members; 3 gubernatorial non-voting appointees; and 1 non-voting member representing the Regional Transportation District (to meet agency)	More than 50 local governments covering 10 counties	~3 million
Metropolitan	Regional Planning Agency & IMPO, created in state law		Based across the region, represent geographic districts that do not coincide with political/judicial district boundaries; 6 councilors and 1 president serve 4-year terms; Metro Auditor is also elected and conducts performance audits of Metro's programs and oversight of annual financial statements.	3 counties, 23 municipalities	~2.5 million
North Sound Regional Council (NSRC)	Regional planning agency and IMPO, inter-judicial agreement.		General Assembly comprised of more than 80 local governments and agencies, including 4 counties, cities and towns, ports, state and local transportation agencies, and tribal governments within the region. Elected officials of the General Assembly elect a 21-member Executive Board who is empowered to make decisions.	4 counties, 71 cities and towns	~2 million
North Central Management Council	Regional planning agency & IMPO, created in state law		16 member representing geographic districts, plus a Chair in large - all gubernatorial appointees	2 counties, 38 cities and townships	~1.5 million

= replaces policy making & operating powers

ATTACHMENT 9

3. MPO Area Boundary



4. MPO Area Boundary

- After each census, federal government defines “urbanized areas” (UZA) based upon population density and contiguous development
- The Metropolitan Planning Area (MPA) is the area of MPO jurisdiction for planning and programming of federal transportation funds
 - Each MPO defines/selects boundaries for its metropolitan planning area
 - MPA must include the area federally defined as Urbanized (UZA)
 - MPA must include areas projected to become urbanized within next 20 years
 - MPA boundary may extend beyond areas expected to become urbanized
- Council boundaries set as 7 counties which includes urbanized areas, areas expected to urbanize and rural areas
- After 2010 census, portions of Wright and Sherburne area (Albertville, St. Michael, Hanover, Elk River, Otsego, Big Lake township) and Houlton WI defined as urbanized and required to be added to MPO

5. 3-C Planning Process

Backbone of federal law is the requirement for a 3C Planning Process:

- Cooperative – Include local governments, federal and state agencies, transportation providers, public
- Comprehensive – All surface transportation modes
 - Highways, transit, bicycle, pedestrian, freight
 - State law added airport planning to Council responsibilities; not an MPO requirement
- Continuing – On-going, evolving, evaluative planning process

6. Our regional partners

- Council and its Transportation Committee
- Transportation Advisory Board and its Technical Committees
- Minnesota Department of Transportation
- Counties, Cities, Townships
- Tribal governments
- State and federal agencies (DNR, Pollution Control, Public Safety)
- Metro Transit and Suburban Transit Providers
- Metropolitan Airports Commission (MAC)
- Public participation

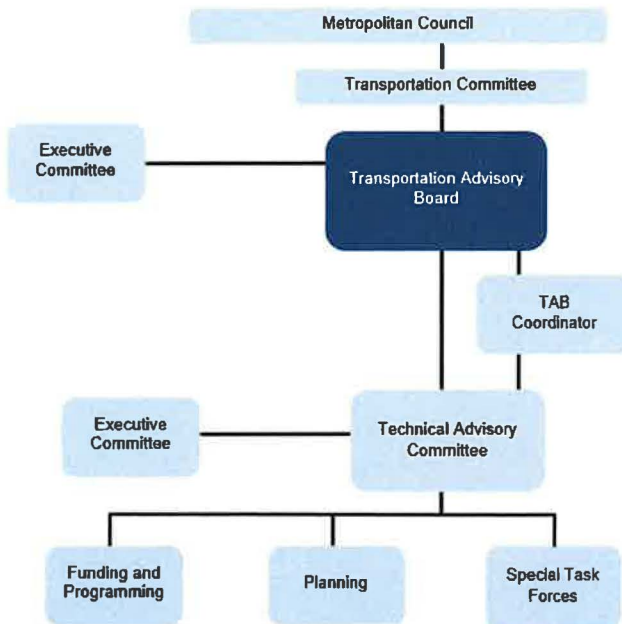
7. Transportation Advisory Board

- State law establishes an advisory body, Transportation Advisory Board (TAB), comprised of 34 members:
 - Elected officials: 7 county, 10 city, 1 Suburban Transit Provider
 - Agency representatives (4): MnDOT, MAC, MPCA, Council
 - Citizens appointed by Council (8)
 - Modal representatives (4): 1 freight, 2 transit, 1 bicycle/pedestrian
- Local elected officials participate in selecting and approving federally-funded projects through Regional Solicitation and TIP
- TAB recommends program of projects for federal funding, Council concurs/denies program
- Provides comment and review of planning products

8. TAB Structure

MnDOT Participation:

- MnDOT Metro District Engineer
- Freight Rep Designated by MnDOT
- MnDOT staff also on technical sub-committees



9. Technical Advisory Committee (TAC)

- Advises the Transportation Advisory Board
- Includes staff from each of the 7 counties, 12 cities, 11 agencies, and one from Wright/ Sherburne area
- Provides technical support in development of Regional Solicitation application criteria, measures and scoring
- Provides recommendations on project scope changes
- Provides technical review and recommendations on multimodal planning products

10. Metropolitan Council serves as the MPO for the Twin Cities region

- Designated as the MPO in 1973 by Governor Wendell Andersen, MS 473.146
- 1991 federal ISTEA Act which included MPO membership requirements “grand-fathered in” non-conforming MPOs
- Status as the MPO reaffirmed by USDOT on four occasions, Jan. 2011, Aug. 2015, Feb. 2016, Aug. 2018
- Federal certification reviews of planning process completed every four years (upcoming Dec. 2020, last review & certification 2016) products

11. MPO Redesignation

23 USC 134 (d)

A metropolitan planning organization may be redesignated by agreement between the Governor and units of general purpose local government that together represent at least 75 percent of the existing planning area population (including the largest incorporated city (based on population) as determined by the Bureau of the Census) as appropriate to carry out this section.

- Upon a redesignation, the MPO Membership must include:
 - (A) local elected officials;
 - (B) officials of public agencies that administer or operate major modes of transportation in the metropolitan area, including representation by providers of public transportation; and
 - (C) appropriate State officials.

12. MPOs and Federal Funding

- MPOs annually receive federal Consolidated Planning Grant funds through MnDOT to fund on-going staff and operations
 - About \$4.1 M annually for Met Council MPO functions, Council matches minimum 20%(\$1.1 M), typically provides overmatch for planning activities and major studies
- Federal law specifies that urban areas receive a sub-allocation of 55% of a state's Surface Transportation Block Grant (STBG) allocation based on their relative share of the total State 2010 Census population
 - Allocated approximately \$60M in STBG funds annually for Regional Solicitation
- CMAQ funds allocated to states for non-attainment and maintenance areas
 - Allocated approximately \$32 M in CMAQ funds annually for Regional Solicitation

13. Overall transportation planning process

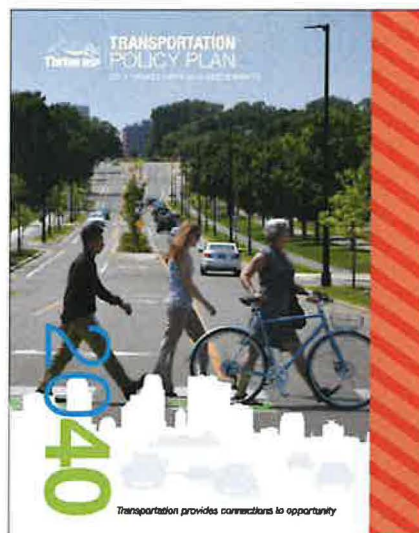
- Identifies transportation needs, goals, strategies, and investment priorities within the region
- Decides how limited funding is allocated
- Establishes framework for future transportation system
- Identifies major investments
- Leads to project development
- Provides public input opportunities

14. Our Region's Planning Process

- Adopted MOU between Council and MnDOT (updated every 4 years)
- Process described and identified in the regional Planning and Programming Guide, last updated Jan. 2020
- 2014 MOU with Wright and Sherburne counties

15. Federally Required Planning Products

- Transportation Policy Plan (TPP)
 - Long-range 20-year system and investment plan
 - Now on 5-year required update schedule
- Transportation Improvement Program (TIP)
 - Short-range, 4-year program of federally funded projects
 - Must be incorporated with no changes into MnDOT STIP
- Unified Planning Work Program (UPWP)
 - Annual work plan of planning activities
- Public Participation Plan
 - Specifies how planning partners and public will be provided opportunities for involvement



16. Transportation Policy Plan

Covers all modes:

- Highway
- Transit
- Bicycle
- Pedestrian
- Aviation
- Freight

17. TPP focus level

- Plan provides strategic investment direction, performance outcomes and major investments for the regional transportation systems:
 - Principal arterial highways (freeways and expressways primarily MnDOT)
 - Minor arterial highways (MnDOT, county and city owned)
 - Rail and bus transitways
 - Bus system design guidelines (not specific routes)
 - Metropolitan Airports (state law only)
- Minimum 20-year analysis of expected revenues and expenditures
- Must identify and include all regionally significant projects
- Regionally significant project =
 - Any capacity addition on a Principal arterial
 - A capacity addition >1 mile on Minor arterials
 - All rail and bus transitways on exclusive right of way
 - Arterial Bus Rapid Transit lines

18. Regional Investments Identification

System level investment studies

- MnPASS studies
- Principal Arterial Intersection Conversion study
- Metro Highway Truck Corridors study
- Highway Transitways Corridor study
- Arterial BRT Study

Investment studies lead to corridor studies

- I-494 MnPASS
- B Line ABRT study
- Highway 169 MnPASS & bus rapid transit study

Studies lead to regional projects in TPP

- Competitive processes prioritize and fund projects from regional studies

19. Council Project Reviews and Approvals

- Regionally significant projects identified in Transportation Policy Plan (federal law)
- All federally funded projects and regionally significant projects in the TIP (federal law)
- Participate, review and comment on environmental reviews and documents (federal and state law)
- Controlled Access Facility approval for expansion projects on freeways (state law)
- Local comprehensive plans and amendments review for conformity with regional transportation system (state law)
- Interchange Approval Process for new or modified interchanges (federal and state rules and processes)

ATTACHMENT 10



Chair Frank Hornstein
House Transportation Committee

March 13, 2023

Dear Chair Hornstein and Members of the House Transportation Committee,

The Metropolitan Council was created 50 years ago to solve significant problems – the entire region faced sewage, development and transit crises and some communities were unable to provide essential services to their residents – challenges that local officials were unable to solve on their own. Legislators understood the need to create a regional governance structure to manage issues that transcended local boundaries. In establishing the new Metropolitan Council, the legislature provided for appointed citizen members who could focus on addressing regional concerns. The Council's governance was established specifically – and even brilliantly – to give it important limited authority but with statutory accountability to the Governor, Legislature, local officials and the region's citizens and businesses. The creation of the Metropolitan Council put Minnesota on the map for its innovative metropolitan problem-solving strategy and to this day it is the envy of metropolitan regions across the country. The Council continues to serve as a national model of regional governance and local coordination of services.

Today, the Council's responsibilities cover transit, waste and wastewater management systems, regional parks and park reserves, regional trail systems, assistance to local governments on development of comprehensive plans, regional water supply, and other functions. In 2015, the Council adopted a new housing plan, the first in 30 years, to assist local communities in creating housing options for people of all incomes and at all stages of life.

Our region's Metropolitan Council is again receiving attention at the Legislature, with legislation that would overthrow the current structure for a model that would require the Council to be elected.

Many of us involved in local government believe this legislation would threaten the effectiveness of our regional government and its mission to provide comprehensive regional planning, infrastructure, and services in a coordinated and efficient fashion. This is not to say there is not room to refine what works well. However, an elected Metropolitan Council would essentially “throw the baby out with the bathwater.”

Here are several reasons I believe the proposed governance change in HF 2092-Hornstein is problematic and ill-advised:

State law gives the Metropolitan Council responsibility to coordinate and provide regional planning and infrastructure, including wastewater, transit, and the allocation of federal highway funds for improvement of our regional transportation system. The need for coordination among the Council and other governmental units is essential and is generally effectively accomplished on a partnership basis. There are occasions where there may be tensions among regional and local officials when regional and local interests conflict, and in such cases, Council members need the space and governance structure that allow it act on behalf of the region. Under an elected Council, the Council's regional function and purpose would be sacrificed to parochial approaches and conflicts that are inherent in an elected model. The work of the Council does not lend itself to this model of governance.

In its regional transportation and transit function, the Metropolitan Council has been approved by the federal government as a Metropolitan Planning Organization (“MPO”). The Transportation Advisory Board (TAB), acting in its advisory capacity to the Council, serves this function as an approved MPO. Federal funding in excess of \$200 million bi-annually is presently effectively and fairly channeled through the TAB planning process and its 34 members, composed of elected

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officials, agency representatives, and citizens, who recommend the use of federal funds for the benefit of the entire region. A governance change of the magnitude proposed by this legislation would trigger the need for a re-designation of the MPO and by law would require the support of 75% of the cities in the MPO district and other significant approvals. This process would likely take several years, and in the process, could compromise federal funding for projects planned and approved across the region.

When regional governance changes are proposed, they are often done under the assertion that the Metropolitan Council lacks transparency and accountability. While I would dispute this assertion, there are, nonetheless, after 50 years, some changes that can be made to our regional governance model that would improve its channels of accountability while maintaining the integrity of our known and viable regional structure. Staggering the terms of Metropolitan Council members would be a significant improvement and often doesn't get its due consideration in terms of its importance to the improvement of our already well functioning regional governance model. Staggered terms allow for phasing the appointment of members and the expiration and promote regional stability and focus, minimizing the effect of politics on the body and allowing new members to learn the intricacies of regional governance before the eventual departure of the more experienced members. Staggered terms also allow for more diverse viewpoints and would help inoculate the Council from mission creep or the potential for sharp lurches in policy direction. Staggered terms are in place for many governmental bodies and they have broad support.

Improvements could also be made to add transparency to the process for nominating and appointing members and such changes should be made. Such refinements to the regional governance model would a good model even more effective and efficient, as opposed to a wholesale overhaul that creates an uncertain course and structure for the future.

Our regional government is a true and distinct regional governance model, free of the clashes of partisan loyalties, party politics, and parochialism. Let's support common sense improvements that would serve the Council and all its stakeholder communities, improvements that allow the Council to do what it is designed to do – coordinate and provide for regionwide public policy, planning and provide the services that benefit the economic prosperity of our region and our state. That pathway is not through an elected Metropolitan Council, but instead a refinement of what we have.

Sincerely,

A handwritten signature in black ink, appearing to read "James B. Hovland". The signature is stylized with a large initial "J" and "H".

James B. Hovland
Mayor, City of Edina
Chair, Transportation Advisory Board
jhovland@hovlandrasmus.com

CITY OF EDINA

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Professor Orfield
Submissions

Orfield
Metropolitan Council Reform Proposal

The Metropolitan Council shall consist of two chambers or divisions.

A. The Chamber of the People or the Public Division

A “directly elected body” of sixteen members that shall be elected by districts drawn equal in size and subject to the minority opportunity district requirements of section 2 of the Federal Voting Rights Act. The elections shall be non-partisan, funded by with a public election finance system similar to Minnesota Legislature’s public finance system. All tax and bonding provisions, and all discretionary policy decisions, must originate from the directly elected body. The directly elected members will have a salary that is the average of the salaries of elected members of the county boards in the seven metropolitan counties.

B. The Chamber of Local Governments or the Local Government Division

The chamber/division of local government or the “local government body” will replace the Transportation Advisory Board, assuming its duties and other powers enumerated by the legislature. The local government body shall be composed of elected city, county and school board officials chosen by three caucuses of elected officials from the: 1) the central cities; 2) the fully developed suburbs; and 3) the developing suburbs to ensure that these caucus are each proportionally represented based on their relative population.

The chamber of local government shall be consulted on all major policy decisions and have the power to force the directly elected body to reconsider any major policy decisions and may, by a qualified or super-majority vote, veto any major action by the directly elected body.

The members of the local government body will be paid reasonable additional compensation for their public meetings and shall be urged to attend national and international meetings and training courses to improve their understanding of regional planning issues.

C. Approval by referendum

Within two years of the final passage of this legislation, the Metropolitan Council shall submit its revised governmental structure for approval of the citizens of the seven-county metropolitan area.

Metropolitan Governance Task Force Proposal: Myron Orfield

- Direct Election of the Metropolitan Council

TO: Rep. Frank Hornstein and Sen. Scott Dibble
FROM: Myron Orfield & Will Stancil
DATE: March 21, 2022
RE: American Principles of Local Governance and the Appointed Met Council

In jurisdiction, authority, and purpose, the Metropolitan Council resembles a unique form of local government. It exercises sweeping authority over intrinsically local concerns like land use, infrastructure planning, housing, and transportation systems. It also boasts an operating budget comparable to a large city – \$1.13 billion in 2022.¹ It can levy property taxes and issue bonded debt, and its 2022 capital program includes \$9.00 billion in spending, including \$5.33 billion of authorized spending towards active projects.² This capital spending far exceeds that of Hennepin or Ramsey Counties, Minneapolis, or Saint Paul.

However, at present, the Met Council is governed like a state agency, controlled by appointees of the governor, beholden more to the appointing executive than to the people within the Council’s borders. This structure has undermined the democratic responsiveness of the Council. It subjects residents of the Twin Cities, their suburbs, and their exurbs to the decisions of unelected officials over whom voters have only partial, indirect influence. The Met Council’s current governance structure contravenes basic principles of democratic accountability that underlie centuries of United States law. More pragmatically, it sabotages the Met Council itself, by limiting its ability to develop the sort of long-term and highly specialized policy expertise necessary to lead such a complex body. Finally, it arguably creates an inappropriate incentive structure for Council members, offering them little incentive to consider how to effectively and judiciously use the Council’s broad powers, except in circumstances where those powers might be deployed to the benefit of the appointing authority.

Broad Local Governmental Powers in the United States Are Typically Wielded by Elected Officials

In the United States, governmental bodies below the state level can be roughly divided into three types: agencies, general-purpose governments, and special-purpose governments.³

¹ Metropolitan Council, 2022 Unified Budget (Dec. 8, 2021).

² *Id.*

³ For a treatise discussion of the distinction between the two main types of local government, see 1 John Martinez, *Local Government Law* § 2:7 Types of Local Government Units (2021).

Agencies are instruments of state executive authority. They are statewide in jurisdiction, and have limited powers that are an extension of state executive authority. Typically, in the United States, agencies are headed by appointees of the executive. Agencies are restricted to a particular field of policy, and their activities are channeled by clear statutory grants of regulatory purpose. Importantly, state agencies typically cannot levy taxes. This is because agencies are an extension of the executive branch, and taxation is a legislative power. Legislative transference of the power of taxation to another coequal branch of government creates separation of powers concerns.

In Minnesota, when state agencies create rules, they are governed by the Minnesota Administrative Procedure Act. Indeed, that act defines “agency” as “any state officer, board, commission, bureau, division, department, or tribunal, other than a judicial branch court and the Tax Court, *having a statewide jurisdiction* and authorized by law to make rules or to adjudicate contested cases.”⁴ Conformance to administrative procedures is essential because it provides public input into what would otherwise be a system with little democratic accountability.

Special districts merge a state agency’s limited policy purview with a geographically limited jurisdiction. Special district leadership may be elected or appointed some other authority. However, the authority of special districts is typically limited by statute and restricted to a single narrow policy area. Special districts include entities like school boards, water districts, utility districts, or business improvement districts.

Finally, there are general-purpose units of local government. General-purpose units of local government include political Subdivisions of the state and municipal corporations, and comprise entities like counties and cities. For most Americans, these bodies represent the closest and most visible layer of government, responsible for the physical infrastructure that underlies developed communities, as well as the day-to-day policy and land use decisions that determine where people live, work, and recreate. General-purpose local government has broad discretionary taxing power. It also has relatively or completely unchanneled policymaking authority, being empowered to set policy in accordance with the preferences of the governed, rather than some executive mandate promulgated from above. Nearly without exception, in the United States, the leadership of general-purpose units of local government is elected.

The Met Council Most Closely Resembles a General-Purpose Unit of Local Government

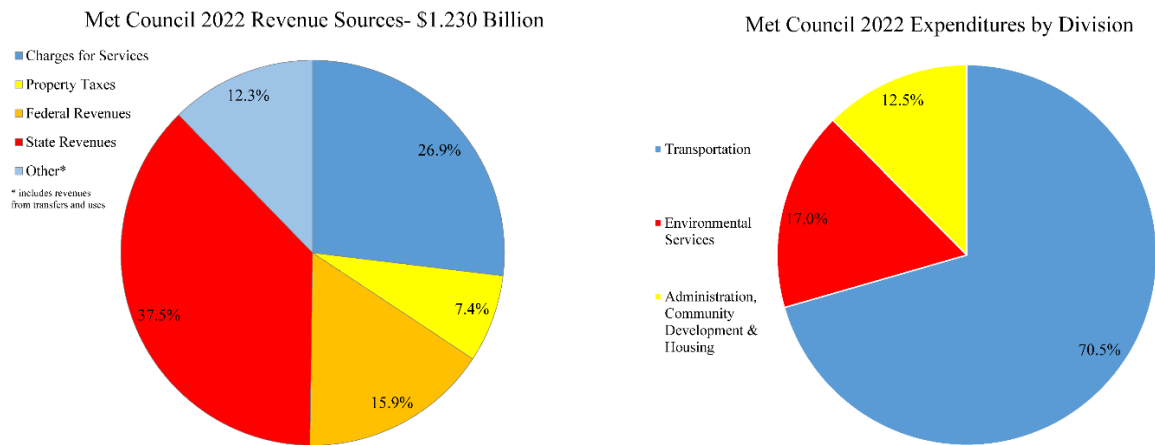
Although the Metropolitan Council fits imperfectly into this taxonomy, its authorities and responsibilities place it much closer to a general-purpose unit of local government than to a special district or state agency.

⁴ Minn. Stat. § 12.02 Subd. 2 (2021) (emphasis added).

Unlike a state agency, the Met Council is not statewide in jurisdiction. Significantly, the Met Council has authority to levy taxes – potentially creating a major separation of powers problem, if it were deemed an agency.⁵ The Council, in its promulgation of a regional master plan, can institute sweeping policy plans without undertaking a formal administrative rulemaking, also placing it outside the ordinary agency structure.⁶

If the Met Council cannot be a traditional agency, it also little resembles a traditional special district. Special districts are created for specific purposes and have a narrow policy authority. However, the Met Council’s policy authority sweeps across multiple subjects.

Most fundamentally, the Met Council merges several disparate functions into a single unit of government, including wastewater planning and construction, transportation planning, public housing and housing assistance, and general regional planning. As a result of these activities, the Met Council manages one of the state’s largest capital budgets, comparable to – but currently exceeding – the largest metropolitan local governments, including Hennepin County and the city of Minneapolis. Its operating budget exceeds one billion dollars. The Council collects tens of millions in revenue from property taxes and spends hundreds of millions of dollars in multiple policy areas.



⁵ Minn. Stat. § 473.249 Subd. 1 (a) (2021) (“The Metropolitan Council may levy a tax on all taxable property in the metropolitan area defined in section 473.121 to provide funds for the purposes of sections 473.121 to 473.249 and for the purpose of carrying out other responsibilities of the council as provided by law.”).

⁶ Minn. Stat. § 473.145 (2021) (“The Metropolitan Council shall prepare and adopt, after appropriate study and such public hearings as may be necessary, a comprehensive development guide for the metropolitan area. It shall consist of a compilation of policy statements, goals, standards, programs, and maps prescribing guides for the orderly and economical development, public and private, of the metropolitan area. The comprehensive development guide shall recognize and encompass physical, social, or economic needs of the metropolitan area and those future developments which will have an impact on the entire area including but not limited to such matters as land use, parks and open space land needs, the necessity for and location of airports, highways, transit facilities, public hospitals, libraries, schools, and other public buildings.”).

Within these governmental functions, the Met Council also possesses a remarkable degree of policy discretion and authority, particularly with regard to its regional planning function. The regional master plan that the Met Council develops must “encompass” the “physical, social, and economic needs of the region” – in short, address virtually all the spheres of everyday life and welfare that are typically the purview of general-purpose units of local government.⁷ The Council is granted a great deal of discretion in making these decisions, as statute requires that the Council itself make a determination of what those “needs” may be.⁸ This broad grant of discretionary authority to make decisions to promote the general welfare of the people within the Council’s jurisdiction closely resembles a general-purpose local government.

Although certain areas for close consideration in metropolitan planning are enumerated to the Met Council, these areas are not sharply limited to single subject as they might be in a special district. Instead, the Council is empowered to consider, in its master plan, developments that will have regional impacts, including but not limited to:

1. land use
2. parks and open space
3. the necessity for and location of airports
4. highways
5. transit facilities
6. public hospitals
7. libraries
8. schools, and
9. other public buildings.⁹

The Met Council can also unilaterally expand this authority by making a determination that a particular development has a regional impact.¹⁰ Its authority is further expanded by a broad clause which empowers it to “exercise all powers which may be necessary or convenient to enable it to perform and carry out the duties and responsibilities now existing or which may hereafter be imposed upon it by law.”¹¹

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ Minn. Stat. § 473.173 (2021) (“ Subdivision 1. By rule and statute. The council shall review all proposed matters of metropolitan significance to be undertaken by any private organization, independent commission, board or agency, local governmental unit, or any state agency in accordance with the rules adopted pursuant to this section and the provisions of any other relevant statute. Subd. 2. Rules. The council shall adopt and put into effect rules establishing standards, guidelines and procedures for determining whether any proposed matter is of metropolitan significance, and establishing a procedure for the review of and final determination on such matters in accordance with the powers and requirements set forth in this section. The purpose of these rules shall be to promote the orderly and economical development, public and private, of the metropolitan area.”).

¹¹ Minn. Stat. § 473.128 Subd. 1 (2021).

The Met Council’s authority even allows it to overrule decisions of other units of government, including elected government. The Council is statutorily empowered to suspend the plans of state agencies operating within the metropolitan area in a fashion that is inconsistent with the Council’s plans¹²; it can also suspend local comprehensive plans if inconsistent with the regional planning guide.¹³

In 1967, the Minnesota Attorney General considered the status of the Met Council in an advisory opinion to James Hetland, the Council’s chair at the time.¹⁴ After determining that the Council “has many attributes of a local governmental unit,” the AG concluded that it is “a unique unit of government . . . standing a step above local governmental units and a step below state agencies [and] clothed with certain attributes and powers of each.”¹⁵ However, the AG also firmly concluded that the Council “cannot be considered a ‘state agency’” for the purposes of certain fiscal legislation.¹⁶

Since the AG’s conclusion, the Council has been expanded several times, including in its combination with metropolitan transportation and wastewater boards, and through the extended planning powers granted by the Livable Communities Act of 1995. These changes place the Council at an even greater remove from a traditional agency or special district structure.

The Met Council’s Policymaking Authority Is Inappropriately Broad for an Appointed Agency

To the extent the Met Council can be understood as a general-purpose unit of local government, it is appropriate for its leadership to be elected. Appointed leadership does not provide the degree of democratic responsiveness that US citizens have come to expect over agencies with such broad and flexible policy mandates. Nor does appointed leadership comport with the Council’s authority to levy taxes. The Met Council, of its own volition, can choose to limit or expand metropolitan growth, maintain parks or allow them to deteriorate, build exurban roads or improve central city light rail. It can assign to itself the authority to regulate virtually any significant development in the metropolitan area. It can create additional property taxes. Residents of the Twin City metro currently have little or no direct influence over these broad exercises of general-purpose local power, and are only empowered to set policy priorities through a single four-year vote, for a gubernatorial candidate.

¹² *Id.*

¹³ Minn. Stat. § 473.175 Subd. 1 (2021) (“The council may require a local governmental unit to modify any comprehensive plan or part thereof if, upon the adoption of findings and a resolution, the council concludes that the plan is more likely than not to have a substantial impact on or contain a substantial departure from metropolitan system plans.”).

¹⁴ Letter of Douglas M. Head, Attorney General of Minnesota, to James Hetland, Chairman of the Metropolitan Council (Oct. 3, 1967).

¹⁵ *Id.* at 12.

¹⁶ *Id.* at 13.

From a more pragmatic frame, it is unlikely that the current appointed Council creates strong incentives for responsive, effective, and judicious regional planning. Councilmembers are most directly beholden to the appointing authority, the governor. The governor's policy and political interests may not, in every case, be aligned with the policy and political interests of individual metropolitan communities. For example, if a certain segment of the Council's jurisdiction is not a political priority for a particular governor, he or she has little reason to select a Council appointee that would be responsive to that area's interests. This could lead to, among other outcomes, underfunding and underprioritization of those areas. Likewise, residents of those areas would have little ability to register their frustration or displeasure with those policy choices, beyond voting differently in a broad, statewide election – one that inevitably encompasses many issues far outside the Met Council's purview.

Unelected Council leadership may also reduce the Council's responsivity to other components of the political system, including local leaders and state legislators. With little need to win political support within their own Council districts, the members have little incentive to respond to requests from outside elected officials.

Finally, an appointed Council likely results in a body with a troubling dearth of policy expertise. As previously discussed, the Council's policy portfolio is massive, encompassing land use, wastewater, transportation, housing, long-term planning and growth, and parks. Its enabling statutes are complex and contain many authorities that are poorly understood within the state. The Met Council is a body that benefits deeply from experienced leadership. However, as an appointed body, the Council membership tends to rotate frequently and abruptly, especially after change in gubernatorial leadership. These rotations strip the body of the institutional memory necessary to deftly and skillfully deploy its various authorities. It transfers, in effect, much of the authority in the body to long-term staff, who represent the primary reservoir of institutional knowledge. It also risks empowering special interests, such as private developers, whose experience working with the council is likely to be much longer than the tenure of the council members themselves. Such an arrangement is corrosive to long-term regional planning, which necessarily entails making decisions that have significant political dimensions and requires weighing of competing values and interests. These are difficult decisions that, in the American system of government, are rightfully entrusted to elected representatives of the governed.



Metropolitan Governance Task Force

October 13, 2023

Metropolitan Council
390 Robert St. North
St. Paul, MN. 55101

Sent via e-mail to Judd Schetnan

Dear Metropolitan Council,

During the last legislative session, the Metropolitan Governance Task Force was established to study and evaluate options to reform and reconstitute governance of the Metropolitan Council. To properly address the governance options as mandated in the legislation, several task force members feel it would be helpful to address what the exact governmental status of the Metropolitan Council is. On behalf of these task force members, I am sharing a Memorandum written by one of our task force members, Professor Myron Orfield.

The primary questions in the memorandum are as follows:

- 1.) Is the Metropolitan Council a local government? If so, how can its enabling statute survive Minnesota's constitutional prohibition on special legislation?
- 2.) Is the Metropolitan Council a state agency? If so, how can it constitutionally exercise the legislative power of taxation or operate with such broad discretionary authority?
- 3.) Is the Metropolitan Council a special district or public authority? If so, how can it exercise the legislative power of taxation, operating in so many areas, without being directly subordinate to an elected government.

The Metropolitan Governance Task Force has a meeting scheduled for October 25, 2023, and the Task Force has requested attendance of the Metropolitan Council's Office of General Counsel at that time. To facilitate task force members' engagement on the Memorandum's questions on October 25th, it would be helpful if the questions could be addressed in advance of the meeting in writing. Ideally, General Counsel would then also be prepared to answer questions task force members may have regarding the prepared written responses on October 25, 2023.

Please email the written responses to Professor Orfield's Memorandum to Representative Hornstein at rep.frank.hornstein@house.mn.gov and Taylor Koehler at taylor.koehler@lcc.mn.gov by 5:00 PM on Monday, October 23, 2023.

Sincerely,

A handwritten signature in black ink, appearing to read "Frank Hornstein". The signature is written in a cursive style with a small flourish above the first letter.

Representative Frank Hornstein
Metropolitan Governance Task Force Chair

Attachment

cc: Judd Schetnan, Government Affairs Director, Metropolitan Council
Representative Frank Hornstein, Metropolitan Governance Task Force Chair
Professor Myron Orfield, University of Minnesota Law School Professor and
Metropolitan Governance Task Force Member

MEMORANDUM

To: Metropolitan Governance Task Force and the Metropolitan Council
From: Professor Myron Orfield
Date: October 9, 2023
Re: Background Material to help Met Council Answer Questions of the Task Force

The following are the questions the Task Force is posing to the Metropolitan Council:

- 1) Is the Metropolitan Council a local government? If so, how can its enabling statute survive Minnesota's constitutional prohibition on special legislation?
- 2) Is the Metropolitan Council a state agency? If so, how can it constitutionally exercise the legislative power of taxation or operate with such broad discretionary authority?
- 3) Is the Metropolitan Council a special district or public authority? If so, how can it exercise the legislative power of taxation, operating in so many areas, without being directly subordinate to an elected government?

The following is background information to help the Council answer the Task Force's questions.

Minnesota statutes declare that the Met Council is "a public corporation and political subdivision of the state." But this is not a sufficient definition. A "public corporation" or a "political subdivision" would still have to be either a: 1) local government, 2) an agency or 3) some sort of special district/ public authority. In searching the statutes, we have been unable to find another "political subdivision" that is not a directly elected local governmental unit. Can you point to another "political subdivision" that is not a directly elected local government? Similarly, we have not been able to find a public corporation that is not a local government, an agency, or a special district/public authority.

The Attorney General's Opinion

In an opinion issued in 1967, Minnesota's Attorney declared that the Met Council was "unique form of local government," that had "attributes of a state agency." See Opinion October 6, 1967. The Attorney General declared the Met Council could not be a state agency. The opinion clearly stated the Met Councils' power to tax was legislative and that assigning such taxing power to a state agency would violate the separation of powers.

Specifically, the opinion stated:

“The Metropolitan Council has undoubted authority to levy taxes under L. 1967, ch. 896, § 8...The power to tax is recognized as an exercise of legislative power, and Minn. Const. Art. III, § 1 prohibits the delegation of any power by one branch of government (in this case, the legislative) to another branch of government (in this case the executive).

The opinion found that the Metropolitan Council had the “attributes of a local government,” but noted that it was higher in the hierarchy than another local government in the seven-county metropolitan area. The opinion thus seemed to say that the Met Council was uniquely powerful local government.

The opinion did not discuss whether the Metropolitan Council was a special district or public authority. Moreover, because the question was not before it, the Attorney did not address the question of whether the council’s enabling statute was special legislation prohibited by Minn. Const. art. XII §2.

After 1994, the Metropolitan Council became far more powerful. At the same time, the previously staggered appointments to the council were made to be at will by the governor. This appointment structure made the council even more like an agency, most clearly resembling the structure of the Minnesota Pollution Control Agency.

A. If the Met Council is a local government, does its enabling statute violate Minnesota’s constitutional prohibition on special legislation?

If the attorney general is right, that the Met Council is the state’s most powerful local government, we are worried that Minn. Stat. § 473 et seq. is “special legislation” that violates the Minnesota Constitution.

Minn. Const. art XII, § 2 states:

Every law which upon its effective date applies to a single local government unit... is a special law....The legislature may enact special laws relating to local government units, but a special law, unless otherwise provided by general law, shall become effective only after its approval by the affected unit expressed through the voters or the governing body and by such majority as the legislature may direct.

Unlike legislation involving a city, county, or school district, where statutes refer in general terms to a class of local governments having certain characteristics, the Metropolitan Council’s enabling legislation names the Council specifically. If the Council is a local government, as the Attorney General has suggested, its enabling statute would be unconstitutional, unless it was approved by referendum of the voters in the seven-county metropolitan area.

B. If the Met Council is a state agency, does its taxing power and broad delegation of discretion violate the Minnesota Constitution’s separation of powers provisions?

The Attorney General found that the council could not be a state agency, because the inherent legislative power of taxation cannot be delegated the executive, but only to a legislative (directly elected) body. Do you agree with the attorney general’s opinion? If not, please explain.

Moreover, there are additional reasons that the Council cannot be a state agency. If the council were a state agency is extremely broad and unfettered discretionary would likely be an excessive delegation of legislative authority. Under Minnesota law, a delegation of authority to a state agency is only valid:

if the law furnishes a reasonably clear policy or standard of action which controls and guides the administrative officers in ascertaining the operative facts to which the law applies, so that the law takes effect upon these facts by virtue of its own terms, and not according to the whim or caprice of the administrative officers.

Lee v. Delmont, 228 Minn. 101, 36 NW2d 530 (1949).

Clearly the Met Council Statute which gives it virtually limitless power to shape the development of the Metropolitan Area and additionally all powers “necessary or convenient” to carry out its broad mandate does not likely fit the “the clear policy or standard” requirement of *Delmont*. Indeed, administrative agencies with discretion authority like the Met Councils have been found unconstitutional as excessive delegations of legislative authority. See generally *Askew v. Cross Key Waterways*, 372 So.2d 913 (Fla. 1978). Do you agree? If not, why not?

C. How Could the Met Council be a constitutionally valid special district or public authority?

American black letter local government law states “special function districts differ from general units of local government as municipalities in that the special districts provide only one function or a few related functions.” See generally, *Osborne Reynolds, Local Government Law Third Addition pp 33-40 (2009)*. Common forms of special districts are water or sewer or housing districts. They are usually very simple and straightforward and often directly elected. We are unable to find any unelected special district in the United States that possessed the legislative authority to impose taxes, or the broad scope of authority possessed by the Met Council.

Public authorities like port authorities have “little if any legislative power and are more thoroughly under the control of their creating unit of government than are special districts.” *Id.* Again, we are unable to find any public authority in the United States that has the authority to operate in so many areas with such broad discretion and the legislative powers such as taxation that the Council enjoys.

If you believe that the Council is a special district or public authority, please furnish us with an example of an unelected entity with powers like the Met Councils that has found to be legal and constitutional.



Office of General Counsel
Writer's Direct Dial: 651-602-1105
ann.bloodhart@metc.state.mn.us

October 18, 2023

Representative Frank Hornstein
Metropolitan Governance Task Force Chair

Via Electronic Delivery

Re: October 13 letter

Dear Representative Hornstein:

Thank you for your October 13, 2023 letter on behalf of the Metropolitan Governance Task Force, which was received on Monday, October 16, 2023.

The Metropolitan Council is a legislatively created body that "is established as a public corporation and political subdivision of the state." Minn. Stat. § 473.123, subd. 1.

The law is well-settled that "a municipal corporation has only such powers as are expressly conferred upon it by statute or charter, or necessarily implied. It has no inherent power." *Borgelt v. City of Minneapolis*, 135 N.W.2d 438, 440 (Minn. 1965)(citations omitted). The Council operates within the bounds of its legislatively created authority on a day-to-day basis and takes its direction from its enabling legislation, and subsequent legislation passed into law governing the Council.

The law allows for the Council to exercise taxing authority, such as the recently enacted regional transportation and housing sales and use taxes. See the statutes expected to be codified as follows: Minn. Stat. § 297A.9915, subd. 2 (transportation/transit), and § 297A.9925, subd. 2 (housing). The Council has had property tax levy authority since its creation in 1967. See Minn. Stat. § 473B.08 (1967). The Council also had property tax levy authority for debt service of the former Metropolitan Waste Control Commission and the former Metropolitan Transit Commission, both of which former commissions' functions and duties were transferred to the Council in 1994. See generally 1994 Minnesota Laws ch. 628. The Council's taxing authorities include: 1) general property tax levy (Minn. Stat. § 473.249, subd. 1); 2) Right-of-Way Loan Acquisition Program (Minn. Stat. § 473.167, subd. 3); 3) Livable Communities Act Programs (Minn. Stat. § 473.254, subd. 5(b)); 4) Wastewater Treatment Systems Obligations (Minn. Stat. § 473.541, subd. 1); and 5) Metropolitan Area Transit Tax (Minn. Stat. § 473.446). These property taxes are subject to levy limits established by the Legislature. For decades, the Legislature has also authorized the Council to issue bonds for capital purposes. Those bonds have been backed by the full faith and credit of the Council.

To the extent that there are any questions about what the Legislature intended, or whether the Legislature's grant of authority to the Council is somehow unconstitutional, those are issues that are appropriately addressed to and answered by the Legislature.

Sincerely,

A handwritten signature in blue ink, appearing to read "Ann K. Bloodhart", with a long horizontal line extending to the right.

Ann K. Bloodhart
General Counsel

cc: Metropolitan Governance Task Force Members

Governing American Metropolitan Areas

Spatial Policy and Regional Governance

Myron Orfield and Thomas F. Luce Jr.

The U.S. Constitution grants powers to both the federal government and state governments. It makes no provision for local governments; all of their powers come from the states. At the same time, America has a tradition of local control. In large metropolitan areas, the sheer number of local governments, each making decisions in its own self-interest, makes developing regional solutions or regional institutions increasingly difficult. Regional governments fall awkwardly between the state and local levels: They have no power unless mandated by the state, but they threaten local control and therefore find it difficult to gain political support. Megaregions encompassing more than one metropolitan area and parts of multiple states present even greater governance challenges. Coordination attempts at this scale must deal not only with the American tradition of local control but also with even more deeply embedded interstate rivalries.

This chapter explores the obstacles to and possible opportunities for regional governance by examining two case studies: the regional governments of Portland, Oregon (Portland Metro) and Minneapolis and St. Paul, Minnesota (the Twin Cities Metropolitan Council). Similarities and differences between the two

The authors wish to acknowledge the excellent assistance of research assistant Jeff Rosenberg. Other Institute on Race and Poverty staff also contributed to portions of this chapter, including research associates Boris Gumnus-Dawes and Eric Myoet and geographic information system specialist Bill Lanoux.

experience
megaregion

The Case

Advocates of such regional planning and best planning local funding, the costs are the costs of infrastructure (Orfield 2002).

By contrast, for local areas, service costs, family home, competition costs also create (2002).

Planning and equity, affordable housing at the local level, whereas throughout local decision-making, active effects, systems in the area. The benefits

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Finally, issues not cities of local place to place usually are

experiences provide valuable lessons for those considering larger-scale efforts in megaregions.

The Case for Regional Institutions

Advocates of planning and service provision on a regional scale often argue that such regional governance would be more efficient. Many of the services that are best planned at a regional level are also best provided at the same level. Requiring local funding of regional improvements would result in a mismatch between the costs and the benefits; regional governments with taxing authority can spread the costs equitably around the region. Creating a regional plan for orderly infrastructure provision, tied to a land use plan, can also reduce per capita costs (Orfield 2002).

By contrast, highly fragmented local government systems create incentives for local areas to compete for activities that provide high tax revenues and low service costs, such as office parks, industrial development, and expensive single-family homes. From a regional perspective, the resources expended in such competition contribute little or nothing to the economy. Interlocal competition can also create vicious cycles of decline in places that lose desirable uses (Orfield 2002).

Planning for regional systems can avoid duplication and produce efficiency and equity. For example, individual municipalities have no incentive to include affordable housing because it provides few tax revenues and high service costs at the local level. The costs of providing affordable housing are endured locally, whereas the benefits are largely regional. Integrating affordable housing throughout a region, then, requires regional planning. Similarly, allowing purely local decisions on the siting of wastewater treatment facilities could lead to negative effects on adjacent localities. Finally, certain components of transportation systems must meet the travel needs of residents from all over a metropolitan area. The benefits are regional; therefore, the planning is best done regionally.

There is also growing awareness that regions, not localities, are the competitive unit in national and international competition. Firms deciding where to locate, expand, or relocate evaluate entire metropolitan labor and housing markets, not local areas. Regions that can improve the operation of these markets stand to gain in interregional competition for economic activity.

Finally, regional governance and planning can be used to address equity issues not currently addressed in a system of local fragmentation. The capacities of local governments to finance public services vary dramatically from place to place. The lowest-income areas where public service needs are greatest usually are the places with the least ability to raise revenues to finance services.

Region-wide provision of services can ease fiscal inequities by spreading the cost of services across the full income spectrum, and regulation of metropolitan housing and labor markets can trump local incentives toward exclusionary behavior in higher-income, higher-opportunity communities.

Metropolitan Planning Organizations and Regional Governance

Metropolitan planning organizations (MPOs) are the most widespread form of regional governance in the United States today. Created to assist with federal transportation planning, they are responsible for developing long-range transportation plans and hold the authority to approve or deny state and local applications for transportation aid (Federal-Aid Highway Act of 1973; Weiner 1992).

The passage of the Intermodal Surface Transportation Efficiency Act (ISTEA) in 1991 enhanced MPOs' role in regional coordination and planning. ISTEA allowed MPOs discretion to use Federal Highway Trust Fund money and general funds appropriated to various highway programs for other projects, including recreational trails, pedestrian and bicycle facilities, congestion mitigation, air quality programs, and mass transit.

Some MPOs have also taken on additional responsibilities, including air quality conformity planning, local and regional economic development, land use plan review and coordination, rideshare services, and regional demographic and economic forecasting. A few MPOs, including those in Seattle, San Diego, Los Angeles, and Denver, also conduct limited, voluntary land use and growth management planning and have the authority (given by state mandate) to review the land use and transportation plans of local jurisdictions to ensure that they are coordinated and comply with state goals and laws.

In some cases, the functions that MPOs serve are embedded in multipurpose governments that provide a variety of services at the regional level. Regional multipurpose governments are meant to provide the same types of economies at the regional scale that municipal governments do at the local scale. The Twin Cities' Metropolitan Council and Portland's Metro are the only existing multipurpose regional governments in the United States.¹ These governments do not attempt to duplicate or replace local government services. Instead, they have extensive authority for planning and policy review, especially related to planning for metropolitan growth. They also deliver certain services that are more efficiently provided by a regional government, including transportation planning. The following sections examine the Metropolitan Council and Metro to see how well they have been able to address equity issues and create new efficiencies on a regional scale.

Case Study: Twin Cities Metropolitan Council

The Twin Cities Metropolitan Council is a good case study of regional governance in the United States for a variety of reasons. Table 12.1 shows very clearly that the council serves more roles than any other council in the twenty-five largest metropolitan areas.² The Metropolitan Council also operates in one of the most fragmented local government systems in the country, presenting the council with more difficult coordination problems than most regional bodies.

History

A spirit of regional cooperation developed slowly but steadily in the Twin Cities. Over several decades, a number of regional organizations were formed, including the Twin Cities Sanitary District (1933), the Metropolitan Airports Commission (1943), the Metropolitan Area Sports Commission (1956), the Twin Cities Metropolitan Planning Commission (1957), and the Metropolitan Mosquito Control District (1958). The requirement, by the federal government, of MPO oversight of transportation planning spurred further interest in a regional body and paved the way for the creation of the Metropolitan Council (hereafter Met Council) in 1967.

Since its creation the Met Council has grown in both size and scope. Originally formed as a coordinating body with no authority to provide service or set policy (Naftalin 1986), it has since been able to expand its oversight. In 1974 it received the authority to approve the Metropolitan Transit Commission's and the Metropolitan Waste Commission's budgets and long-range plans and to appoint the members of these commissions. In 1976 the state legislature gave the Met Council the authority to adopt a "comprehensive development guide" for the metropolitan area and the ability to modify the comprehensive plans of local governments (Minn. Stat. §§ 473.851–473.872; Naftalin 1986). A 1994 act gave the Met Council the functions of the Metropolitan Transit Commission, Regional Transit Board, and Metropolitan Waste Control Commission.

Current Responsibilities and Fiscal Capacity

In addition to regional comprehensive planning, the Met Council is responsible for providing regional services and for overseeing the Metropolitan Urban Service Area, which provides regional services and facilities under its jurisdiction (Metropolitan Council 2004). The Met Council engages in transportation planning as the MPO for the Twin Cities region. It also operates most Twin Cities transit through its Metro Transit Division. The Met Council advises but does not control the Metropolitan Airports Commission and participates in aviation planning and budgeting. It plans and operates the regional wastewater system (the

Table 12.1
Regional councils and their functions.

Region	Regional Council	Planning Service Provision				
		Transportation	Land Use Management	Growth Management	Transit	Waste Water Solid Waste
Atlanta	Atlanta Regional Commission	•	•	•	•	
Boston	Metropolitan Area Planning Council	•	•			
Chicago	Northwestern Illinois Planning Commission					
Cincinnati	Ohio-Kentucky-Indiana Regional Council of Governments	•	•			
Cleveland	Northeast Ohio Area-wide Coordinating Agency	•				
Dallas-Fort Worth	North Central Texas Council of Governments	•				
Denver	Denver Regional Council of Governments	•				
Detroit	Southeast Michigan Council of Governments	•				
Houston	Houston-Calveston Area Council	•				•
Kansas City	Mid-America Regional Council	•				
Los Angeles	Southern California Association of Governments	•				
Miami	South Florida Regional Planning Council					

Milwaukee
New York

Southeastern Wisconsin Regional Planning Commission
Long Island Regional Planning Board

• •

largest part of its budget) and engages in water supply planning. It engages in regional park planning and acquires and dedicates parkland for regional uses. Finally, it serves as the region's housing authority (Metropolitan Council 2008).

The Met Council's annual budget is roughly \$650 million, significantly less than that of its component counties, school districts, or cities and townships. However, because of its role in providing regional infrastructure, the council is very active in bond markets. In 2005, its bonded debt exceeded \$1 billion, more than that of its seven component counties combined. Revenue from regional borrowing is spent on wastewater (76 percent), transit (20 percent), and parks (4 percent) (Metropolitan Council 2006).

The council's primary source of revenue is charges to consumers (for transit services) and municipalities (for wastewater collection and treatment), representing 39 percent of current revenue in 2005. However, it also receives significant amounts of money from the state and federal governments (24 percent) and taxes (28 percent). It assesses property taxes and receives a share of the state-administered motor vehicle excise tax.

Addressing Regional Issues

Despite the fact that the Met Council's power has increased over time, its stance on urban growth has gradually weakened. Early in its history, it focused on the connection between land use and the cost of providing services and gave heavy priority to directing growth to existing infrastructure over new development (Metropolitan Council 1975, 1988). Since the mid-1990s, the Met Council has been more reluctant to curb urban growth and increase density in the Twin Cities area. Its planning documents, such as *Blueprint 2030*, have contained smart growth recommendations and advocated strengthening the area's land use connections but have also indicated that increased density is not a high priority (Metropolitan Council 2002). Rural zoning also became less restrictive and more tolerant of large-lot exurban development.

Case Study: Portland Metro

Although Portland Metro does not have as many statutory powers as the Met Council, its powers are supported by a strong statewide planning law, and it has shown a greater willingness to exercise the powers that it has. Until recent years it has had a better record of enforcing its urban growth power than the Met Council has had with its Urban Services Area. Metro is different from the Met Council in another important way: It is an elected body, not an appointed one. This difference may partially explain its greater willingness to exercise its statutory powers.

History

The formation of Metro was the end result of a decades-long experiment by Portland-area governments to establish regional planning and service delivery (Abbott and Abbott 1991). From 1957 through 1966, Portland and the three counties in the region formed the Metropolitan Planning Commission (MPC), which acted more as a research organization than a true regional planning agency (Abbott and Abbott 1991). The new regional government was approved by voters in May 1978 and began work January 1, 1979 (Abbott and Abbott 1991).

Current Responsibilities and Fiscal Capacity

Metro has been slowly acquiring new responsibilities. Initially, it was involved only with solid waste planning. Eventually, in 1976 it began operating the Washington Park Zoo (Abbott and Abbott 1991). In 1979, it became Portland's MPO, responsible for transportation planning. In 1989, it began work on the regional urban growth goals and objectives, its first major foray into prescriptive regional planning. Regional planning has since become its primary function (Metro 2003, preamble). In 1995, and again in 2006, voters approved bond measures giving Metro a mandate and funding to develop a system of regional parks. In a sense, Metro "is a 'government-in-waiting' for a time when the voters agree that a regional approach to a specific delivery is warranted" (Custafson 1994; Abbott and Abbott 1991). Although the Tri-County Metropolitan Transportation District is a separate organization, Metro also does transportation planning, including transit planning, as part of its MPO responsibilities. In addition to planning, Metro is responsible for regional solid and liquid waste disposal, the metropolitan zoo, the convention center, sporting and cultural facilities, regional parks, open spaces, and recreational facilities. In addition, their responsibilities extend to natural disaster planning and response coordination, development and marketing of data, and other functions required by state law, assigned by the voters, or declared a "metropolitan concern" by the council (Metro 2003 §§ 6, 7(1)). It does not have control over regional sewage and water services or airports,³ and thus it has less control over services than the Met Council, which provides most regional services.

Metro's budget has been described as "piddling by comparison to many other governmental units" (Nelson 1996). Almost half of Metro's revenue (46 percent) comes from enterprise fees from services provided by Metro. The enterprise fees, approximately half of which comes from Metro's solid waste facilities, remain an important component of its business model. Other important sources of revenue include property taxes (19 percent), grants (9 percent), excise taxes (7 percent), and intergovernmental revenues (5 percent) (Metro 2007a). For fiscal year 2007–2008, Metro's budget includes just over \$328 million in expenditures. Its

total bonded debt in 2007 was approximately \$185 million. However, this figure does not include \$227.4 million that was approved by voters in 2006 for natural areas, parks, and streams, which had not been issued at the time the budget was proposed (Metro 2007a).

Addressing Regional Issues

Portland's growth management policy has called for greater densities over time. Portland is unusual in its adoption of an urban growth boundary (UGB), which Metro helps develop and enforce. Since the initial planning process, UGB expansions have been guided by analyses of land needs. Metro and other governments must show that land within the UGB can accommodate estimated housing needs for 20 years (Or. Rev. Stat. § 197.296(2)). After developing such an estimate in 2002 (Metro 2002), Metro added more than 18,000 acres to the UGB (Metro 2005). Since the large 2002 addition to the UGB, Metro has not designated any new urban reserve land. However, it has already added as much land to the UGB as called for in Metro's Region 2040 plan; it remains to be seen whether that will prove sufficient until 2040.

Metro also envisions increasing densities within the UGB. Twenty-nine percent of the growth expected to occur between 2000 and 2022 is expected to be "refill"—redevelopment or infill (Metro 2002). Metro's Urban Growth Management Functional Plan sets recommended average densities (Table 12.2).

Table 12.2
Metro's recommended average densities.

Planning Area	Recommended Density
Central city	250 people per acre
Regional centers	60 people per acre
Station communities	45 people per acre
Town centers	40 people per acre
Main streets	39 people per acre
Corridors	25 people per acre
Employment areas	20 people per acre
Inner neighborhoods	14 people per acre
Outer neighborhoods	13 people per acre
Industrial areas	9 employees per acre
Regionally significant industrial areas	9 employees per acre

Source: MetroCode § 3.07.170(A).

Metro's transportation plans have also become more focused on producing a compact urban form. The 1982 Regional Transportation Plan (RTP), and its 1989 update, focused on using freeway and transit investments and travel demand management to provide a cost-effective solution to continuing growth. The 2000 RTP is less focused on keeping down costs and is more idealistic. It is designed to implement the Regional Framework Plan, which explicitly linked urban form to transportation. It calls for infrastructure investments to be focused on the primary components of that plan: the central city, regional centers, industrial areas, and intermodal facilities. The plan also calls for increasing transportation choices and eliminating dependence on one mode of transportation.

Twin Cities and Portland: Using Regional Governance to Address Issues of Efficiency and Equity

Prior sections show that the Twin Cities and Portland place more emphasis than other large metropolitan areas on regional institutions to manage their regional economies and housing markets. This section compares the two metropolitan areas with each other and, where possible, with other large metros to see how regional outcomes vary in several policy areas most directly affected by regional governments. These include urbanization rates (sprawl), housing affordability, racial segregation, job clustering and job change, traffic congestion, and fiscal equity.

Sprawl

To measure sprawl, we look at changes over time in the amount of urbanized land that metropolitan areas consume to accommodate population growth. The chosen measure defines urbanized land as land with more than one housing unit per 4 acres, a measure roughly equal to the definition used by the Bureau of the Census for outlying regions in metropolitan areas in 2000. The sprawl measure is the ratio of urban land in 2000 to urban land in 1970, divided by the ratio of metropolitan population in 2000 to metropolitan population in 1970.

Figures 12.1 and 12.2 show urbanization trends in the Twin Cities and Portland between 1970 and 2000. The Twin Cities experienced more sprawl than Portland; the gap between urban land growth and population growth was significantly greater in the Twin Cities. This was most noticeable from 1990 to 2000, a decade in which the Met Council's focus on growth management was diminished. In Portland, the rate of population growth actually exceeded the rate of urban land growth in the 1980s and 1990s. This was most pronounced from 1990 to 2000, when Metro became more heavily involved in regional planning.

In order to compare Portland and the Twin Cities to each other and to other large metros, Figure 12.3 shows how local government fragmentation and sprawl



Figure 12.1 Twin Cities Region: Housing Development by Census Tract, 1970-2000.

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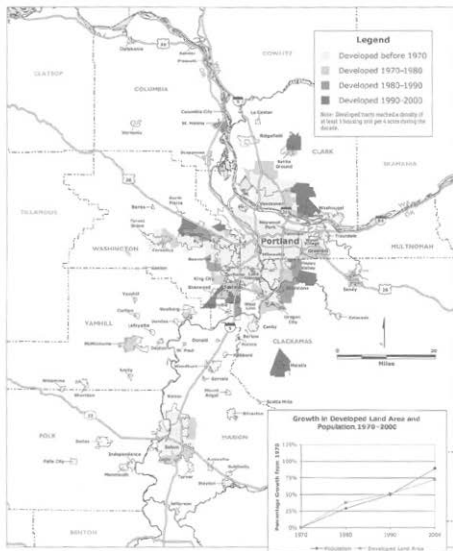


Figure 12.2 Portland Region: Housing Development by Census Tract, 1970-2000.

relate in the fifty largest metropolitan areas. Local government fragmentation is measured as the number of municipal governments per 10,000 residents. Higher levels of political fragmentation are clearly correlated with greater sprawl rates. The curved line ("Predicted Sprawl") in Figure 12.3 shows the curvilinear relationship between the sprawl and fragmentation in the fifty largest metropolitan areas.⁴ Interestingly, both Portland and the Twin Cities experience less sprawl than would be expected given the fragmentation of local governments in

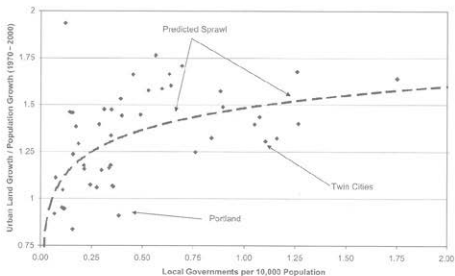


Figure 12.3 Fragmentation and Sprawl in the 50 Largest Metropolitan Areas.

their regions. Both regions experienced a smaller ratio of urban land growth to population growth than other regions with similar levels of fragmentation. In the Twin Cities, the sprawl ratio was approximately 1.3 from 1970 to 2000. This is roughly 15 percent lower than would be expected given the region's high degree of political fragmentation. In Portland, the growth in urban land was actually slower than the growth in population; the sprawl ratio was approximately 0.9. This is roughly 30 percent lower than would be expected given the area's moderate degree of political fragmentation.

The difference between the two regions is largely the result of Portland's smaller, more strictly enforced UGB. Between 1979 and 2007, the area within the boundary increased less than 20 percent and is now approximately 400 square miles (Leonard 1983; Metro 2007b). In that time, the population inside the UGB increased by more than 46 percent (Metro 2008). In contrast, the Twin Cities Metropolitan Urban Services Area (or MUSA)—the part of the region designated by the Met Council to receive regional services such as wastewater collection—is larger, grew by more during this period, and saw less population growth than Portland. The area inside the Twin Cities MUSA line grew by 26 percent between 1975 and 2007 to more than 1,000 square miles. During that time population inside the MUSA grew by about 42 percent.

However, recent developments in Portland put Metro's ability to maintain this discipline at risk. Measure 37 was passed by Oregon voters in 2004. The measure requires that when a land use regulation reduces the value of a prop-

erty, the owners of that property be compensated for the amount of the loss or have the regulation waived. It applies retroactively to any law put into place after a property owner acquired his or her property (Liberty 2006). Although a later referendum (Measure 49) weakened Measure 37, the combined effect is still to undermine Metro's power to regulate development of previously undeveloped land, especially land outside the UGB. Measure 37 claims are scattered across undeveloped, suburban areas, often noncontiguous with already developed areas.⁵ Already, more than 20,000 acres of land in the Portland area have had regulations modified under the measure—an area just under half of the total increase in the UGB between 1979 and 2007.

Affordable Housing

Growth management policies such as growth boundaries and urban service areas are often blamed for high housing costs. However, despite the fact that Portland and the Twin Cities use these policy instruments, their housing costs are not high in comparison to those of other large metros. Housing in the Twin Cities was actually more affordable than in the twenty-five largest metropolitan areas on average in both 1990 and 2000. In Portland, affordability went from being comparable to the Twin Cities in 1990 to a level slightly less affordable than in the twenty-five largest metros in 2000. In 2000, the Twin Cities had a significantly smaller proportion of owner-occupied housing affordable to households with 30 percent of the regional median household income, compared with Portland and the twenty-five largest. For rental housing, the Twin Cities, Portland, and the twenty-five largest regions had similar levels of affordability (Figure 12.4).⁶

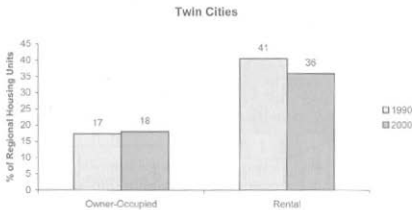


Figure 12.4 Percentage of Housing Units Affordable to Households with 30 Percent of the Regional Median Household Income.

Figure 12.5 Twin Cities Region: Percentage of Housing Units Affordable to Households with 30 Percent of the Regional Median Household Income by Municipality, 2000.

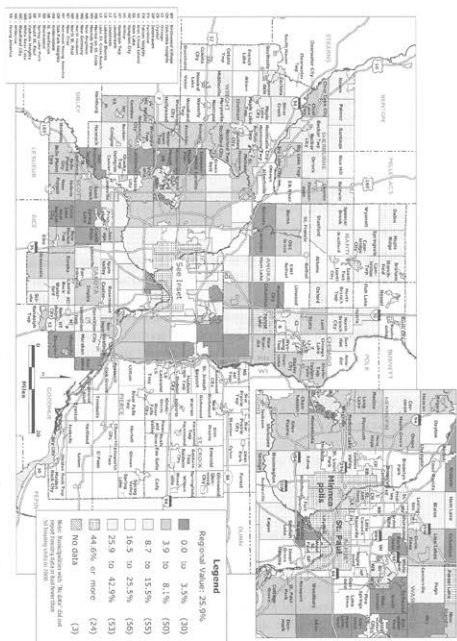


Figure 12.5 Twin Cities Region: Percentage of Housing Units Affordable to Households with 30 Percent of the Regional Median Household Income by Municipality, 2000.

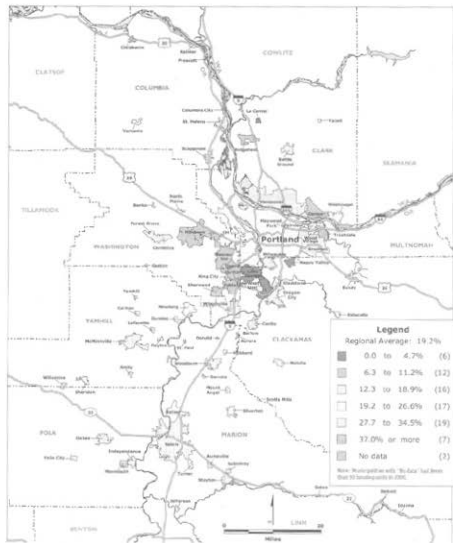


Figure 12.6 Portland Region: Percentage of Housing Units Affordable to Households with 30 Percent of the Regional Median Household Income by Municipality, 2000.

Most of the affordable housing stock in the Twin Cities is concentrated in the core of the central cities, although small pockets also exist in suburban areas (Figure 12.5).⁷ Portland does not have equivalent pockets (Figure 12.6). However, data on affordable housing are not available for unincorporated portions of the Portland metropolitan area, which are likely to contain a substantial portion of the supply.

These statistics show that housing affordability in Portland is close to that of the twenty-five largest metropolitan areas. Unlike in the Twin Cities and the twenty-five largest metropolitan areas, though, housing affordability in Portland dropped sharply between 1990 and 2000. The reason for Portland's decreasing affordability has been a subject of much debate.⁸ Most scholars agree that government regulation such as zoning and growth management leads to rising land prices (see Black and Hoben 1985; Malpezzi 1996; Green 1999), particularly when it reduces the supply of buildable land (Nelson et al. 2004). However, some argue that regulation is not as important a force as market demand (Knaap and Nelson 1992; Phillips and Goodstein 2000; Jun 2004). Similarly, although it is apparent that Portland's housing prices have been rising rapidly, it is unclear whether the UGB has caused this increase. Indeed, housing appreciation in Portland has been comparable to that of other Western cities (Downs 2002).

Racial Segregation

The degree of political fragmentation is correlated with racial segregation, just as it is with sprawl. Figure 12.7 shows this relationship in the fifty largest metropolitan areas. Higher degrees of fragmentation are associated with greater seg-

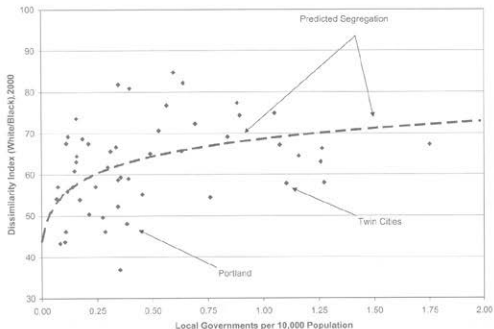


Figure 12.7 Fragmentation and Segregation in the 50 Largest Metropolitan Areas, 2000.

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regation, as measured by the dissimilarity index for white and black residents.⁹ However, the data again suggest that regional coordination of land use planning can lessen the overall degree of segregation. The Twin Cities and Portland each shows less segregation than would be expected given their levels of political fragmentation. Portland's dissimilarity index of 48 is 23 percent lower than its expected index, and the Twin Cities' index of 58 is 16 percent lower than expected.

However, the results for specific racial groups are less positive. Hispanics in particular show increasing rates of segregation. This can be seen by classifying neighborhoods and calculating the percentage of individual racial groups living in segregated settings.¹⁰ By this measure, black segregation declined a bit in the largest twenty-five metropolitan areas in both the 1980s and the 1990s. In 1980, 72 percent of black residents lived in segregated settings in these metros on average, and this declined to 68 percent in 1990 and 66 percent in 2000 (Figure 12.8). However, the percentage of Hispanics and other races (largely Asian) living in segregated settings increased in each decade, from 56 to 61 to 67 percent for Hispanics and from 16 to 22 to 29 percent for other races.

In contrast with the overall segregation index measured in a single year, the trend data for individual races do not look better in the Twin Cities and Portland than in other large metros. Indeed, the share of black residents living in segregated settings actually went up in the Twin Cities region in the 1990s, from 19 percent to 23 percent. Similarly, the share of Hispanics and other races living in segregated settings climbed more rapidly in the region than in the largest twenty-five metropolitan areas. In contrast to the Twin Cities, blacks and other racial groups in Portland became less segregated during the entire period. However, Portland showed similar increases in Hispanic segregation.

Growth in Employment

There was a great deal of variation in metropolitan growth rates in the 1990s and 2000s. The period saw a continuation of the Frostbelt-Sunbelt disparities evident in prior decades. This was particularly true among large metros. From 1990 to 2006, the eleven metros with the fastest job growth rates among the twenty-five largest were in the South and West, and twelve of the fourteen slowest-growing regions were in the Northeast and Midwest. Portland ranked sixth and the Twin Cities ranked twelfth, outgrowing all other Northern and Midwestern metros.

Consistent with the sprawl and segregation results, there is a clear correlation between political fragmentation and job growth rates across metropolitan areas (Figure 12.9). The Twin Cities and Portland again stand out with growth rates significantly above what would be expected given their political fragmentation. The Twin Cities' growth rate was nearly twice the expected rate (29

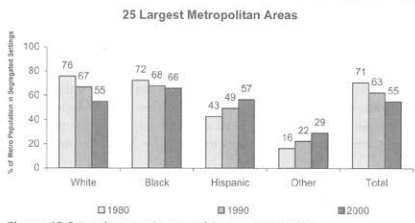
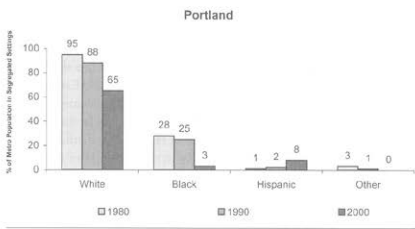
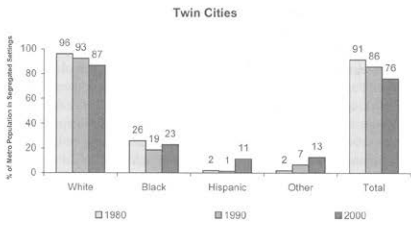


Figure 12.8 Population in Segregated Settings, 1980–2000.

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% Employment Growth, 1990–2006

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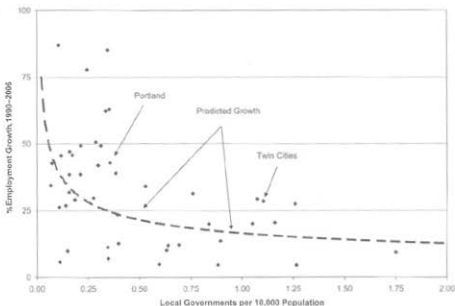


Figure 12.9 Fragmentation and Job Growth in the 50 Largest Metropolitan Areas.

percent versus 16 percent), and Portland's was about two-thirds higher than expected (39 percent versus 24 percent).

One would expect that regional organizations would try to reduce decentralization rates and to encourage job clustering in order to avoid new infrastructure needs and to encourage transit usage whenever possible. The record in the Twin Cities and Portland is mixed on these measures.

Table 12.3 and Figures 12.10 and 12.11 show the distribution of jobs and job growth rates by location in the two regions. Both regions show a roughly 50/50 split between the number of jobs in clusters and the number in scattered sites.¹¹ Each metro also shows roughly a quarter of clustered jobs in central city job centers. Jobs are decentralizing in both metros as well: Growth rates for job clusters increase with distance from the core. However, Portland shows a better balance between growth in job clusters and growth in scattered site jobs. The two rates are roughly equal in Portland, whereas nonclustered jobs grew much more rapidly than clustered jobs in the Twin Cities (31 percent versus 14 percent).

Figures 12.10 and 12.11 show the geography of job growth in Portland's and the Twin Cities' employment centers. In Portland, faster job center growth tends to be uniformly spread across the developed part of the region, and job centers are often much closer to the core of the central cities of Portland and Salem than in the Twin Cities. With the exception of the southeast quadrant of Portland, moderate to high job growth rates are found throughout the region. In the Twin

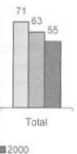
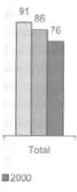


Table 12.3
Jobs and job growth by type of employment center.

Employment Center	Percentage of Regional Jobs		Percentage Change, 1990-2000	
	Portland	Twin Cities	Portland	Twin Cities
Central business district	9	11	15	6
Other central city	20	13	33	4
Inner suburb	10	12	28	19
Middle suburb	9	13	60	22
Outer suburb	4	3	117	37
Total, employment centers	52	52	36	14
Nonclustered employment	48	48	34	31
Total, metropolitan area	100	100	35	22

Source: Calculated from 1990 and 2000 Census Transportation Planning Package.

Cities job growth is stronger southwest of Minneapolis and weaker south and northwest of Minneapolis. Similar to Portland, the Twin Cities area tends to have employment centers closely bundled near the central cities.

Transportation and Congestion

In contrast with other policy areas, all metros in the country are required by the federal government to have regional organization planning and managing funds for transportation. Not surprisingly, Portland and the Twin Cities do not stand out in comparisons with other large metropolitan areas.

Table 12.4 shows that both metros have below-average levels of congestion in absolute terms, but congestion has been increasing more rapidly than average in the Twin Cities. Interestingly, both the Twin Cities and Portland increased freeway lane miles by much less than average, despite the fact that population was growing more quickly than average in both places. A possible reason for this is that they use their regional planning capacities to rely more on land use approaches to congestion control than other metros.

Fiscal Equity

The disparities between wealthier and poorer local communities can be eased in a variety of means, including direct ways such as tax base sharing and indirect activities such as regional planning to distribute economic activity and affordable



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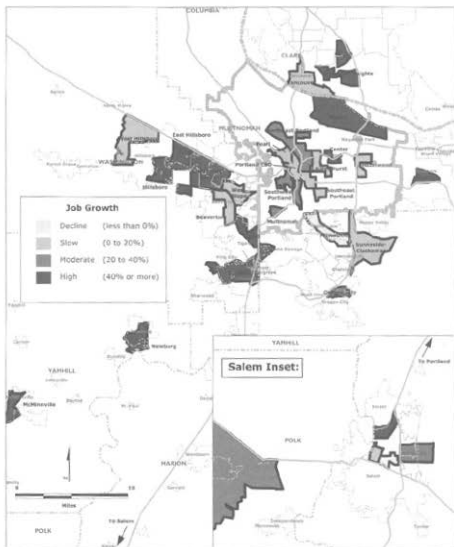


Figure 12.10 Portland Region: Job Growth in Employment Centers.

housing more equitably. The Twin Cities uses both methods, whereas Portland relies on more proactive planning activities.

In the Twin Cities, the Fiscal Disparities Act of 1971 instituted a tax base sharing program that reduces the disparities between the "winners" and "losers." Each taxing jurisdiction must contribute 40 percent of the growth of its commercial and industrial tax capacity since 1971 to a regional pool, which is then shared by all local governments, with a larger proportion going to municipalities

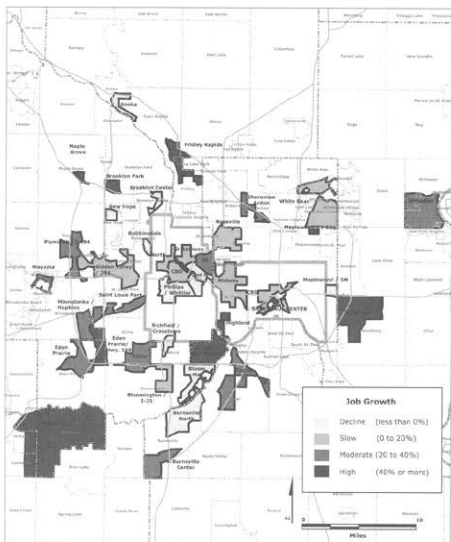


Figure 12.11 Twin Cities Region: Job Growth in Employment Centers.

with lower-than-average market value per capita. This has had the effect of reducing inequality by approximately 20 percent. The program was created during the same wave of regionalism that led to the Met Council, although it is administered by the seven counties included in the program rather than the Met Council.

Portland does not have anything similar to tax base sharing, but it uses its planning and transportation powers to achieve similar ends. Indeed, Portland

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Table 12.4
Selected transportation statistics, 1993–2003.

Metropolitan Area	Population Growth (%)	Hours of Delay per Traveler		Change in Delay per Traveler (%)	Change in Lane Miles (%)	Change in Lane Miles per Capita (%)
		1993	2003			
Atlanta	38	38	67	76	8	3
Boston	7	38	51	34	18	1
Chicago	10	42	59	38	3	0
Cincinnati	8	18	30	67	24	2
Cleveland	0	10	10	0	14	0
Dallas–Fort Worth	30	47	60	28	10	3
Denver	26	38	51	34	14	4
Detroit	3	77	57	-26	8	0
Houston	25	38	63	66	13	3
Kansas City	12	13	17	31	10	1
Los Angeles	10	113	93	-18	16	2
Miami	22	39	51	31	10	2
Milwaukee	3	19	23	21	22	1
New York	8	34	49	44	14	1
Philadelphia	4	25	38	52	13	1
Phoenix	44	42	49	17	95	42
Pittsburgh	-3	14	14	0	7	0
Portland	22	33	37	12	4	1
St. Louis	5	31	35	13	10	1
San Diego	12	29	52	79	11	1
San Francisco	8	62	72	16	9	1
Seattle	15	56	46	-18	12	2
Tampa	17	42	46	10	39	7
Twin Cities	15	30	43	43	2	0
Washington, D.C.	18	51	69	35	7	1
Average	14	39	47	27	16	3

Source: Texas Transportation Institute.

Table 12.5
Gini coefficients for tax capacity per household.

Metropolitan Area	1993	2001	Change, 1993-2001
Atlanta	.13	.14	.01
Boston	.22	.25	.03
Chicago	.30	.30	.00
Cincinnati	.44	.45	.00
Cleveland	.34	.31	-.03
Dallas-Fort Worth	.22	.26	.03
Denver	.20	.36	.16
Detroit	.32	.30	-.02
Houston	.14	.15	.01
Kansas City	.19	.21	.02
Los Angeles	.20	.23	.03
Miami	.19	.21	.02
Milwaukee	.25	.29	.04
New York	.27	.34	.06
Philadelphia	.30	.28	-.03
Phoenix	.13	.20	.07
Pittsburgh	.26	.26	.00
Portland	.12	.11	-.01
St. Louis	.36	.39	.03
San Diego	.10	.11	.01
San Francisco	.18	.19	.02
Seattle	.32	.22	-.10
Tampa	.17	.15	-.02
Twin Cities	.19	.17	-.02
Washington, D.C.	.29	.37	.08
Average	.23	.25	.02

Source: Computed from various state and local sources.

shows even lower fiscal disparities than the Twin Cities, as measured by the Gini coefficient. Table 12.5 shows that both metros are in the top five of the twenty-five largest metros in this dimension.¹²

Portland and the Twin Cities also have less inequality than would be expected given their levels of local government fragmentation. The curved line ("Predicted Inequality") in Figure 12.12 shows the curvilinear relationship between local



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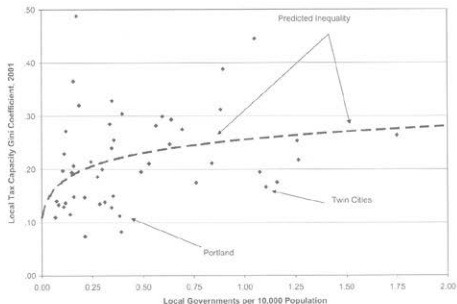


Figure 12.12 Fragmentation and Fiscal Inequality in the 50 Largest Metropolitan Areas.

fragmentation and a commonly used measure of fiscal inequality, the Gini coefficient.¹³ Although the Twin Cities has the fifth-highest level of fragmentation out of the fifty largest metropolitan areas, its Gini coefficient is below average, and 35 percent below the level predicted by the rate of fragmentation (.17 compared to .26). Portland fares even better, with a Gini coefficient 50 percent below the level predicted (.11 compared to .22). This implies that Portland's tax base is distributed more evenly across the region.

Conclusions

It appears that the Met Council and Metro have been able to offset many of the drawbacks associated with highly fragmented local government systems. Both metros consistently fared better than other large metros on the outcome measures included here—sprawl, segregation, job growth, and fiscal equity—especially given their degrees of local fragmentation. The clear implication is that regionalism provides a means to enjoy many of the benefits of highly fragmented systems (smaller units of government that are closer to voters, for instance) without many of the drawbacks.

The comparison also suggests that a regional governing structure does not need total control of regional systems to be effective. Despite the Met Council's

greater authority, Portland is urbanizing land at lower rates than are the Twin Cities, is less segregated, and has done a better job of directing new job growth toward existing job centers. And despite experiencing greater growth rates, Portland experienced smaller increases in annual hours of delay per traveler, perhaps because its transit system covers a wider area with greater usage rates. Finally, Portland's tax base is distributed more evenly across the region than that of the Twin Cities.

There are two likely explanations for these differences in the context of this analysis. First, Portland Metro's planning activities are complemented by a strong state planning program that regulates activity outside Metro's service area. This enhances Metro's ability to enforce its urban growth boundary. The Met Council, on the other hand, operates on its own in a seven-county service area that no longer includes all of the metropolitan area, which now includes four Minnesota counties and two Wisconsin counties outside the council's purview. This means that developers, potential residents, and businesses have options that limit the council's ability to pursue aggressive growth management activities.

Second, Portland Metro is an elected body whose representatives must answer to voters, whereas the Met Council is appointed by the governor. Counterintuitively, this means that Metro is the more stable body, because its partisan mix reflects the mix among voters, which changes only gradually over time. The Met Council, on the other hand, can go from 100 percent Democratic to 100 percent Republican as the result of a single statewide election. This means that Metro's growth management activities have been more consistently administered over time. The case can also be made that an elected body is likely to be more aggressive than an appointed one because elected officials may be more likely to use the powers available to them to show the results needed for reelection.

What does this imply for megaregions? As metropolitan economies merge into loosely connected megaregions, the incentives for interlocal and interregional competition are likely to intensify, not diminish, because a whole new layer of inter-metropolitan competitive pressures will be added to the system. Given the institutional, cultural, and historical difficulties associated with organizing entire megaregions, the best solution is for metropolitan-level bodies to work together to manage issues of common interest to these larger, more loosely connected economies.

Notes

1. MPOs that have been given additional state-mandated powers, such as Seattle, San Diego, Los Angeles, and Denver, are arguably evolving into multipurpose governments, although the Twin Cities and Portland regional governments remain more powerful.
2. The Metropolitan Council also serves as the Twin Cities' regional housing authority, a role filled by only two other councils.

3. Waste services are provided by Aviation.
4. The line and the confidence interval.
5. See www.
6. An affluence of the 30s is defined as property income.
7. The more than 100 percent.
8. For a more detailed analysis of the base.
9. The similar.
10. For the predominant less than 100 percent in neighborhoods in neighboring percent 50 percent and more than 100 percent.
11. The data on the number of agglomeration economies also employ other regions.
12. The contribution of value of household and household.
13. The line and the level.

References

- Abbott, C. L. 1998. "The Megaregion."

3. Wastewater services are provided by numerous agencies, including the Portland Bureau of Environmental Services and the Washington County Unified Sewerage Agency. Water services are provided individually by almost every city in the Portland region (see Regional Water Providers Consortium 2005). Aviation is the responsibility of the Oregon Department of Aviation.
4. The line shows a log-linear relationship. The simple correlation between the sprawl measure and the log of the fragmentation measure is .53, a value significant at the 99 percent confidence level.
5. See www.oregon.gov/LCD/docs/measure37/number_of_claims_102505.pdf.
6. An affordable rental unit is defined as one for which contract rent is less than 30 percent of the 30th percentile of regional median household income. An affordable owner-occupied unit is defined as a house valued low enough that mortgage costs plus the average local regional property tax are less than 30 percent of the 30th percentile regional median household income.
7. The maps define affordable housing as housing units (owner occupied and rental) that cost less than 30 percent of total income at 50 percent of the regional median income.
8. For a review of this literature, see Nelson et al. (2002), on which the brief summary given here is based.
9. The simple correlation between the natural log of the fragmentation measure and the dissimilarity index is .42, significant at 99 percent confidence.
10. For the purposes of this chapter, people in segregated settings are defined as members of the predominant group in segregated neighborhoods. This includes white people in neighborhoods less than 10 percent black and less than 10 percent Hispanic; black people in neighborhoods more than 50 percent black and less than 10 percent Hispanic; Hispanic people in neighborhoods less than 10 percent black and more than 50 percent Hispanic; black and Hispanic people in neighborhoods less than 40 percent white, more than 10 percent black, and more than 10 percent Hispanic; "other" people in neighborhoods less than 40 percent white and more than 50 percent "other"; and "other" and black or Hispanic people in neighborhoods with more than 10 percent "other" and more than 10 percent black or with more than 10 percent "other" and more than 10 percent Hispanic.
11. The data are from the Census of Transportation Planning Package, 1990 and 2000. Employment centers were defined as contiguous traffic analysis zones with greater than average numbers of jobs per square mile and total employment exceeding 1,800 jobs. Large job agglomerations such as those in the central business districts were divided into multiple employment centers based on job densities in different parts of the larger clusters. Salem, Oregon also included a central business district that was allocated to "other central city" employment centers, because the number of jobs and job density of Salem were more typical of other central city job centers and less typical of central business districts in the selected regions.
12. The Gini coefficient, shown in Table 12.5, measures the difference between the actual distribution of tax base and a perfectly equal distribution. It varies between 0 and 1, taking on a value of 0 if the distribution is perfectly equal (all jurisdictions have the same tax base per household) and 1 if the distribution is perfectly unequal (one jurisdiction with only one household has the entire tax base).
13. The line shows a log-linear relationship. The simple correlation between the inequality measure and the log of the fragmentation is .35, a value significant at the 98 percent confidence level.

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**MPO REFORM: A NATIONAL AGENDA FOR REFORMING
METROPOLITAN GOVERNANCE**

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MPO REFORM: A NATIONAL AGENDA FOR REFORMING METROPOLITAN GOVERNANCE

By Myron Orfield and Baris Gumus-Dawes

EXECUTIVE SUMMARY

Metropolitan governance needs to be reformed.

The nation's economic crisis is also the crisis of its metropolitan areas. Producers of 90 percent of the nation's economic output and home to 80 percent of its population, metropolitan areas across the nation are struggling to cope with the recent crisis. Outdated metropolitan political structures are an important part of the problem. Highly fragmented governance systems contribute to increasing sprawl and congestion, growing racial and economic segregation, and deepening disparities in the quality of local services. Reforming metropolitan governance is essential for fair and sustainable national growth.

Political fragmentation of metropolitan areas is harmful.

The harms of political fragmentation are many and related. Fragmented political systems encourage inefficient competition among local jurisdictions, a process that often leads to socially and economically undesirable policies. Cities steal malls and office parks from each other, fight tax incentive wars for auto malls, and zone out the poor for fiscal advantage in a process rife with haphazard planning and NIMBY biases. This disjointed status quo scatters new jobs like grapeshot across the metropolitan landscape, pushing metropolitan housing markets even farther afield into farmland, forest, and sensitive natural places. As a result, transit, a cleaner environment, and basic opportunity for lower income Americans becomes harder, not easier, to accomplish.

Regional institutions can mitigate the harms of political fragmentation.

Effective metropolitan governance can help metros deal better with the harmful effects of political fragmentation. Evidence from two metropolitan areas with the strongest metropolitan governance systems in the nation—the Twin Cities and Portland—shows that effective metropolitan institutions can produce demonstrably better metropolitan outcomes for sprawl, racial segregation, job growth, and fiscal equity. The Twin Cities consistently performs best in these dimensions among highly-fragmented regions while Portland excels among less-fragmented areas.

Comprehensive reform of Metropolitan Planning Organizations (MPOs) provides the best path to effectively upgrading metropolitan governance.

The nearly 400 existing MPOs constitute a wide network of regional organizations with experience grappling with the intricacies of metropolitan policy. This network represents the most viable and sensible vehicle for nationwide reform of metropolitan governance. Reforms are needed to make MPOs more democratic, accountable and powerful. Once reformed, MPOs can be engines of smart growth, capable of distributing benefits of growth more equitably.

The time is ripe for metropolitan reform.

The national crisis has created many opportunities for metropolitan reform, but they will not be around for long. Right now, the federal government is more involved in the national economy than at any time since the Great Society initiatives of President Johnson. The American Recovery and Reinvestment Act (ARRA) of 2009 has already introduced a hefty federal stimulus package to help the ailing economy. However, if the administration continues to spend the money in a haphazard way, a golden opportunity for reform will be missed. The federal government should build incentives into the stimulus funds to reform metropolitan governance systems in order to better coordinate various federal policies at the metropolitan scale. Resources pouring out of the federal government under ARRA can still be effectively leveraged for metropolitan reform.

There is growing political momentum for metropolitan reform.

The Obama administration is clearly open to federal restructuring of metropolitan governance structures. It has already pushed for an important political initiative at the federal level that lays the groundwork for metropolitan reform—the Sustainable Communities Initiative. The Initiative involves an interagency partnership among three federal agencies to better coordinate federal transportation, environmental protection and housing investments and shows great promise for streamlining and coordinating federal policy on metropolitan issues. It is a potentially valuable policy vehicle for comprehensive metropolitan reforms.

Influential members of the Senate are also pushing legislation that can facilitate metropolitan reform. Housing and Urban Affairs Committee chairman Christopher Dodd recently introduced the Livable Communities Act which is designed to coordinate federal housing, community development, transportation, energy, and environmental policies to promote sustainable development. By promoting regional planning for livable communities and the adoption of sustainable development practices, the Act meshes very well with the Sustainable Communities Initiative.

The House is also at work on these issues with the Surface Transportation Authorization Act of 2009 (STAA). Historically, transportation has been a primary avenue for metropolitan reform. STAA continues this tradition by suggesting a number of changes in

the organization of MPOs. These changes have significant implications for how powerful, accountable, and democratic MPOs will be in the future.

STAA aims to be much more than just another 6-year extension of the federal transportation budget. It involves a major overhaul of existing federal transportation programs as well as some significant institutional changes at both the federal and metropolitan levels. Reforms include introduction of new offices and programs like the Office of Livability, the Office of Intermodalism, and the Metropolitan Mobility and Access Program which have the potential to be levers for regional governance reform if they are given the necessary resources and power.

Crises often generate the political will to undertake reform. The administration's Sustainable Communities Initiative in combination with the Livable Communities Act and the Surface Transportation Act of 2009 provide potentially powerful policy vehicles which can make comprehensive metropolitan reform a reality. The federal government should combine the unprecedented opportunities offered by the current crisis to usher the nation's metropolitan areas into the 21st century by building more cohesive and effective metropolitan governance structures.

POLICY RECOMMENDATIONS

A. MAKE REPRESENTATION ON MPO GOVERNANCE BOARDS MORE DEMOCRATIC.

Voting structures of MPO governance boards are highly undemocratic across the nation. Urban residents of metropolitan areas are generally underrepresented resulting in suburban interests largely determining the course of transportation investments. Undemocratic voting structures within MPO boards hurt metropolitan areas in a number of ways. They skew regional transportation investments, disproportionately committing transportation funds toward projects benefitting over-represented areas. Over-representation of suburban districts in MPO governance boards has been shown to lower a region's investment in public transit, for instance, limiting the transportation options available to metropolitan residents, especially those in metropolitan cores. Disproportional representation on MPO boards also undermines the effectiveness of MPOs by eroding their institutional legitimacy.

- **Policy Recommendation 1: The STAA should make the recertification of MPOs conditional on proportional representation (based on population) of central cities, fully developed suburbs, and developing suburbs on MPO boards.**

Voting structures of MPO governance board should be reformed to address the growing complexity of the nation's metropolitan areas. Metropolitan politics often boil down to

the politics among three distinct “communities of common regional interest”: central cities, fully developed suburbs, developing suburbs. Each of these three groups is an essential part of a larger metropolitan machine, and each needs to be fairly represented in regional governance structures for the region to operate effectively.

- **Policy Recommendation 2: The STAA should require that MPO board members be composed of representatives who are accountable primarily to the metropolitan area’s citizens.**

Most MPO boards are composed of members who were elected to a different political institution, usually a municipal office of some sort. While these representatives are elected to serve their local areas, they usually are not specifically elected for the regional board. Voters therefore evaluate them primarily on their performance in their primary job—as a city council member or mayor, for instance. They should instead be held accountable based primarily on their performance on the metropolitan issues handled by the MPO. For metropolitan concerns to receive the attention merited by their importance, board members of MPOs should be directly elected or chosen by some other means that ensures that representatives are evaluated solely on the basis of their performance on metropolitan concerns.

B. MAKE MPOs MORE ACCOUNTABLE.

Democratizing voting structures on MPO boards goes a long way toward making MPOs more accountable. Yet, metropolitan constituents and the federal government still need a number of accountability metrics they can use to monitor the progress of MPOs in solving regional problems and achieving regional goals. These regional goals are many and interrelated, and accountability measures should therefore include land use, transportation, housing, and environment. The STAA makes important strides toward enhancing accountability for MPOs by requiring that MPOs “implement a system of performance management” as part of their recertification process. However, the draft bill falls short of specifying the required performance measures.

- **Policy Recommendation 3: The STAA should include the following accountability metrics to hold MPOs across the nation to the same standards:**
 - i. the effectiveness and sustainability of land use policies—measured by a sprawl index that calculates the increase in urbanized land in relation to population growth;

- ii. the fairness of affordable housing distribution in a region—measured by the percentage of affordable housing in moderate- to high-opportunity communities;¹
- iii. the extent to which a region is racially and economically segregated—measured by traditional measures such as the dissimilarity indices or the percentage of low-income people (students) and people (students) of color in segregated neighborhood (school) settings;
- iv. the extent to which job growth is clustered to promote multi-modal transportation options and transit-oriented development—measured by percentage of jobs in high-density job centers; and
- v. the extent of fiscal inequality in a region—measured by the Gini coefficient for local tax-bases.

C. PROVIDE MPOs WITH THE NECESSARY POWERS.

Most MPOs still lack the comprehensive metropolitan planning powers that are needed to tackle challenging metropolitan issues. Transportation planning powers are only a subset of the legal capacities MPOs need to govern their metropolitan areas effectively. Without the legal authority to do comprehensive metropolitan planning beyond transportation issues—planning affecting land use, housing and waste water collection and treatment, for instance—MPOs cannot really affect the most powerful forces shaping their metropolitan areas. Demanding accountability from the MPOs without sufficiently empowering them sets them up to fail.

- **Policy Recommendation 4: The STAA should be amended to directly empower MPOs with specific comprehensive regional planning powers and the power to review local plans.**

The STAA imposes fairly stringent performance standards on MPOs without empowering them to meet their goals. The STAA should require all MPOs to develop metropolitan land use plans for the orderly development of their regions. These plans should include an overall metropolitan development guide with specific regional systems plans for transportation and transit, housing, and metropolitan sewer and waste water management. The plan should also include a designated urban growth boundary or urban services area to ensure orderly, contiguous growth patterns. Coupled with this, MPOs should be required to control development outside the urban growth boundary or urban services area to avoid leapfrog development.

In order to protect emerging MPO powers from existing institutions, the STAA should specifically define the authority of MPOs in relation to local governments and state

¹ Lukehart et al. developed an opportunity index to classify local communities according to their ability to offer a number of opportunities to their residents (Lukehart et al. May 2005). This method can be used to identify moderate- to high-opportunity places in the nation's metros.

agencies such as the state departments of transportation. For instance, MPOs need to be able to prevent local actions from undermining the metropolitan plan. The most direct way to do this is to give MPOs power over federal resources coming into the metro—the power, for instance to withhold federal transportation funding from local areas whose local plans are not consistent with the comprehensive metropolitan plans designed by the MPOs. Similarly, the STAA should redefine the authority of state departments of transportation in the allocation of transportation funds, explicitly limiting their involvement to an advisory capacity within metropolitan areas. The STAA should give the discretion to allocate all federal transportation funds within individual metropolitan areas exclusively to MPOs, explicitly stating that the state departments of transportation shall abide by the MPO’s decisions within a metropolitan area.

- **Policy Recommendation 5: Alternatively, the Livable Communities in combination with the STAA could be a vehicle to enhance the power of MPOs indirectly.**

MPOs could be given additional comprehensive planning powers through a combination of institutional changes at HUD, amendments to the STAA, and the reestablishment at the federal level of the A-95 review process. First, the Livable Communities Act introduced by Senator Dodd of Connecticut could be used as a vehicle to authorize HUD to require metropolitan areas to enact comprehensive regional land use and housing plans. Second, the STAA could be amended to require MPOs to formally coordinate their transportation plans with HUD’s comprehensive regional land use and housing plans. Third, MPOs could be empowered with the authority to review and override local land use and housing decisions through the reinstitution of A-95 review process at the federal government level.

D. RESTRUCTURE METROPOLITAN GOVERNANCE BY BREAKING POLICY SILOS AT THE FEDERAL AND METROPOLITAN LEVELS

- **Policy Recommendation 6: Either the White House Office of Urban Affairs (WHOUA) or the Interagency Council on Sustainable Communities should lead the structural realignment of federal agency programs at the metropolitan level by being the driving force behind the Sustainable Communities Initiative.**

Policy silos at the federal and metropolitan levels impede effective metropolitan governance. Federal government programs need to be reformed to encourage breaking these policy silos and to better streamline federal policy initiatives at the federal and metropolitan levels. While the administration’s Sustainable Communities Initiative is a great step toward breaking federal policy silos, the Initiative fails to formalize the cooperative arrangements among federal agencies at the appropriate institutional level. The Initiative needs an institutional driver, an agency other than HUD which is authorized to explicitly coordinate the work of federal agencies on metropolitan policy.

The Livable Communities Act can be a useful vehicle in establishing such an institution. The Act would establish a federal Interagency Council on Sustainable Communities including representatives from the Department of Housing and Urban Development, the Department of Transportation, the Environmental Protection Agency, and other federal agencies to coordinate federal sustainable development policies. This Council could be an effective force behind the Sustainable Communities Initiative. Alternatively, the recently created WHOUA could play a similar role. The Office, which approaches urban issues from a strictly metropolitan perspective, could play a leading role in institutionalizing the Sustainable Communities Initiative. WHOUA is authorized to work with and coordinate the policies of ten federal agencies and is uniquely positioned to develop linkages among federal policy silos.

Whether it is the Interagency Council on Sustainable Communities or the WHOUA, a leading agency behind the Initiative could be an effective institutional lever for comprehensive regional reform by performing three crucial tasks. First, it should work with a number of federal agencies to expand the number of agencies participating in the Sustainable Communities Initiative. Second, it should oversee the implementation of the Sustainable Communities Initiative by acting as the arbiter of potential conflicts that might emerge among these agencies. Third, it should be the driving force behind the Sustainable Communities Initiative by pushing for institutional reforms that would further streamline policy making at the metropolitan level.

- **Policy Recommendation 7: In order to promote equitable and sustainable metropolitan growth, the Sustainable Communities Initiative needs to substantially reform existing federal policies so that they no longer undermine each other.**

While the Sustainable Communities Initiative is a very positive step, it will not achieve much unless it reforms federal policies that contribute to current metropolitan problems. For the Initiative to be an effective lever for metropolitan reform, it needs to streamline federal programs so that they do not work at cross purposes. For instance, while HUD has been working to revive urban areas through its Community Development Block Grant (CDBG) programs, federal transportation policies have actively undermined these efforts by constructing highways that encouraged suburban flight from urban areas.

In fact, federal transportation policies have done more than simply undermine federal housing policies. They have actively driven sprawl and inequality in the nation's metros. Along with regional land use decisions, federal transportation investments created many opportunities for exclusive communities to gain the greatest share of their region's business and residential tax wealth as these communities actively undermined fair housing and furthered racial and economic segregation. The Sustainable Communities Initiative should encourage a realignment of federal policies so that they reinforce, rather than undermine, each other. The Initiative should be instrumental in reversing federal transportation and housing policies that continue to undermine fair housing in order to promote regional equity and expanded opportunity for *all* metropolitan residents.

- **Policy Recommendation 8: The STAA should be amended to add more detail and substance to the metropolitan planning process so that it works more effectively to make livability and sustainability a metropolitan reality.**

The STAA does not require any formal coordination between transportation, housing, and land use planning despite its strong language on expanding the scope of metropolitan planning and strengthening the planning powers of MPOs. It not only fails to provide substantial incentives to coordinate these policies but also falls short of specifying incentives to help meet the extensive metropolitan planning requirements included in the bill. The draft bill does not offer any financial incentives to create affordable housing and development near transit stops either. The Act should be amended to formally require the coordination of transportation, housing and land use planning functions of MPOs. Specific incentives such as additional funds or expedited project delivery should be added to the Act to encourage transportation projects which link affordable housing and development with transit planning.

The STAA should also further strengthen new offices such as the Office of Livability and the Office of Intermodalism as well as new programs such as the Metropolitan Mobility and Access Program. If they are sufficiently funded and empowered, these initiatives certainly have the potential to be levers for regional governance reform. The draft bill, however, raises some concerns about the potential effectiveness of these new offices and programs. For instance, the bill establishes the Office of Livability within the Federal Highway Administration (FHA)—a transportation agency dedicated to one specific mode of transportation. This raises concerns about how effectively the Office can enhance the nation’s modal choices when it is institutionally nested in a transportation agency that exclusively focuses on highways. Rather than being isolated in the FHA, this Office needs to be an integral part of how localities qualify for *all* transportation funding.

Similarly, the Metro Mobility and Access Program has some structural limitations. The Program focuses largely on moving cars on highways, despite the fact that program funds are also eligible for public transit. While moving cars on highways more effectively is certainly one way of dealing with congestion and air quality, it is not a comprehensive answer. Any long-term response to congestion and air quality has to focus on better aligning land use and transportation demand in order to improve transportation access for all residents, not just drivers, in metropolitan areas. The Act should also be amended to refocus the Metro Mobility and Access Program on maximizing mobility and transportation choices for all kinds of metropolitan residents, including the low-income, disabled, and aging. This would be essential for ensuring transportation equity and equal access to opportunity as well as for overcoming the harmful effects of racial and economic segregation in the nation’s metropolitan areas.

The fact that the proposed bill does not do much to address transportation equity is another shortcoming. The draft bill simply consolidates severely underfunded transportation programs for low-income, disabled, and aging residents with hardly any details on improving the effectiveness of the consolidated programs or on how to provide

new funding for these programs. Transportation equity, however, cannot simply be limited to promoting public transit. If transportation policy can contribute to the hollowing out of regions' urban and inner suburban cores, it can also play a significant role in strengthening these areas. In fact, transportation equity must include active efforts to deconcentrate poverty within metros to promote truly equitable and sustainable growth. Transportation access from poor and racially isolated neighborhoods to more affluent, employment-rich communities is not sufficient to improve the life chances of children attending low-performing schools and living in neighborhoods that are often associated with poor health outcomes. Fair share housing policies that ensure a more equal distribution of affordable housing across metropolitan areas should have as high a priority as other policy goals such as smart growth and climate change in federal transportation policy.

The federal government has an immense opportunity to restructure metropolitan governance institutions in the original regionalist spirit that created the MPOs. It should not miss this opportunity to turn MPOs into engines of fair and sustainable metropolitan growth.

MPO REFORM: A NATIONAL AGENDA FOR REFORMING METROPOLITAN GOVERNANCE

I. WHY IS REFORM NEEDED?

Metropolitan areas are poorly governed. This is a serious problem because they are home to more than 80 percent of the nation's population and they produce more than 90 percent of its economic output. Increasing sprawl, congestion, racial and economic segregation, and disparities in the quality of local services are hurting metropolitan residents and undermining the fair and sustainable growth of the national economy.

Metropolitan areas across the nation continue to sprawl, consuming land at rates that vastly exceed the rates their populations grow (Fulton et al. 2001). The urbanized land in the nation has increased nearly three times faster than the nation's metropolitan population growth in the last decade alone (Ewing et al. 2007). Economic activity in metropolitan areas has also steadily decentralized as jobs continue to move away from urban cores to suburban employment centers (Kneebone 2009).

Sprawling metropolitan areas experience significant mismatches between where residents live and work. As a result, residents in such metros travel longer distances on a daily basis (Ewing, Pendall and Chen 2003). Transportation accounts for nearly a third of the carbon emissions the United States generates. Despite planned improvements in vehicle efficiency and fuel carbon content, the nation cannot reduce its carbon emissions sufficiently without significantly decreasing the overall vehicle miles traveled by Americans (Ewing et al. 2007).

Thirty-six states, which have either completed or are in the process of completing a climate action plan, explicitly recognize the need to reduce vehicle miles traveled (Pew Center on Global Climate Change 2009). Yet only 54% of American households have access to public transportation of any kind (Millar 2007). Meanwhile, the congestion "invoice" for the cost of extra time and fuel in the nation's metropolitan areas skyrocketed from \$16.7 billion in 1982 to \$87.2 billion in 2007.² In 2007, Americans wasted 2.8 billion gallons of fuel (enough to fill 370,000 18-wheeler fuel delivery trucks—bumper-to-bumper from Houston to Boston to Los Angeles) and 4.2 billion hours of extra time (enough to listen to *War and Peace* being read 160 million times through your car stereo) due to congestion (Texas Transportation Institute 2009, p. 5).

Racial and economic segregation in the nation's schools have been steadily increasing since the 1980s (Orfield and Lee 2005). Over three-quarters of Latino and over 70 percent of African-American students who attend public schools attend racially segregated schools—most of which also have high concentrations of poor students (Rebell and Wolff 2006, p.5; Orfield and Lee 2005). Attending racially segregated high-

² The numbers included here are in constant 2007 dollars (Texas Transportation Institute 2009, p. 5).

poverty schools hurts the educational opportunities and life chances of students of color, severely undermining equality of opportunity in metropolitan areas (Orfield and Luce forthcoming in 2010).

Growing disparities in the quality of local services make it impossible for metropolitan residents to have access to equal opportunities. For instance, local communities with stronger tax bases can afford to lend more support to their neighborhood schools. In contrast, districts with poorer tax bases, which tend to have more students of color and low-income students, cannot (Grant-Thomas 2009, p. 8). This creates significant funding disparities in school districts.³ In fact, these funding disparities were so severe that courts in 28 states have declared their school finance systems unconstitutional (The National Access Network 2009). The disparities, which are generally ameliorated by state aid to local school districts, are likely to expand given the severe recent cuts in state education funding across the nation caused by the current recession (Johnson, Oliff and Koulisch 2009, p. 3).

The highly fragmented nature of the political systems that govern America's metropolitan areas contributes mightily to all of these problems. The harms of political fragmentation are many and tightly interrelated. The excessive competition triggered by political fragmentation encourages local jurisdictions to pursue socially and economically undesirable policies. Cities steal malls and office parks from each other, fight tax incentive wars for auto malls, and zone out the poor for fiscal advantage in a process rife with haphazard planning and NIMBY biases. This disjointed status quo scatters new jobs at the furthest edge of development and in so doing throws the metropolitan housing market even farther afield into farmland, forest, and sensitive natural places. With jobs scattered like grapeshot, transit, a cleaner environment, and basic opportunity for lower income Americans becomes harder, not easier, to accomplish.

With the national economy in the deepest recession since the Great Depression, reforming and strengthening metropolitan governance in the nation's metros is especially critical. The country can no longer afford the inefficiencies and inequalities produced by high levels of political fragmentation in its metros. Metropolitan areas need functional governance systems that would make them engines of fair and sustainable growth.

Regional Harms of Political Fragmentation

a. Fragmentation is inefficient.

Highly fragmented local government systems create incentives for local governments to compete for activities that generate high tax revenues and low service demands such as office parks, industrial development, and expensive single-family homes. This intra-

³ For example, in the 2005-2006 school year, high-poverty districts in the nation received \$773 (8%) less in per pupil funding than low-poverty districts. Similarly, high-minority districts received on average \$1,122 (11%) less than low-minority districts (The Education Trust 2009, p.13).

regional competition for local development, however, is usually a zero-sum game. Regions as a whole experience little or no net real gains from intra-regional competition since local governments often merely attract development from other areas of the region and at times trigger cycles of decline in areas that lose desirable land uses. As a result, highly fragmented metropolitan economies tend to grow less than less fragmented metros (Nelson and Foster 1999; Miller 2002, p. 130; Hamilton, Miller and Paytas 2004; Orfield and Luce 2009).

It has been long recognized that regional service systems are also the most efficient way to provide many services. Wastewater treatment facilities are a good example. Allowing local governments to make decisions regarding the sites of wastewater treatment facilities can create costly duplications because large centralized wastewater treatment facilities are cheaper and more efficient to operate than a number of dispersed, smaller facilities. Moreover, myopic local decisions can ignore the negative effects such decisions might have on adjacent localities—a negative externality that can only be avoided by making regional decisions regarding the sites of wastewater treatment facilities (Orfield and Luce 2009).

Similarly, the provision of transportation services has network benefits that extend to the entirety of the region. Network benefits imply that individual transportation links or nodes provide further access to other links and nodes and increase the overall connectivity of the entire system (Giuliano 2007, p. 7). Some transportation links and nodes that are critical to enhancing the connectivity of the system might not be individually profitable from the viewpoint of local governments. As a result, allowing regional transportation decisions to be dictated by local governments might prevent these network benefits from being realized, generating region-wide inefficiencies.

b. Fragmentation encourages unsustainable growth.

Political fragmentation is strongly associated with metropolitan sprawl and patterns of unconstrained, unguided urban growth (Razin and Rosentraub 2000; Carruthers and Ulfarsson 2002; Carruthers 2003; Byun and Esparza 2005; Orfield and Luce 2009). The unclustered employment growth that usually results from uncontrolled inter-local competition for business development makes transit untenable. Sprawling metros also experience significant mismatches between where residents live and work. As a result, residents in such metros travel longer distances on a daily basis (Ewing, Pendall and Chen 2003). The difference between low-density sprawling metros and high-density ones is more than 10 vehicle miles traveled per capita per day—a difference of 40 percent (Ewing et al. 2007, p. 69).⁴

⁴ This finding comes from a study which controls for metropolitan growth, per capita income, and other relevant factors. Similarly, research shows that “doubling residential density across a metropolitan area might lower household VMT by about 5 to 12 percent, and perhaps by as much as 25 percent, if coupled with higher employment concentrations, significant public transit improvements, mixed uses, and other supportive demand management measures.” (Transportation Research Board 2009, p. 2).

Transportation accounts for nearly a third of the carbon emissions the United States generates. Research shows that despite planned improvements in vehicle efficiency and fuel carbon content, the nation cannot reduce its carbon emissions sufficiently without significantly decreasing the overall vehicle miles traveled by Americans (Ewing et al. 2007). The twin national goals of limiting oil dependency and reversing global warming by reducing carbon emissions cannot be attained in the absence of metropolitan governance institutions that can curtail the unsustainable, sprawling growth patterns encouraged by political fragmentation.

c. Fragmentation deepens social, economic, and fiscal inequalities in metropolitan areas.

The fragmentation of local governments fosters residential segregation in metropolitan areas and contributes to concentrations of poverty in urban and inner suburban areas populated by residents of color (Weiher 1991; Frank 2001; Miller 2002, p. 127). Fragmentation directly contributes to residential segregation by encouraging exclusionary zoning practices among municipalities. These practices discourage the construction of affordable housing in opportunity-rich suburban areas, ultimately generating regional concentrations of affordable housing in low-opportunity urban and inner suburban neighborhoods (Pendall 2000; Rothman-Shore and Hubbard 2009).

Local land use and zoning decisions strongly influence a municipality's housing stock, and determine what types of people can reside within its boundaries. For instance, developing areas can effectively exclude low-income residents of all races by severely limiting the land zoned for multifamily development or by requiring very large (and therefore more expensive) homes and lots. In competing for additional tax base, municipalities aggressively zone for high-end commercial/industrial and residential developments because such high-end developments augment a locality's tax base by more than the cost of local services they require.

Most suburban municipalities resist affordable housing because it does not bring much in tax revenues while it generates high service costs at the local level. The costs of providing affordable housing are endured locally, while the benefits are largely regional in scope. Intra-regional competition for tax base encourages municipal governments to pursue exclusionary zoning practices, and political fragmentation only intensifies these competitive pressures. Only a regional governing authority, with a mission to realize the long-term regional benefits of affordable housing policy, can turn this short-sighted, harmful competition into healthy regional collaboration.

Exclusionary zoning practices not only result in metro-wide shortages of affordable housing but they also accentuate regional mismatches between jobs and housing by creating uneven distributions of affordable housing within regions. The skewed distribution of affordable housing in metros has significant equity implications. The concentration of affordable housing in the region's core results in concentrations of poverty in these areas. This limits the ability of area residents—primarily low-income

persons and people of color—to access high quality jobs, schools, and neighborhoods in growing suburban areas.

Fragmentation also intensifies fiscal inequalities among local governments. In most metropolitan areas, local governments exhibit a wide spectrum of fiscal capacities. Local governments with the highest public needs and service costs are usually the ones with the most limited fiscal capacities to pay for public services such as roads, public safety, and sewer services. Region-wide provision of such services can help spread the costs of services across the whole region, and help ease fiscal inequalities among local governments (Orfield and Luce 2009).

Low tax-capacity governments cannot afford to match the public subsidies used by higher-capacity areas to attract fiscally lucrative office parks, industrial and retail businesses. They also tend to have the greatest costs and needs, increasing the stress on their tax bases (Orfield 2002, pp. 31-46). In contrast, high-capacity local governments are able to offer high-quality public services at lower tax rates because of their large tax bases—a factor which makes them even more attractive to most businesses. Only regional land use policies can short-circuit the vicious cycles of decline that can result from such imbalances.

d. Political fragmentation hurts all types of communities.

Suburban communities in metropolitan areas are no longer immune to the harms of highly fragmented political systems. The city/suburb distinction within metropolitan areas is not as distinct as it once was. Differences between cities and suburbs have been blurred for quite a while, with some older suburbs nowadays having more in common with central cities than the newer suburbs (Orfield 2002; Orfield and Luce forthcoming in 2010). Suburban communities are now very diverse in the ways they develop (Orfield 2002).

Suburban communities are diverse, but not infinitely so. Distinct groups are discernable, based on their fiscal capacities and service needs. Orfield and Luce have used these characteristics to classify communities into several groups including central cities, stressed suburbs, developed job centers, developing job centers, bedroom developing suburbs, and affluent residential suburbs (Orfield and Luce 2010). Communities in each group tend to have similar interests since regional trends affect them in comparable ways and they are therefore natural partners in discussions of regional policy.

While central cities certainly continue to bear the brunt of the harms of highly fragmented political systems, all types of suburban communities are hurt by these harms—albeit to varying degrees. Similar dynamics of racial and economic segregation, loss of tax base and inability to compete with new suburbs undermine the stability of central cities and older stressed suburbs alike. Many fast-growing suburbs—developing job centers and bedroom developing communities for the most part—with modest fiscal resources are gaining school age children faster than their tax bases are growing, making it very difficult to provide good public schools. They are also often developing faster than their

ability to provide adequate roads and sewer systems. Finally, developed suburbs, whether rich or poor, suffer from congestion and face challenges in preserving open space as suburbs surrounding them continue to grow at a rapid pace.

II. WHY IS THIS THE RIGHT TIME FOR METROPOLITAN REFORM?

a. The federal government is back in the game.

Regions need help from the federal government for metropolitan reform to happen. The history of reform efforts shows that state-level efforts alone are not sufficient to achieve this task. The American Recovery and Reinvestment Act (ARRA) of 2009 creates a situation where the federal government's role in the national economy is greater than any time since the Great Society initiatives of President Johnson. Resources pouring out of the federal government under ARRA can be effectively leveraged for metropolitan reform. The haphazard commitment of federal funds without a reform plan, however, is likely to deepen the inefficiencies and inequalities created by highly fragmented governance systems.

b. The federal stimulus should not be a missed opportunity.

The need to act fast to provide significant stimulus to the economy has so far limited the federal government's ability to restructure metropolitan governance through the ARRA (Muro et al. 2009). The government has simply pumped resources through existing structures that overall reflected federal policies hostile to metropolitan solutions (Muro, Rahman and Liu 2009). It hastily mobilized federal funds without necessarily integrating funding streams to enable effective action at the metropolitan level.

A recent New York Times analysis of the Federal stimulus funds directed to transportation, for instance, shows that the nation's metropolitan areas were being 'shortchanged' because of the way the stimulus funds were distributed (Cooper and Palmer 2009). Seventy percent of the ARRA stimulus money allocated within the first 120 days of the act went to states, which have a long history of favoring rural areas over metropolitan areas when it comes to distributing federal transportation money.⁵ With only 30 percent of the ARRA transportation funds going to Metropolitan Planning Organizations (MPOs), these funds certainly reinforce the existing sprawl-inducing pattern of spending disproportionately on rural areas.

Another analysis of the distribution of the ARRA transportation funds by Smart Growth America demonstrates that "despite a multi-trillion dollar backlog of road and bridge repairs, states committed almost a third of the ARRA STP money— \$6.6 billion—to new capacity road and bridge projects rather than to repair and other preservation projects" (Smart Growth America 2009, p.3). The analysis concludes that the overall distribution

⁵ The spending bias of states against metropolitan areas is confirmed by a recent study that analyzed 23 states' priorities in spending ARRA dollars (Muro et al. 2009, pp. 20-21),

of ARRA funds and “the number, type, and location of many of the new and widened roads planned will almost certainly contribute to sprawl” (Smart Growth America 2009, p. 26).

Similarly, federal stimulus money going into housing programs is likely to deepen the racial and economic inequalities created by highly fragmented governance systems. Take, for instance, the \$2 billion allocated to the Neighborhood Stabilization Program (NSP) from ARRA funds. The current NSP has a serious, though unintended, fair housing flaw. Program activities are targeted to the areas hardest hit by the foreclosure crisis and 25 percent of NSP funds are targeted to households earning below 50 percent of area median income (Poverty and Race Research Action Council, March 24, 2009). This generally means that NSP funds are used to develop low-income rental properties often through the acquisition of existing foreclosed properties.

The required or encouraged placement of the lowest income (and predominantly black, Latino, and in some areas Asian) families in the hardest hit, often moderate- to high-poverty and segregated neighborhoods concentrates poverty and deepens racial segregation. It is contrary to the requirements of the Fair Housing Act (Poverty and Race Research Action Council, March 24, 2009). In other words, rather than help create affordable housing for low-income families in areas of opportunity and reduce racial and economic segregation, additional NSP funds coming through ARRA are being allocated in a manner that has the exact opposite effect.⁶

The federal stimulus is fast becoming a missed opportunity unless it is accompanied by metropolitan governance reforms that can shake the unsustainable status quo of metropolitan areas. The federal government should stop squandering this large stimulus in a haphazard way. It should use the stimulus funds strategically to establish and strengthen metropolitan governance systems that can improve economic competitiveness, environmental sustainability, and social and economic equality in the nation’s metros.

c. There are viable policy vehicles for metropolitan governance reform.

The Obama administration is clearly open to federal restructuring of metropolitan governance structures. It has already pushed for political initiatives at the federal level that lay the groundwork for metropolitan reform. In March, 2009, the Secretaries of the U.S. Department of Housing and Urban Development (HUD) and the U.S. Department of Transportation (DOT) announced an interagency partnership called the Sustainable Communities Initiative (HUD March 18, 2009). One of the main goals of the initiative is to integrate “regional housing, transportation, and land use planning and investment.” As part of the initiative, HUD and DOT propose to “make planning grants available to

⁶ Evidence from across the country suggests that foreclosed properties are widely available in low-poverty, high-opportunity communities. See footnote 1 in (Poverty & Race Research Action Council March 24, 2009). The NSP program can still target the families in the hardest hit areas for immediate assistance by offering them rental and homeownership opportunities in high-opportunity neighborhoods, rather than in low-opportunity areas. For specific strategies as to how to achieve this, see (Poverty & Race Research Action Council March 24, 2009).

metropolitan areas, and create mechanisms to ensure those plans are carried through to localities,” in order to help “metropolitan areas set a vision for growth and apply federal transportation, housing and other investments in an integrated approach to support that vision” (HUD March 18, 2009).

In June, 2009, the Sustainable Communities Initiative was expanded to include the U.S. Environmental Protection Agency (EPA) (HUD June 16, 2009). The expanded partnership among the three agencies aims to “better coordinate federal transportation, environmental protection, and housing investments.”⁷ HUD is currently working with legislators on a bill that will create the Office of Sustainable Housing and Communities—an office that will manage HUD’s key relationships with DOT and EPA (HUD July 24, 2009). Designed to “advance housing and communities that promote affordable, livable, and sustainable living environments,” the new HUD Office will provide “technical and policy support for energy, green building, and integrated housing and transportation programs at HUD and around the nation” (HUD July 24, 2009).

The administration’s Sustainable Communities Initiative presents a valuable policy vehicle for comprehensive metropolitan governance reform. The Initiative shows great promise for streamlining federal agencies in ways that can address multifaceted metropolitan issues in a holistic fashion. However, as some civil rights advocates argue, “unless issues of racial segregation, poverty concentration, and equal access to opportunity are addressed openly and explicitly [in this initiative], it is possible that policy choices could be made that do not significantly promote fair housing” (Poverty and Race Research Action Council April 6, 2009). The Initiative, which certainly needs to address these concerns, is nevertheless a crucial step in restructuring the federal government in ways that will finally break existing policy silos at the metropolitan level.

The Surface Transportation Authorization Act of 2009 (STAA) is also another timely venue to pursue metropolitan governance reform. Historically, transportation has been a primary avenue for metropolitan reform (Wolf, Sanchez and Farquahr 2007). STAA continues this tradition by suggesting a number of changes to the organization of current MPOs. These changes have significant implications for how powerful, accountable, and democratic MPOs will be in the future.

STAA aims to be much more than another 6-year extension of the federal transportation budget. It involves a major overhaul of existing federal transportation programs as well as some significant institutional changes both at the federal and metropolitan level. The Act makes important strides in making MPOs more accountable and democratic but it is not

⁷ The HUD budget was released before the announcement of the expanded partnership that included EPA. “The Sustainable Communities Initiative, which would be a \$150 million set-aside under the CDBG program, would ‘integrate transportation and housing planning and decisions in a way that maximizes choices for residents and businesses, lowers transportation costs and drives more sustainable development patterns,’ according to HUD’s budget materials. Of the \$150 million, \$100 million would be for a regional planning effort to be jointly administered by HUD and the Department of Transportation (DOT), \$40 million would be for challenge grants to encourage changes to local planning and land use rules as well as building codes, and \$10 million would be for a research and evaluation effort jointly administered by HUD and DOT” (National Low Income Housing Coalition 2009).

very aggressive in empowering them. Institutional reforms such as the introduction of new offices and programs like the Office of Livability, the Office of Intermodalism, and the Metropolitan Mobility and Access Program certainly have the potential to be levers for metropolitan governance reform if they are given significant resources and power.⁸

Influential members of the Senate are also pushing legislation that can facilitate metropolitan reform. Housing and Urban Affairs Committee chairman Christopher Dodd recently introduced the Livable Communities Act which is designed to coordinate federal housing, community development, transportation, energy, and environmental policies to promote sustainable development. By promoting regional planning for livable communities and the adoption of sustainable development practices, the Act meshes very well with the Sustainable Communities Initiative.

The administration's Sustainable Communities Initiative, the Surface Transportation Act, and the Livable Communities Act present three crucial policy vehicles which can make comprehensive metropolitan reform a reality. The federal government should combine the unprecedented opportunities offered by the current crisis to usher the nation's metropolitan areas into the 21st century and use these three policy vehicles to build more cohesive and effective metropolitan governance structures across the nation.

III. RESTRUCTURING METROPOLITAN GOVERNANCE THROUGH MPO REFORM

The key to metropolitan reform is to create metropolitan governance systems with the powers and the tools to coordinate land use, transportation, housing and environmental policy on a metropolitan scale. The most sensible way to boost metropolitan governance structures nationwide is for the federal government to reform the existing network of MPOs with an eye to enhancing the governing capacities of individual MPOs. MPOs represent the most viable starting point for creating metropolitan governance structures because an extensive network of MPOs, with important governmental powers and flexible institutional forms, already covers the entire nation.⁹ The federal government has historically been very involved in promoting MPOs, without necessarily imposing a specific institutional form or representation structure on them. It must now play a strong role in reforming these regional institutions to further enhance their capacity to govern the nation's metropolitan areas.

a. Federal Transportation Policy and the MPOs

The federal government historically has played a very important role in establishing and strengthening metropolitan governance structures by mandating that local applications for

⁸ For a succinct discussion of the pros and cons of the STTA, see (Davis 2009).

⁹ As Maloney correctly emphasizes, MPOs "are the only federally mandated units of regional government which exist, and they may hold the key in terms of developing more effective ways to solve regional problems even beyond transportation" (Maloney 2007, p. 7).

federal transportation funds be reviewed by a metropolitan agency with the authority to produce a comprehensive metropolitan plan (Ensch 2008). Since the 1950s, numerous federal laws incrementally strengthened the role of the MPOs in the nation's transportation policy (Lee 2008; Lewis 1998). The institutional powers of the MPOs in practice, however, waxed and waned from decade to decade under different administrations (Giuliano 2007).

The institutional autonomy of MPOs was relatively limited until the 1990s. Before then they either operated as subdivisions of state departments of transportation or as part of regional councils of government (COGs) (Ensch 2008). The 1991 and 1998 federal transportation acts (ISTEA and TEA-21), however, expanded the autonomy of MPOs significantly, giving them unprecedented discretion and flexibility in allocating transportation funds (Sanchez 2006). While the Bush Administration did not do much to further empower MPOs, it nevertheless kept the previously established MPO structure intact through its SAFETEA-LU act of 2005.

As a result of these federal initiatives, MPOs now provide the most extensive existing network of metropolitan governance institutions in the nation. Every state in the nation has MPOs, totaling 384 nationwide in 2008 (Ensch 2008). However, the functional form and organizational structures of MPOs vary significantly from metro to metro. Substantial variations in MPO governance structures continue to exist because the federal government leaves this to the discretion of governors, state legislatures, and local governments (Sanchez 2006, p. 3). The four major types of organizing structures for MPOs are COGs, free-standing MPOs, county-level MPOs, and state-run MPOs. Most MPOs, however, are either COGs or free standing MPOs (Sanchez 2006).¹⁰

b. Limitations of Existing Metropolitan Governance Structures

All types of MPOs essentially operate through two legal mechanisms. Metropolitan problems are addressed either through special purpose governments or through voluntary agreements among local governments.¹¹ Special purpose governments and voluntary agreements at best provide ad hoc solutions to metropolitan problems. They suffer from a number of limitations that limit their effectiveness as metropolitan institutions.¹²

¹⁰ Councils of Governments (COGs) are voluntary associations of elected public officials representing local governments in a metropolitan area, formed with the purpose of developing consensus about metropolitan needs and ways to address these needs (Beckman 1964). Free-standing MPOs are mostly special purpose governments that focus on the transportation needs of the region.

¹¹ (Frug 2002, p. 1788). Special purpose governments, which include public authorities and special districts, "are independent public agencies established under state law to deal with a specific problem such as fire protection, water supply, waste disposal, or transportation; occasionally, they are responsible for a limited combination of problems. Voluntary agreements are contracts entered into by two or more local governments, and they provide an alternative mechanism to address the same kind of issues" (Frug 2002, p. 1781).

¹² For a more detailed examination of the limitations of special purpose governments and voluntary agreements upon which the following discussion is based, see (Frug 2002, pp. 1783-1786).

Special purpose governments complicate the issue of metropolitan coordination and planning by adding to the multiplicity of existing governments. They usually lack accountability especially when their boards are appointed or elected by special groups in the population, like property owners. They are inefficient in the sense that they perform a public function more expensively than a local government. Most importantly, the presence of special purpose governments continues to enable the highly fragmented political systems that undermine effective regional governance.

Voluntary agreements between local governments suffer from similar limitations. Since these agreements typically focus on single issues, they tend to proliferate and complicate metropolitan coordination and planning. They undermine democratic control over local government functions since local officials usually enter contracts that last longer than their elected terms. Finally, like special purpose governments, voluntary agreements tend to perpetuate the system of fragmented governance in the nation's metros.

Effective metropolitan reform requires the creation of metropolitan institutions that are capable of producing comprehensive regional solutions. Neither special purpose governments nor voluntary agreements are suitable for effective metropolitan governance. Despite this, they have been proliferating in number and are fast becoming the most common forms of dealing with metropolitan problems (Miller 2002, p. 49; Frug 2002, p. 1781). Special purpose governments and voluntary agreements are popular because they have been viewed as incremental solutions to regional problems—a fact which has made them politically easy to adopt.

Far from providing the comprehensive regional solutions needed to strengthen metropolitan areas, special purpose governments and voluntary agreements impede such solutions. They do so by leaving “permanently off the table the most divisive issues facing metropolitan America—schools, crime, housing, jobs, and taxes” (Frug 2002, pp. 1787-1788). Effective metropolitan governance would require multi-purpose governance structures that are legally empowered to tackle these thorny issues.

c. Multi-purpose metropolitan governance structures with strong powers produce better metropolitan outcomes.¹³

Few metropolitan areas in the nation have the strong general-purpose governance structures that resemble the full-fledged metropolitan systems needed to integrate land use, transportation, housing, and environmental policy on a metropolitan scale. The Twin Cities' Metropolitan Council and Portland's Metro come closest. They are well known for the extensive authority they have for planning metropolitan growth and reviewing policies related to metropolitan growth patterns (Orfield and Luce 2009).¹⁴ These MPOs are metropolitan governing bodies in the sense that they neither duplicate nor replace functions performed by local governments in their metropolitan areas, providing services

¹³ This section heavily relies on the findings reported in (Orfield and Luce 2009).

¹⁴ Orfield and Luce note that “MPOs that have been given state-mandated powers, such as Seattle, San Diego, Los Angeles, and Denver, are arguably evolving into multi-purpose governments, though the Twin Cities and Portland regional governments remain more powerful” (Orfield and Luce 2009, footnote i).

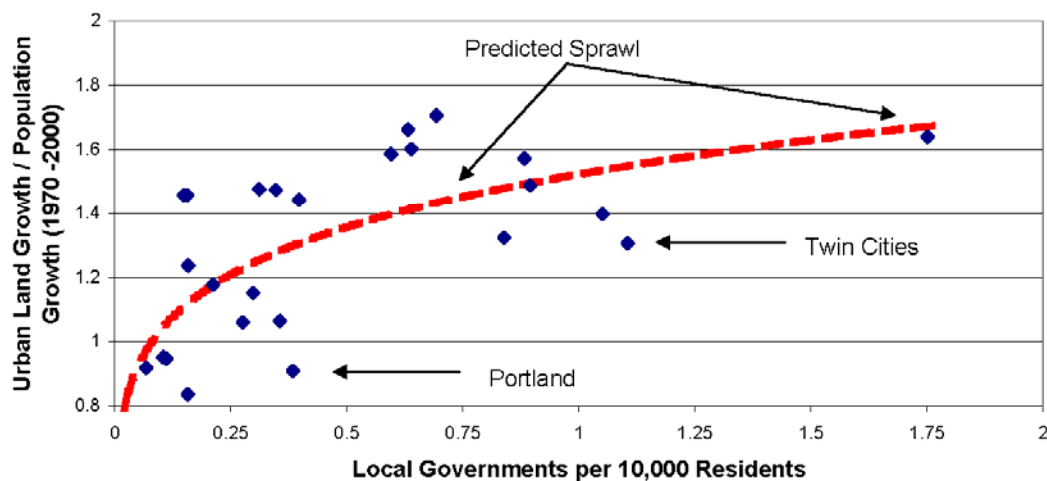
that are most efficiently rendered at a metropolitan scale. In both the Twin Cities and Portland, the presence of metropolitan multi-purpose governments with strong land use, transportation, and growth management powers has helped curb sprawl and racial segregation and has promoted job growth and fiscal equity (Orfield and Luce 2009).

Less Sprawl

Fragmentation intensifies the dysfunctional intra-regional competition by local governments for additional tax base. Local governments try to maximize their tax bases by zoning most of their land for high-end, big residential lots, or commercial development, creating low-density settlement patterns and job sprawl. Fragmentation also enables leap-frog development by decreasing the area over which individual planning organizations hold power. As Figure 1 clearly shows, metropolitan areas with higher levels of political fragmentation tend to sprawl more.

Figure 1 also demonstrates that from 1970 to 2000 both Portland and the Twin Cities sprawled much less than would be expected, given their fragmentation rates. The sprawl ratios of the Twin Cities and Portland were 15 percent and 30 percent lower than expected given each region's existing level of political fragmentation (Orfield and Luce 2009). In fact, the Twin Cities had the lowest sprawl rate among the highly fragmented metros, while Portland had the second lowest rate among the metropolitan areas with low fragmentation rates.

**Figure 1: Fragmentation and Sprawl in the 25 Largest Metropolitan Areas
(Correlation = .66)**

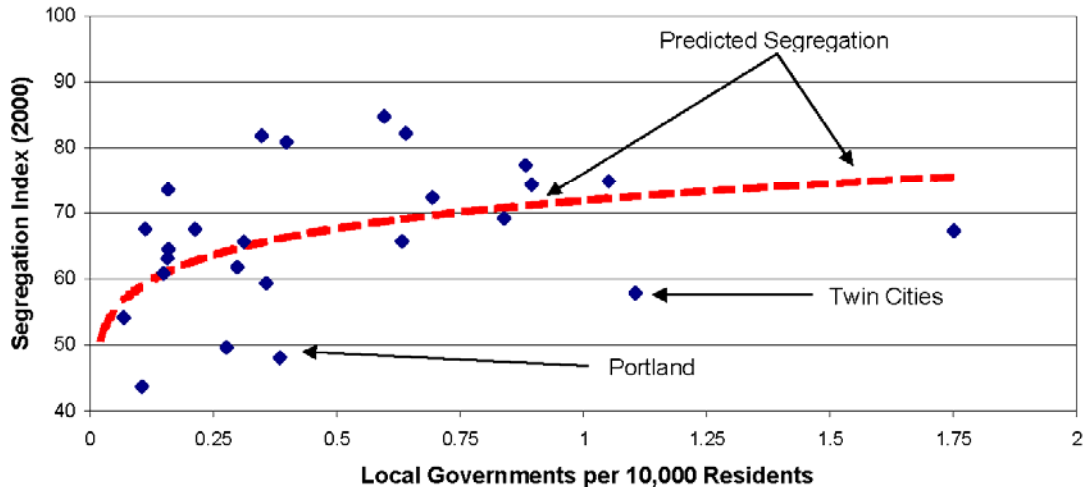


Less Segregation

The Twin Cities and Portland also experience much lower levels of racial segregation than one would expect given their levels of political fragmentation. Higher levels of

political fragmentation in metropolitan areas are associated with greater racial segregation, measured by the dissimilarity index for white and black residents (Figure 2).¹⁵ Figure 2 demonstrates that the metropolitan coordination of land use planning in the Twin Cities and Portland clearly alleviates the degree of racial segregation resulting from the local exclusionary zoning practices encouraged by political fragmentation. In fact, the dissimilarity indices for Portland and the Twin Cities were respectively 23 percent and 16 percent lower than expected given each region's existing level of political fragmentation (Orfield and Luce 2009). Again, Portland performed second best among metros with low fragmentation rates while the Twin Cities had the lowest level of racial segregation among highly-fragmented metros.

Figure 2: Fragmentation and Segregation in the 25 Largest Metropolitan Areas
(Correlation = .44)



More Employment Growth

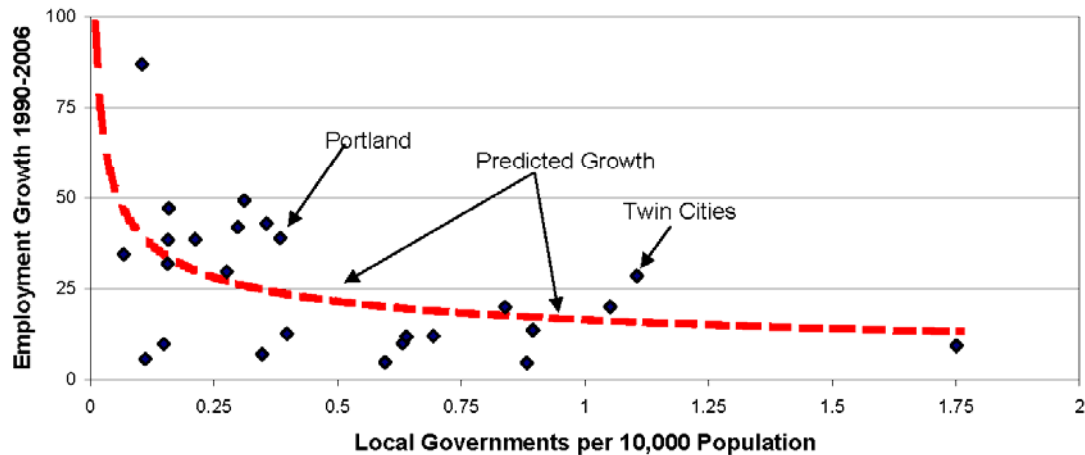
Political fragmentation intensifies the dysfunctional intra-regional competition by local governments for additional tax base. Often such competition merely reshuffles jobs from low-capacity municipalities, which cannot afford to extend the expensive government subsidies other municipalities extend to attract new businesses, to high-capacity municipalities. It rarely produces any significant new regional economic growth. As a result, in addition to being associated with more sprawl and segregation, political fragmentation is also associated with slower job growth in metropolitan areas (Figure 3).

Once again, the Twin Cities and Portland enjoy higher job growth rates than metropolitan areas with similar levels of political fragmentation. In the Twin Cities, employment grew

¹⁵ The dissimilarity index measures the percent of regional residents who would have to change residences in order to achieve complete integration.

at nearly double the rate expected given its level of political fragmentation—29 percent compared to 16 percent between 1990 and 2000. In Portland, jobs grew at a rate that was two thirds higher than the predicted rate given its level of fragmentation—39 percent versus 24 percent (Orfield and Luce 2009).

**Figure 3: Fragmentation and Employment Growth in the 25 Largest Metropolitan Areas
(Correlation = -.50)**



Less Fiscal Inequality

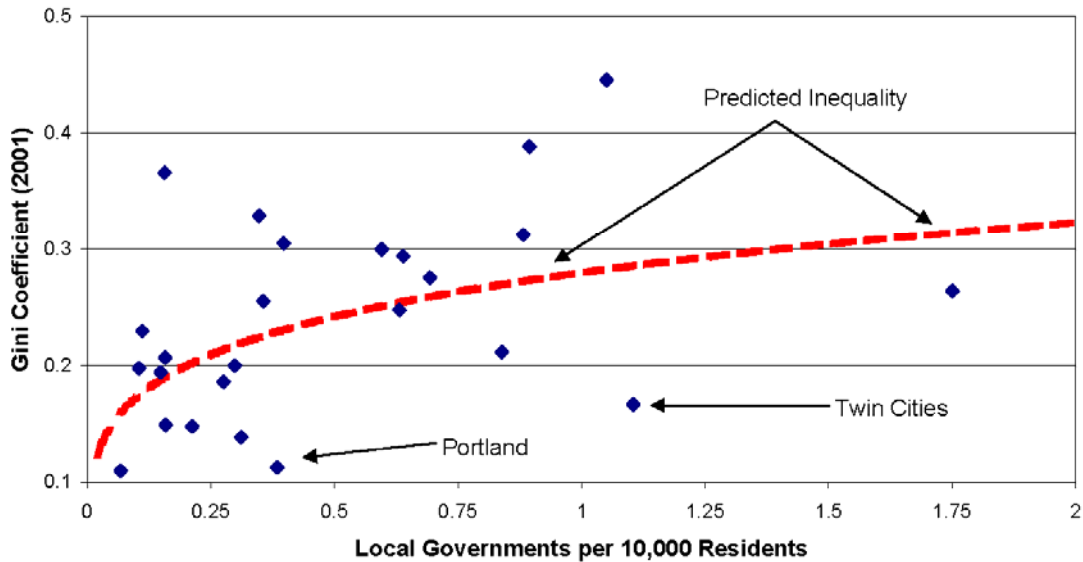
Intra-regional competition takes place on an uneven playing field where local governments with widely different fiscal capacities compete with each other. In most cases, high-capacity municipalities are the winners of intra-regional competition at the expense of low-capacity municipalities. Fragmentation deepens fiscal inequities in metropolitan areas by intensifying this dysfunctional competition among local governments, creating a regional chasm among haves and have-nots. As Figure 4 demonstrates, in the largest 25 metropolitan areas there is a positive relation between political fragmentation and fiscal inequality (measured by the Gini coefficient for local tax base).¹⁶

The Twin Cities and Portland again stand out among the largest 25 metropolitan metros with their low levels of fiscal inequality (Figure 4). The Gini coefficient of the Twin Cities metropolitan area is 35 percent below the level predicted by its level of political fragmentation—an actual Gini coefficient of 0.17 compared to a predicted one of 0.26. Similarly, fiscal inequality in Portland was 50 percent lower than the level predicted by

¹⁶ The Gini coefficient measures the difference between the actual distribution of tax base and a perfectly equal distribution. It varies between 0 and 1, taking on a value of 0 if the distribution is perfectly equal (all jurisdictions have the same tax base per household) and 1 if the distribution is perfectly unequal (one jurisdiction with only one household has the entire tax base).

its level of fragmentation—an actual coefficient of 0.11 versus a predicted coefficient of 0.22 (Orfield and Luce 2009).

Figure 4: Fragmentation and Fiscal Inequality in the 25 Largest Metropolitan Areas (Correlation = .48)



Regional policies such as regional tax base sharing programs or regional transportation and land use planning to distribute economic activity and affordable housing more equitably across metropolitan areas can also reduce these fiscal inequities. The Twin Cities uses a regional tax-base sharing program, while Portland relies on its strong regional transportation and planning powers to reduce regional fiscal inequalities.¹⁷ As the examples of the Twin Cities and Portland show, the two metros with the most highly developed multi-purpose metropolitan governance structures fare better than expected in a variety of economic and social measures.

¹⁷ “In the Twin Cities, the Fiscal Disparities Act of 1971 instituted a tax base sharing program that reduces the disparities between the ‘winners’ and ‘losers’. Each taxing jurisdiction must contribute 40 percent of the growth of its commercial and industrial tax capacity since 1971 to a regional pool, which is then shared amongst all local governments, with a larger proportion going to municipalities with lower-than-average market value per capita. It has had the effect of reducing inequality by approximately 20 percent. The program was created during the same wave of regionalism that led to the Met Council, although it is administered by the seven counties included in the program rather than the Met Council” (Orfield and Luce 2009).

IV. WHAT ARE THE ESSENTIALS OF EFFECTIVE METROPOLITAN GOVERNANCE?

Regional institutions need to be democratic, accountable, powerful, and multi-purpose to provide effective metropolitan governance.

a. The need for *democratic metropolitan governance structures*

Effective metropolitan governance requires democratic regional institutions. Undemocratic representation within regional institutions intensifies metropolitan inequities, erodes institutional legitimacy, and undermines the effectiveness of these institutions.

Current federal laws applying to MPOs do not require representational voting. As a result, voting structures of MPOs are rarely apportioned to population (Sanchez 2006). This has serious implications for metropolitan equity. For instance, an analysis of the governing boards of MPOs shows that voting structures of MPOs severely underserve urban areas in favor of suburban jurisdictions (Sanchez 2006). Such imbalances in representation can have detrimental consequences for the development of metropolitan transportation networks. For instance, one study shows that an MPO's commitment to transit (as measured by the share of its resources committed to transit services) declined by 1 to 7 percent for each suburban vote added to an MPO board (Nelson et al. 2004).

The general lack of representational voting within MPO governing boards also undermines effective metropolitan governance because non-democratic governance structures tend to produce outcomes that go against the interests of underrepresented parties. This in turn undercuts the legitimacy of regional institutions and their policies in the eyes of local constituencies which are not fairly represented. Typically, underrepresentation does not go unchallenged. When inadequate representation is not institutionally addressed, such challenges can undermine the effective working of regional institutions (Sanchez and Wolf 2005).

These representational imbalances especially hurt transit-dependent low-income residents and residents of color who disproportionately live in the urban core of metropolitan regions. In the case of the Southeast Michigan Council of Governments (SEMCOG), for instance, constituents challenged the representativeness of the MPO voting structure, alleging that overrepresentation of suburban districts on the board resulted in disproportionately little investment in transit compared to highway investments in the Detroit metropolitan region (Sanchez and Wolf 2005). MPOs can only avoid such costly challenges by creating governance boards where all local jurisdictions and interests are fairly represented.

Fair representation, however, does not necessarily mean that metropolitan policies should be the result of a consensus-oriented process. While the overall goal of metropolitan

policies is to create a ‘winning region,’ metropolitan governance is rarely a conflict-free process. Metropolitan policies create local losers and winners, and metropolitan decision-making cannot cater to the interests of all local jurisdictions at the same time. What fair representation guarantees, however, is a legitimate way of institutionalizing a negotiation process among all the local jurisdictions of a metropolitan area. This process offers a venue where metropolitan goals are articulated in a democratic fashion by taking into consideration the *regional* interests of all jurisdictions in the metro.

The fact that many MPOs are currently composed of members whose primary responsibility is another elected body, such as a city or county council, creates another important problem. When the MPO is only a secondary “home” for a representative, this means that MPO representatives are not elected primarily on the basis of their actions or opinions on metropolitan issues. Voters instead almost certainly evaluate them overwhelmingly on their performance in their primary job. For metropolitan concerns to receive the attention merited by their importance, members of MPO boards should be directly elected, ensuring that representatives are evaluated solely on the basis of their performance on metropolitan concerns.

b. The need for *accountable* metropolitan governance structures

MPOs should be held accountable both to voters and to the federal and state governments that provide much of their funding. Democratic governance institutions would satisfy much of the first requirement—accountability to voters. However, since much of the funding for metro-wide services like transportation, housing and environmental protection comes from state and federal sources, there is great potential to incentivize metropolitan funding streams to create a strong outcome orientation among MPOs. MPOs should be required to produce concrete measures of the outcomes of their programs—measures that can be used by both funders and voters to evaluate their effectiveness.

Measuring metropolitan progress requires a clear articulation of metropolitan goals. The harms of fragmentation manifest themselves in a number of policy arenas including land use, transportation, housing, and environment. Therefore, the effectiveness of metropolitan governance structures can only be evaluated by measuring the extent to which interconnected metropolitan goals are achieved. These metrics of accountability should include: the effectiveness and sustainability of land use policies; how evenly affordable housing is distributed; metro-wide racial and economic integration; the extent to which job growth is clustered to promote multi-modal transportation options and transit-oriented development; congestion and vehicle miles traveled; and fiscal equality among local jurisdictions.

c. The need for *powerful* metropolitan governance structures

The other side of accountability is empowerment. MPOs need to be organizationally capable of meeting the challenges facing their regions before they can legitimately be held accountable for meeting metropolitan goals. Metropolitan governance is a

challenging, conflict-ridden process and MPOs need to have significant governing capacities to be able to handle these challenges.

In order to govern regions effectively, MPOs should be empowered to do comprehensive regional planning, not just transportation planning. Comprehensive regional planning involves coordination of regional transportation, land use, housing, and environmental policies.¹⁸ Effective implementation of comprehensive regional plans requires the authority to ensure that local development plans are consistent with the regional comprehensive plans. The authority to review local plans and override local decisions regarding land use, transportation, housing, and the environment is crucial for MPOs in implementing their comprehensive regional plans.

One way to empower MPOs with these authorities would be to directly require MPOs to do comprehensive regional planning in order to be certified. Another more indirect way to do this is for HUD to require regional land use and housing plans to be in place in metropolitan areas and for the federal government to reinstitute A-95 powers specifically to MPOs. The federal government once gave the MPOs significant metropolitan powers through the A-95 review process, which authorized MPOs to review, from a metropolitan standpoint, and, if necessary, override local decisions regarding land use, transportation, and housing (National Commission on Fair Housing and Equal Opportunity 2008, pp. 47-50).¹⁹

Whatever method is used to empower MPOs, regional governance structures should be appropriately scaled to cover entire metropolitan areas. As regions grow, the jurisdictional boundaries of MPOs should grow with them. Otherwise, the jurisdictions of MPOs will be geographically under-bounded, and this would certainly compromise their governing capacities.²⁰ One way to avoid this would be for the federal government to require that MPOs have jurisdiction over an area that is at least coterminous with the most recent Census Designated Metropolitan Area definitions.

Finally, the power of MPOs is ultimately bound by the power of the states that create them. The policy decisions of states have significant impact on metropolitan outcomes. MPOs cannot succeed in achieving the desired metropolitan outcomes without the help of supportive state policies. For instance, if state DOTs keep spending federal transportation funds disproportionately for rural areas, MPO policies to curb residential and job sprawl

¹⁸ As Briffault argues, the land use powers of MPOs “must include both the authority to adopt regional land use plans that will bind future land development throughout the region and the power to displace local land use actions that have regional significance. Such regionally significant uses include local barriers to regionally necessary, but locally undesirable land uses, and local land use authorizations that impose negative externalities on the rest of the region” (Briffault 1996, p. 1166).

¹⁹ The powers given to MPOs through the A-95 review process were essential for distributing affordable housing and opportunity more equally in many metropolitan areas (Connerly and Smith 1996).

²⁰ The Metropolitan Council in the Twin Cities region is a good example of this problem. The legal jurisdiction of the Metropolitan Council covers seven counties. This was the entire Census Designated Metropolitan Area at the time the Council was established. Since then the region has grown to include 13 counties, including two in Wisconsin. As a result, the Metropolitan Council has no jurisdiction over four Minnesota collar counties now included in the metropolitan area. This geographically under-bounds the Council’s jurisdiction, impeding its ability to manage the region’s growth.

cannot be successful. Similarly, if states do not support regional planning by MPOs through regulation of land use beyond metropolitan area boundaries, MPOs will have a hard time managing metropolitan growth. While acknowledging the importance of state governments to metropolitan governance reform, this paper does not discuss state-level policy reforms that should accompany MPO reform in order to focus on reforms at the federal level.

d. The need for *multi-purpose* metropolitan governance structures

Effective metropolitan governance requires powerful multi-purpose governance structures because the most crucial metropolitan problems are tightly interrelated. Frug summarizes the intricate connections between metropolitan issues:

Traffic problems result from the location of housing, jobs, and commercial life. The quality of the schools and the crime rate influence housing decisions: those who can afford to do so move to where the schools are good and the crime rate low. Tax policy and zoning rules help determine where that is. Tax revenues are based on property values: the differences in the levels of funding available for schools and crime control reflect differences in the quality of housing, jobs, and commercial life. Zoning rules allow some localities to attract the “better” types of residents and businesses and exclude the rest. But neither businesses nor city residents can settle in these favored locations unless commuters, shoppers, and school children have a (government-supported) transportation network that allows them to travel back and forth. Transportation, housing, schools, crime, taxes, jobs—it is hard to think about one of these issues without thinking about the others (Frug 2002, p. 1813).

Coordinating land use and transportation policies on a metropolitan scale is essential for guiding metropolitan growth, ameliorating existing job-housing mismatches, and ultimately reducing vehicle miles travelled on a metropolitan and national scale. Smart growth policies that encourage high-density, mixed-use development in existing job centers both curb job sprawl in metropolitan areas and permit the development of more extensive transit networks. A metropolitan transportation policy, which prioritizes transit, could, in turn, contain job sprawl and revitalize communities in the already developed parts of the metro. Transit-oriented growth could boost housing values and tax capacity in central cities and stressed suburbs without contributing to further congestion, enhancing the vitality of these communities as employment centers.

For metros to ease job-housing mismatches, every part of a metropolitan area must provide a wide array of housing affordable to people with different incomes. This means that all communities, not just central cities and stressed inner-ring suburbs, should have their fair share of affordable housing. Metro-wide fair share housing is essential for enabling local businesses to hire and retain employees who live within reasonable commuting distance of their jobs. It is also essential for reversing racial and economic segregation and deconcentrating poverty from the urban core of metropolitan areas. Only by implementing metro-wide fair housing policies can metropolitan areas overcome

exclusionary zoning practices that limit opportunities for low-income residents and residents of color. In order to enhance opportunities for *all* residents, metropolitan areas need to redistribute affordable housing regionally, especially promoting affordable housing in opportunity-rich areas.

V. POLICY RECOMMENDATIONS:

1. MAKE REPRESENTATION ON MPO GOVERNANCE BOARDS MORE DEMOCRATIC

Undemocratic voting structures within MPO boards can undermine the effectiveness of MPOs and metropolitan governance in a number of ways. They can skew a metro's transportation investments by disproportionately committing transportation funds toward projects that primarily benefit over-represented localities, and not necessarily the broader metropolitan area. Over-representation of suburban districts in MPO governance boards has been shown to lower a region's investment in public transit, thus hampering the transportation choices available to metropolitan residents (Nelson et al. 2004). Disproportional representation in MPO boards also undermines the effectiveness of MPOs by eroding their institutional legitimacy.

The STAA of 2009 addresses the problem of representation in MPO boards in two different ways. First, it amends the certification requirements of MPOs to require that "voting members of the metropolitan planning organization are represented in proportion to the population of each political subdivision to the total population of the metropolitan planning area" (Surface Transportation Authorization Act, HR __, 111th Cong. § 3004 (q)(2)(C) (2009)). Second, the draft bill also requires the participation of public transit officials on MPO boards.²¹ Both of these changes are steps in the right direction in that they are improvements over the current disproportional representation structure that tends to favor highway construction over transit. But they fall short of addressing crucial representational problems that continue to plague MPOs boards and to undermine effective metropolitan governance in the nation's metros.

- a. **The STAA should require that MPO board members be composed of representatives who are accountable primarily to the metropolitan area's citizens.**

Most MPO boards are composed of members who were elected to a different political institution, usually a municipal office of some sort. While these representatives are

²¹ The 86-page summary of the STAA released by the U.S. House of Representatives Committee on Transportation and Infrastructure states that the Act "ensures increased participation by public transit officials in all MPOs" (The U.S. House of Representatives Committee June 18, 2009, p. 24). The draft language simply calls for representation by public transit officials without specifying the extent of representation (Surface Transportation Authorization Act, HR __, 111th Cong. § 1508 (c)(3) (2009)).

elected to serve their local areas, they usually are not specifically elected for the regional board. Voters therefore evaluate them primarily on their performance in their primary job—as a city councilman or mayor, for instance. They should instead be held accountable based primarily on their performance on the metropolitan issues handled by the MPO.

The divided loyalties of board members who are local representatives hurt metropolitan areas by impeding the formation of effective metropolitan governance structures. The most common way communities address this governance problem—possibly because it is the politically easiest option—is to increase the overall influence of regional interests in governance boards. This is often achieved by appointing board members from state or regional agencies. While this does not guarantee that regional interests will prevail, it nevertheless curbs the parochialism of local representative-dominated governance boards.²²

However, adding representatives with regional or state-wide interests does not eliminate the problem. In fact, it may create a different type of problem. At-large regional or state board members still represent agencies whose interests are different than the multi-faceted interests of the region. For instance, a board representative from a state department of transportation could make policy decisions solely through a transportation lens, while a metropolitan governance institution needs to make decisions with a more holistic metropolitan policy orientation that integrates land use, transportation, housing and economic development.

The STAA proposal to include public transit officials in the governing boards of MPOs is laudable because it increases the power of transit officials in MPO governance boards which have historically been dominated by highway officials. However, this proposal, which is a politically easy, short-term fix, is not useful in the long run because it avoids the larger problem of the misalignment of regional and local interests in MPO governance boards. Effective metropolitan governance needs political institutions constructed on a geographic scale larger than local government units but smaller than state governments. Regional political constituencies can only be constructed by promoting an understanding of metropolitan areas as “distinctive, internally interconnected places.”²³

²² In fact, there is evidence from regional transportation authorities that when regional governance boards have a larger percentage of at-large board members vis-à-vis local government representatives, they tend to prioritize regional projects more consistently over time, exhibiting a more metro-oriented outlook (Gerber and Gibson 2008).

²³ Richard Briffault articulates the importance of regional elections for effective metropolitan governance: Metropolitan governance will require not just a reduction in the significance of existing local boundaries but the creation of new, regional boundaries. The metropolitan area is frequently an economic unit. It needs to become a political unit as well. Bounding the metropolis would bring greater “clarity” to the notion of the metropolitan area as a distinctive, internally interconnected place, and would thus provide a political basis for enabling residents to conceive of the metropolitan area as a community. More figuratively, bounding the metropolis with regional political institutions could provide the regulatory and administrative capacity to deal with regionwide problems that cannot be addressed by the existing local government structure. It would offer a critical opportunity for regionwide deliberation, popular participation in decisions of

b. The STAA should make the recertification of MPOs conditional on proportional representation of central cities, fully developed suburbs, and developing suburbs in MPO boards based on their populations.

Another important issue affecting representation on regional boards is the growing complexity of metropolitan America. The STAA requires that the voting structures of MPOs be apportioned to population in an attempt to reverse the under-representation of urban areas and over-representation of suburban areas common to many existing MPO boards. The draft bill improves upon the existing voting structures by striking a balance between urban and suburban interests. However, a simple urban/suburban policy framework is no longer adequate to the task (Orfield 2002). Today's metropolitan reality is far more complex. The distinction between cities and suburbs has been blurred for some time with some older suburbs now having more in common with central cities than the newer suburbs. Suburban communities are also fairly diverse in the ways they develop. However, despite this diversity, metropolitan communities with similar needs and capacities are affected by regional trends in comparable ways. As a result, they tend to face similar challenges and opportunities and share common regional interests. It is possible to sort out these "communities of common regional interest" by grouping them according to their needs and capacities.

The highly fragmented governance structures that currently shape the nation's metros often pit central cities, fully-developed suburbs, and developing suburbs against each other. This pushes every community to fend for itself, obscuring the fact that they often have interests in common at a regional scale. For instance, like the central cities, fully-developed suburbs often struggle with growing needs with small and shrinking resources. In some ways, fully-developed suburbs often are less likely to rebound than the central cities, lacking the advantages of centrality and the cultural amenities that many central cities have. They often have old infrastructure—like roads and sewers that need to be rebuilt—and compete with newer suburbs developing at the metropolitan fringe. Most of these fully-developed suburbs are going through the same racial and economic dynamics that made central cities residentially segregated.

Fragmentation also means that localities often have no effective forums for communicating and negotiating with their neighbors about potential impacts of local policies on neighboring communities. A developing job center's growth opportunities often means growing traffic congestion for neighboring communities and loss of tax base for other areas. A bedroom developing suburb's rapid growth may consume open space previously enjoyed by residents of neighboring developed areas.

Effective metropolitan governance structures do not weaken the power of local jurisdictions in regional decisions. Instead, they empower local jurisdictions by giving them a means to articulate their common *regional* interests and to collectively advocate

regional significance, and the accountability of regional officials to the people who live in the region (Briffault 1996, p. 1165).

for these interests in a regional platform, where all types of metropolitan communities are fairly represented (Frug 2002, p. 1790).

Metropolitan politics often boil down to the politics among three distinct “communities of common regional interest”: central cities, fully developed suburbs, developing suburbs.²⁴ Regional dynamics, which connect these communities inextricably to each other, affect each one differently. Each one of these three communities is an essential part of a larger metropolitan machine, and each one needs to be fairly represented in metropolitan governance structures for the region to operate effectively.

The STAA should be amended to give proportional representation to these three distinct “communities of common regional interest” in MPO boards. In order to ensure that MPO boards have democratic voting structures, the MPO recertification process should require that each state choose one of the following two options to select MPO representatives:

- I. MPO members shall be directly elected by districts drawn by the state on the basis of one person/one vote and the Federal Voting Rights Act. Districts for MPO representatives should be drawn so that the central cities, fully developed suburbs, and developing suburbs will each have a proportional number of districts relative to their metropolitan population.
- II. MPO members shall be selected by metropolitan area municipalities from districts drawn by the state that are equal in population. Districts for MPO representatives should be drawn so that the central cities, fully developed suburbs, and developing suburbs shall each have a proportional number of districts relative to their metropolitan population. In selecting the MPO member, each municipality in a district so drawn shall have a proportional number of votes based on the municipality’s relative population to the district.

Option I essentially requires that MPO board members are elected through metropolitan districts in which all three “communities of common interest” are fairly represented. Although politically more difficult, this would be the ideal long-term solution to the current misalignment of regional and local interests in MPO boards in the sense that only democratically-structured governing boards made up of elected regional officials can be effective instruments for articulating regional interests. Option II falls short of suggesting direct regional elections but it does ensure collective voice for individual communities by giving them fair representation based on their membership within the three regional subgroups.

²⁴ Orfield and Luce’s typology of metropolitan communities can be aggregated to reflect these three distinct political interests (Orfield and Luce forthcoming in 2010). While central cities stand out as a distinct category, stressed suburbs and developed job centers constitute fully developed suburbs. Developing job centers and bedroom developing suburbs make up most of developing suburbs.

2. MAKE MPOs MORE ACCOUNTABLE

Democratizing voting structures on MPO boards would go a long way toward making MPOs more accountable. Yet, metropolitan constituents and the federal government still need a number of accountability metrics they can use to measure the progress of MPOs in solving regional problems and achieving regional goals. These regional goals are many and interrelated, and accountability measures should therefore include land use, transportation, housing, and environment.

The establishment of clear accountability metrics by itself does not ensure accountability. Holding MPOs fully accountable requires an enforcement mechanism that creates significant consequences for not making significant regional progress. The transportation dollars that the federal government allocates to MPOs makes the federal government the most influential political actor in enforcing these goals. By making the recertification of MPOs conditional on making significant regional progress, the federal governments can use the MPO recertification process as an effective enforcement mechanism.

a. The STAA should specify the metrics that are necessary to measure the progress MPOs make toward achieving fair and sustainable growth.

The STAA makes important strides toward enhancing accountability for MPOs by requiring that MPOs “implement a system of performance management” as part of their recertification process (Surface Transportation Authorization Act, HR __, 111th Cong. § 3004 (k)(s) (2009)). This system of performance management requires that the “Secretary, in consultation with metropolitan planning organizations and States, shall establish qualitative and quantitative performance measures” (Surface Transportation Authorization Act, HR __, 111th Cong. § 3004 (k)(s)(2)(A) (2009)). The system also requires that “each metropolitan planning organization shall establish a target level of performance in relation to each of the performance measures established” (Surface Transportation Authorization Act, HR __, 111th Cong. § 3004 (k)(s)(3)(A) (2009)).

The draft bill does not exactly specify the required performance measures. It simply requires that they “measure, at a minimum, the degree to which the long-range transportation plan reduces congestion, improves mobility and safety, increases the state of good repair of surface transportation assets, decreases surface transportation-related emissions and energy consumption, is consistent with land use plans, and increases the connectivity of and access to the surface transportation system” and “include, at a minimum, any other information the Secretary considers appropriate” (Surface Transportation Authorization Act, HR __, 111th Cong. § 3004 (k)(s)(2)(B)(iii); (k)(s)(2)(B)(iv) (2009)).²⁵

²⁵ In addition, the performance measures for large metropolitan areas “include a measurement of the degree to which the long-range transportation plan is developed through an assessment, at a minimum, of the following: (i) Land use patterns that support improved mobility and reduced dependency on single-occupant motor vehicle trips; (ii) An adequate supply of housing for all income levels; (iii) Limited impacts

While these minimum performance measures reflect worthy regional goals, they hardly constitute a comprehensive list. In order to ensure making significant progress toward fair and sustainable metropolitan growth, a more comprehensive list should include the following accountability metrics:

- the effectiveness and sustainability of land use policies—measured by a sprawl index that calculates the increase in urbanized land in relation to population growth;
- the fairness of affordable housing distribution in a region—measured by the percentage of affordable housing in moderate- to high-opportunity communities;²⁶
- the extent to which a region is racially and economically segregated—measured by traditional measures such as the dissimilarity indices or the percentage of low-income people (students) and people (students) of color in segregated neighborhood (school) settings;
- the extent to which job growth is clustered to promote multi-modal transportation options and transit-oriented development—measured by percentage of jobs in high-density job centers; and
- the extent of fiscal inequality in a region—measured by the Gini coefficient for local tax-bases.

The draft bill should be amended to include these accountability metrics so that MPOs across the nation could be held to the same standards.

The draft bill should also strengthen the enforcement mechanism that creates significant consequences for MPOs not meeting metropolitan performance targets. The draft bill makes recertification conditional on meeting metropolitan performance targets. If MPOs fail to recertify due to non-compliance “the Secretary may withhold up to 20 percent of the funds attributable to the metropolitan planning area of the metropolitan planning organization” (Surface Transportation Authorization Act, HR __, 111th Cong. § 3004 (k)(q)(3)(A) (2009)).

Historically, the withholding of federal funds to uncertified MPOs has not been an effective enforcement mechanism because it is left to the discretion of the Secretary. In fact, no MPO has ever lost funding through this mechanism (Brookings Institution 2008, p. 53). In order to make the recertification process an effective instrument of accountability, MPOs should lose federal funds, rather than simply face the threat of losing federal funds, if they fail to certify. The draft bill should *require* the Secretary to withhold federal funds if MPOs fail to certify due to non-compliance.

on valuable farmland, natural resources, and air quality; (iv) A reduction in greenhouse gas emissions; (v) An increase in water and energy conservation and efficiency; (vi) An improvement in the livability of communities” (Surface Transportation Authorization Act, HR __, 111th Cong. § 3004 (k)(s)(2)(C) (2009)).

²⁶ Lukehart et al. developed an opportunity index to classify local communities according to their ability to offer a number of opportunities to their residents (Lukehart et al. May 2005). This method can be used to identify moderate- to high-opportunity places in the nation’s metros.

3. PROVIDE MPOs WITH THE NECESSARY POWERS

Once democratic and accountable metropolitan governance structures are in place, MPOs should be sufficiently empowered to take on the complex problems of metropolitan areas. The 1991 and 1998 federal transportation acts (ISTEA and TEA-21) expanded the institutional powers and autonomy of MPOs significantly. In practice, however, state DOTs still weigh heavily on transportation decisions, undermining the ability of MPOs to govern their regions in a holistic fashion (Wolf et al. 2007, pp. 89-90). The STAA of 2009 does not offer any specific measures to change this practice. In fact, the STAA imposes fairly stringent performance standards on MPOs without empowering them to meet their goals.

Most MPOs still lack the comprehensive regional planning powers that are needed to tackle challenging metropolitan issues. Transportation planning powers are only a subset of the legal capacities MPOs need to govern their regions effectively. Without the legal authority to do comprehensive regional planning beyond transportation issues—planning affecting land use, housing, and waste water collection and treatment, for instance—MPOs cannot really affect the most powerful forces shaping their regions. Demanding accountability from the MPOs without sufficiently empowering them sets them up to fail.

MPOs can be empowered in two different ways. The most direct way to do this is through the STAA of 2009. The act could require that MPOs implement comprehensive regional planning in order to be certified and spell out the specific components of comprehensive regional plans, while explicitly limiting the powers of state DOTs in metropolitan transportation decisions.

Alternatively, MPOs could be given additional comprehensive regional land use and housing planning powers indirectly through a combination of institutional changes at HUD, amendments to the STAA, and the reestablishment at the federal level of the A-95 review process. First, the Livable Communities Act introduced by Senator Chris Dodd could be used as a vehicle to authorize HUD to require metropolitan areas to enact comprehensive regional land use and housing plans. Second, the STAA could be amended to require MPOs to formally coordinate their transportation plans with HUD's comprehensive regional land use and housing plans. Third, the MPOs could be empowered with the authority to review and override local land use and housing decisions through the reinstitution of A-95 review process at the federal level.

- a. The STAA should be amended to directly empower MPOs with specific comprehensive regional planning powers and the power to review local plans.**

The STAA should require all MPOs to develop metropolitan land use plans for the orderly development of their regions. These plans should include an overall metropolitan

development guide with specific regional systems plans for transportation and transit, housing, and metropolitan sewer and waste water management. The plan should also include a designated urban growth boundary or urban services area to ensure orderly, contiguous growth patterns. Coupled with this, MPOs should be required to control development outside the urban growth boundary or urban services area to avoid leapfrog development.

In order to protect emerging MPO powers from existing institutions, the STAA should explicitly define the authority of MPOs in relation to local governments and state agencies such as the state departments of transportation. For instance, MPOs need to be able to prevent local actions from undermining the metropolitan plan. The most direct way to do this is to give MPOs power over federal resources coming into the metro—the power, for instance to withhold federal transportation funding from local areas whose local plans are not consistent with the comprehensive metropolitan plans designed by the MPOs.

Similarly, the STAA should redefine the authority of state departments of transportation in the allocation of transportation funds, explicitly limiting their involvement to an advisory capacity within metropolitan areas. The STAA should give the discretion to allocate all federal transportation funds within individual metropolitan areas exclusively to MPOs, explicitly stating that the state departments of transportation shall abide by the MPO's decisions within a metropolitan area.

b. Alternatively, the Livable Communities Act in combination with the STAA could be a vehicle to enhance the power of MPOs indirectly.

On August 6, 2009, Senate Banking, Housing and Urban Affairs Committee Chairman Chris Dodd introduced the Livable Communities Act draft bill (Senate Office for Chris Dodd 2009). The bill will “create competitive planning grants that towns and regions can use to create comprehensive long-term plans that integrate transportation, housing, land use, and economic development; create challenge grants that towns and regions can use to implement these long-term plans through investments in public transportation, affordable housing, complete streets, transit-oriented development, and brownfield redevelopment; establish a federal Office of Sustainable Housing and Communities at the Department of Housing and Urban Development to administer and oversee the Livable Communities grant programs; and establish a federal Interagency Council on Sustainable Communities that will include representatives from the Department of Housing and Urban Development, the Department of Transportation, the Environmental Protection Agency, and other federal agencies to coordinate federal sustainable development policies” (Senate Office for Chris Dodd 2009).

The bill relies entirely on competitive planning grant incentives to build organizational capacity for metropolitan governance. This is a shortcoming because this makes the development of metropolitan governance capacities optional and it helps build metropolitan governance capacities only in places where some form of functional governance structures already exist. In order to build metropolitan governance capacities

across the nation, the bill should also rely on formula grants to metropolitan areas to fund metropolitan planning program requirements. The bill should be amended to address this shortcoming in order to create wide-spread metropolitan governance capacities across the nation. Once strengthened with these changes, the Livable Communities Act can be an effective instrument for instituting comprehensive regional land use and housing planning powers through HUD. If these newly created powers are appropriately linked to the transportation planning powers of MPOs, metropolitan governance structures could be significantly strengthened. In order to link these powers, the STAA could be amended to require MPOs to formally coordinate their transportation plans with HUD's comprehensive regional land use and housing plans. Finally, in order for this coordination to have real teeth, the MPOs could be given the authority to review and override local land use and housing decisions through the reinstatement of the A-95 review process at the federal level.

4. RESTRUCTURE METROPOLITAN GOVERNANCE BY BREAKING POLICY SILOS AT THE FEDERAL AND METROPOLITAN LEVELS

Policy silos at the federal and metropolitan levels impede effective metropolitan governance. Federal government programs need to be reformed to encourage breaking these policy silos and to better streamline federal policy initiatives at the federal and metropolitan levels. While the administration's Sustainable Communities Initiative is a great step toward breaking federal policy silos, the Initiative fails to formalize the cooperative arrangements among federal agencies at the appropriate institutional level. The Initiative needs an institutional driver authorized to explicitly coordinate the work of federal agencies on metropolitan policy. This should not be HUD because HUD is simply one federal agency among many federal agencies. If HUD takes the driver's seat in ushering these metropolitan reforms, other federal agencies could perceive this as an encroachment into their turf. Institutional reform of this scale should be driven by a separate institution that stands on an equal footing in relation to all federal agencies.

- a. Either the Interagency Council on Sustainable Communities (ICSC) or the White House Office of Urban Affairs (WHOUA) should lead the structural realignment of federal agency programs at the metropolitan level by being the driving force behind the Sustainable Communities Initiative.²⁷**

The Livable Communities Act can be a useful vehicle in establishing an institution that can lead the Sustainable Communities Initiative. The Act would establish a federal Interagency Council on Sustainable Communities including representatives from the Department of Housing and Urban Development, the Department of Transportation, the

²⁷ Some of the institutional reform suggestions outlined in this sub-section come from a Task Force report that was presented to HUD Secretary Shaun Donovan. The Task Force recommended that HUD's urban and regional mission should be extended. The report, which was compiled by the Penn Institute for Urban Research along with other task force reports, is published as Chapter 6 in (Penn Institute for Urban Research February 2009).

Environmental Protection Agency, and other federal agencies to coordinate federal sustainable development policies. This Council could be an effective force behind the Sustainable Communities Initiative. Alternatively, the recently created WHOUA, which approaches urban issues from a strictly metropolitan perspective, could play a leading role in implementing the Sustainable Communities Initiative.²⁸ WHOUA is authorized to work with and coordinate the policies of ten federal agencies and is uniquely positioned to develop linkages among federal policy silos.

Whether it is the ICSC or the WHOUA, a leading agency behind the Initiative could be an effective institutional lever for comprehensive metropolitan reform by performing three crucial tasks. First, it should work with a number of federal agencies to expand the number of agencies participating in the Sustainable Communities Initiative. Second, it should oversee the implementation of the Sustainable Communities Initiative by acting as the arbiter of potential conflicts that might emerge among these agencies. Third, it should be the driving force behind the Sustainable Communities Initiative by pushing for institutional reforms that would further streamline policy making at the metropolitan level.

One such institutional reform would involve a federal requirement mandating that all federal metropolitan planning programs be funded through and be the responsibility of a common multi-purpose metropolitan agency such as an MPO (Penn Institute for Urban Research February 2009, pp. 120-121). Either the ICSC or the WHOUA could facilitate the collaboration of federal agencies in submitting legislation that would provide general operating funds to these designated multi-purpose metropolitan planning agencies. The provision of seed money for these designated agencies would establish much needed organizational capacity for metropolitan governance.

Building organizational capacity for metropolitan governance on a national scale, however, would also require committing existing federal resources. The federal agencies collaborating under the Sustained Communities Initiative should redirect a certain portion of their existing program funds to projects of metropolitan scope and significance. Redirecting funds for metropolitan projects could provide fiscal incentives for strengthening metropolitan governance structures. For instance, HUD could set aside a third of its CDBG and HOME program funds for grants to metropolitan institutions to operate programs with significant metropolitan impact. Other federal agencies, such as the DOT and EPA, could follow suit. Federal grants to metropolitan institutions, funded through multiple federal agencies, could be the main funding source for all federal metropolitan planning programs.

These funds could be distributed in two forms (Penn Institute for Urban Research February 2009, pp. 127-128). They could be allocated on a competitive basis as grants to regions that come up with the best metropolitan projects. This would reward regions which already have functional metropolitan governance structures and encourage them to

²⁸ The White House Office of Urban Affairs was established by the Executive Order of February 19, 2009. One of the main intents behind the establishment of this Office is to “coordinate all aspects of urban policy” (The White House, February 19, 2009).

do more. By rewarding and enabling such best practices, competitive grants could show that comprehensive metropolitan policy is viable and that it makes sense for the federal government to support metropolitan projects. Some metropolitan grants could also be allocated to metropolitan areas by formula. Many federal programs have entitlement community designations that entitle communities to a certain amount of federal funds, usually based on their population. Metropolitan communities could receive a certain portion of these entitlement funds in order to fulfill their federal metropolitan planning program requirements. Formula funding could help build metropolitan governance capacity across the nation and create a widespread political constituency for federal metropolitan planning programs by spreading the funds across the nation.

b. In order to promote equitable and sustainable metropolitan growth, the Sustainable Communities Initiative needs to substantially reform existing federal policies so that they no longer undermine each other.

While the Sustainable Communities Initiative is a very positive step, it will not achieve much unless it reforms federal policies that contribute to current metropolitan problems. For the Initiative to be an effective lever for metropolitan reform, it needs to streamline federal programs so that they do not work at cross purposes. For instance, while HUD has been working to revive urban areas through its CDBG programs, federal transportation policies have actively undermined these efforts by constructing highways that encouraged suburban flight from urban areas (Penn Institute for Urban Research February 2009, p. 129).

In fact, federal transportation policies have done more than simply undermine federal housing policies. They have actively driven sprawl and inequality in the nation's metros (Poverty and Race Research Action Council March 10, 2009). Along with regional land use decisions, federal transportation investments created many opportunities for many exclusive communities to gain the greatest share of their region's business and residential tax wealth as these communities actively undermined fair housing and furthered racial and economic segregation. The Sustainable Communities Initiative should encourage a realignment of federal policies so that they reinforce, rather than undermine, each other. The Initiative should be instrumental in reversing federal transportation and housing policies that continue to undermine fair housing in order to promote regional equity and expanded opportunity for *all* metropolitan residents.

The Sustainable Communities Initiative has attracted criticism from advocates for not making equity an explicit goal.²⁹ HUD Secretary Shaun Donovan responded to these criticisms in a speech to the National Fair Housing Alliance.³⁰ Secretary Donovan described the Initiative as an expression of HUD's intent to create "a geography of opportunity for all Americans" by integrating "transportation and housing planning and decisions in a way that maximizes choices for residents and businesses, lowers

²⁹ See, for instance, (Massa 2009).

³⁰ (Donovan 2009). In this speech, Secretary Donovan forcefully reiterated HUD's commitment to affirmatively furthering fair housing, emphasizing the substantial increases in HUD budget for signature fair housing programs like the Fair Housing Initiatives and the Fair Housing Assistance Programs.

transportation costs and drives more sustainable development patterns” (Donovan 2009). He also singled out the Sustainable Communities Initiative for furthering HUD’s commitment “to fair housing by taking steps to remedy the problems imposed by concentrations of poverty across the country and give all Americans equal housing choice” (Donovan 2009).

The Sustainable Communities Initiative’s goal to create a new “geography of opportunity” by maximizing choice for residents and businesses is commendable. However, this goal cannot be achieved unless the Initiative aligns various federal policies more closely with fair housing goals (Poverty and Race Research Action Council April 6, 2009). Federal housing, transportation, education and infrastructure investments that have harmful effects on patterns of residential segregation have to be reversed to support and develop diverse, sustainable communities with access to opportunity for all residents (National Commission on Fair Housing and Equal Opportunity 2008).

The Initiative’s structural realignment of federal policies at the metropolitan level is simply a means toward the substantial goal of promoting equitable and sustainable growth in the nation’s metropolitan areas. This realignment is necessary for building organizational capacity for metropolitan governance on a national scale. However, it is not sufficient to deal with the thorny issues of exclusionary zoning and residential segregation or to really expand opportunities for all. The Initiative needs to offer more substantial reforms involving fair housing to make equitable and sustainable growth a reality.

For instance, the Initiative could require specific low- and moderate-income housing goals for each local government receiving metropolitan grants by formula. In awarding competitive metropolitan grants, the Initiative could give highest priority or extra funding to metropolitan projects that promote fair housing along with transit-oriented development. The Initiative could also provide significant incentives for metropolitan projects that use inclusionary zoning, employ affirmative marketing strategies, and ensure significant mixed-income housing in transit-oriented development projects. Finally, the Initiative could require the recipients of metropolitan grants “to coordinate their Environment Justice review activities with the fair housing planning activities of their jurisdiction, and to include in their jurisdiction’s Analysis of Impediments to Fair Housing an examination of the impact of federally funded transportation projects and service on patterns of residential segregation and on groups protected by the Fair Housing Act” (Poverty and Race Research Action Council March 10, 2009).

c. The STAA should be amended to add more detail and substance to the metropolitan planning process so that it works more effectively to make livability and sustainability a metropolitan reality.

The STAA has the potential to help streamline federal policies at the federal and regional level. At the federal level, the Act proposes to establish two new offices—the Office of Livability and the Office of Intermodalism—which provide new organizational avenues

for the DOT and various other federal agencies to interface and collaborate.³¹ At the metropolitan level, the Act would establish the Metropolitan Mobility and Access Program, which extends direct federal assistance to MPOs for implementation of metropolitan mobility plans (Surface Transportation Authorization Act, HR __, 111th Cong. § 701 (2009)). The assessment criteria for the metropolitan mobility plans link numerous policy areas together.³² This makes the Program a potentially useful institutional tool for integrating various federal policies at the metropolitan level.

The Office of Livability, the Office of Intermodalism, and the Metropolitan Mobility and Access Program have a common mission of promoting livability in the nation's metropolitan areas as well as ensuring the sustainability of the nation's transportation modes.³³ Sharing this mission, these new initiatives certainly have the potential to reform the way metropolitan areas work if they are sufficiently funded.

The initial draft of the Act also includes some useful language on metropolitan planning (Surface Transportation Authorization Act, HR __, 111th Cong. § 1508 (a); 1508 (e); 1508 (s)(2)(c) (2009)). The draft bill proposes to increase coordination among land use, housing, and transportation and to enhance surface transportation intermodality. It also expands the scope of metropolitan planning process to include housing and land use planning. The draft bill additionally requires that MPOs in large metro areas should at a

³¹ The bill equips the Office of Livability with the authority to collaborate “with other executive branch agencies, including the Department of Housing and Urban Development, the Environmental Protection Agency, the Department of the Interior, and the Centers for Disease Control and Prevention” (Surface Transportation Authorization Act, HR __, 111th Cong. § 331 (e)(2) (2009)). The bill also creates a new Undersecretary of Transportation for Intermodalism and institutes an Office of Intermodalism to be run by this new Undersecretary (Surface Transportation Authorization Act, HR __, 111th Cong. § 1201 and 5503 (2009)). It authorizes the Undersecretary to “carry out strategies and actions under the Department’s statutory authority to reduce energy usage and green house gas emissions related to the nation’s intermodal transportation system” (Surface Transportation Authorization Act, HR __, 111th Cong. § 5503 (c)(3)(C) (2009)).

³² The metropolitan mobility plans are required to include an assessment of the congestion, mobility, access, and livability challenges facing the surface transportation systems of metro areas (Surface Transportation Authorization Act, HR __, 111th Cong. § 701 (h)(2)(B) (2009)). They are also required to include an analysis of the beneficial impacts of the plan on the metro, “including energy and environmental benefits, economic development benefits, reductions in transportation costs, and benefits resulting from land use policies and future growth patterns” (Surface Transportation Authorization Act, HR __, 111th Cong. § 701 (h)(2)(F) (2009)).

³³ The goal of the Office of Livability is “to provide leadership and support for policies and decision-making at all levels of government that increase modal choice and enhance livability and sustainable modes of transportation” (Surface Transportation Authorization Act, HR __, 111th Cong. § 331 (b) (2009)). The Office of Intermodalism, on the other hand, is established “to encourage and promote development of a national intermodal transportation system in the United States that is economically efficient and environmentally sound, provides the foundation for the United States to compete in the global economy, and moves individuals and property in an energy efficient manner” (Surface Transportation Authorization Act, HR __, 111th Cong. § 5503 (a) (2009)). The purpose of the Metropolitan Mobility and Access Program is “to provide multi-modal transportation funding and financing authority directly to metropolitan planning organizations, thereby allowing MPOs broad multi-modal flexibility in planning and implementing programs of surface transportation projects to reduce vehicular congestion, to maximize mobility and access of people and goods, and to improve safety, environmental sustainability, and livability in large urbanized areas” (Surface Transportation Authorization Act, HR __, 111th Cong. § 701 (b) (2009)).

minimum assess the housing stock for all income levels, land use patterns, impact on valuable natural resources and air quality in addition to reductions in greenhouse emissions and increases in water and energy conservation.

Many in the transportation field applaud the draft bill for its ambitious restructuring of federal transportation policy. However, as some transportation advocates were quick to point out, the draft bill still has room for improvement. The Act should be amended to address the following shortcomings:

The STAA does not require any formal coordination between transportation, housing, and land use planning despite its strong language on expanding the scope of metropolitan planning and strengthening the planning powers of MPOs. It not only fails to provide substantial incentives to coordinate these policies but also falls short of specifying incentives to help meet the extensive metropolitan planning requirements included in the bill (Davis 2009). The draft bill does not offer any financial incentives to create affordable housing and development near transit stops either. The Act should be amended to formally require the coordination of transportation, housing and land use planning functions of MPOs. Specific incentives such as additional funds or expedited project delivery should be added to the Act to encourage transportation projects which link affordable housing and development with transit planning.

The STAA should also further strengthen new offices such as the Office of Livability and the Office of Intermodalism as well as new programs such as the Metropolitan Mobility and Access Program. If they are sufficiently funded and empowered, these initiatives certainly have the potential to be levers for regional governance reform. The draft bill, however, raises some concerns about the potential effectiveness of these new offices and programs. For instance, the bill establishes the Office of Livability within the Federal Highway Administration (FHA)—a transportation agency dedicated to one specific mode of transportation (Surface Transportation Authorization Act, HR __, 111th Cong. § 331 (b) (2009)). This raises concerns about how effectively the Office can enhance the nation's modal choices when it is institutionally nested in a transportation agency that exclusively focuses on highways. Rather than being isolated in the FHA, this Office needs to be an integral part of how localities qualify for *all* transportation funding (Davis 2009).

Similarly, the Metro Mobility and Access Program has some structural limitations. The Program focuses largely on moving cars on highways, despite the fact that program funds are also eligible for public transit (Davis 2009). While moving cars on highways more effectively is certainly one way of dealing with congestion and air quality, it is not a comprehensive answer. Any long-term response to congestion and air quality has to focus on better aligning land use and transportation demand in order to improve transportation access for all residents, not just drivers, in metropolitan areas. The Act should also be amended to refocus the Metro Mobility and Access Program on maximizing mobility and transportation choices for all kinds of metropolitan residents, including the low-income, disabled, and senior residents. This would be essential for ensuring transportation equity

and equal access to opportunity as well as for overcoming the harmful effects of racial and economic segregation in the nation's metropolitan areas.

The fact that the proposed bill does not do much to address transportation equity is another shortcoming. The draft bill simply consolidates severely underfunded transportation programs for low-income, disabled, and senior residents with hardly any details on improving the effectiveness of the consolidated programs or on how to provide new funding for these programs (Davis 2009). As transportation advocates urge, "making sure that all Americans have safe access to affordable transportation choices should be an overarching priority of the bill" (Davis 2009).

Transportation equity, however, cannot simply be limited to promoting public transit. If transportation policy can contribute to the hollowing out of regions' urban and inner suburban cores, it can also play a significant role in strengthening these areas. In fact, transportation equity must include active efforts to deconcentrate poverty within metros to promote truly equitable and sustainable growth. Transportation access from poor and racially isolated neighborhoods to more affluent, employment-rich communities is not sufficient to improve the life chances of children attending low-performing schools and living in neighborhoods that are often associated with poor health outcomes (Poverty and Race Research Action Council March 10, 2009). Fair share housing policies that ensure a more equal distribution of affordable housing across metropolitan areas should have as high a priority as other policy goals such as smart growth and climate change in federal transportation policy.

In conclusion, metropolitan governance is clearly in need of reform. Political fragmentation is harming the nation's metropolitan areas by stunting metropolitan growth and by contributing to increasing sprawl and congestion, to growing racial and economic segregation, and to deepening disparities in the quality of local services. The current crisis and the federal stimulus package has created many opportunities for metropolitan reform—opportunities which will not be around for long. The time is also politically ripe for metropolitan reform. New policy initiatives like the Sustainable Communities Initiative, the Livable Communities Act, and the Surface Transportation Authorization Act can be viable instruments for metropolitan governance reform. Comprehensive reform of MPOs through these vehicles provides the best path to reforming metropolitan governance. For MPOs to be engines of fair and sustainable growth, they need to be more democratic, accountable and powerful.

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Mary Pattock
Submissions

The Problem: Accountability is the core issue.

Finding: We have determined that there is widespread confusion and widespread disagreement about who is and who should be accountable for Met Council vision, planning, execution (construction and operation), and performance evaluation.

Recommendation: The first and core issue the legislature should address in any Metropolitan Council reform or governance changes is how the council should be accountable to the public and to local governments. We recommend that the legislature make clear assignment of these areas of accountability.

Proposal for Met Council Reorganization

This proposes two organizations: a Met Council for metro-wide planning, coordination and collaboration among jurisdictions, and a new Metro Transit District for planning, building and operating transit. The proposal addresses these issues:

1. Accountability:
 - a. To local officials and to the public,
 - b. Via a system with checks and balances,
 - c. Ensuring that the organization building and operating transit would also pay for it (per OLA finding)
2. Competence: The two organizations would operate in areas of specific expertise
3. Conflict of interest: Removing the current conflict of interest between the Met Council and Metro Transit

1. The Met Council: A Council of Governments

The Met Council would be a council of governments responsible for cooperative and collaborative planning, coordination, and technical assistance on issues of mutual concern that cross jurisdictional lines, including transportation. The Council would continue to be the metro area's MPO.

Members would be mayors, county board and township chairs appointed by the governor according to specific legislative requirements that ensured balance and equity with respect to 1) population density, 2) geographic distribution and 3) type of jurisdiction (county, city, township). There would be an odd number of members, and they would serve staggered terms. The board would include two non-voting members, one from MnDOT and one from Metro Transit. The board would elect a chair from among its members. Committees would be established by vote of the council. Members would have assigned staff to adequately assist them in their duties.

The Council would be funded by the state legislature.

2. Metro Transit: A Special District

A Metro Area Transit District would be a Special District¹ with the sole function of building and operating a metro-wide transit system consistent with broad policy goals of the Met Council. It would have taxing authority and receive project funds from by the Met Council.

The transit district would be governed by a board of directors: 15 voting members would be popularly elected, three from Hennepin County and two from each of the other counties; there would also be one non-voting member from the Met Council and one non-voting member from MnDOT. The chair would be elected by the board from among its voting members.

1. Special districts are independent, governmental units with substantial autonomy that provide a specific service or services not provided by existing governments. Examples of special districts that exist in Minnesota are the Metropolitan Airport Commission, the Metropolitan Mosquito Control District, various watershed districts, Saint

Paul Port Authority and the existing Met Council. Since this transit district could levy taxes, its board would be elected.

Sam Rockwell
Submissions

Metropolitan Council Governance Task Force

Rockwell Recommended motions

First Recommendation:

- Establish Metropolitan Council board positions as full time positions with commensurate pay.
 - Explanation: Accountability, credibility, more potential for representative members (rather than consultants and retirees). Time to meet with constituents and develop vision for the council and region.
- Provide each Board Member with two staff members that report directly and solely to the board members.
 - Explanation: Accountability and credibility – responsiveness to constituents; ability to be at meetings with constituents rather than spend time scheduling meetings; ability to develop policy ideas and analyze budgets/agency staff policy proposals without reliance on agency staff as personal staff.

Alternate First Recommendation:

- Curtail Metropolitan Board Member powers to be comparable to those of corporate board or directors—e.g. strategic oversight, budget approval, oversight of executive.
 - Explanation: Right-size responsibilities to current pay scale/time availability (potentially reduce pay scale).
- Combine the powers and duties of the Chair and Regional Administrator.
 - Explanation: like a private or non-profit corporation (or the U of M), establish a strong executive able to set vision and direction of the council.

Second Recommendation (this should only become law if the Metropolitan Council remains a gubernatorially appointed body):

- Rename the Metropolitan Council “The Governor’s Metropolitan Council.”
- Require that every Metropolitan Council meeting—including board meetings, board committee meetings, and meetings hosted by Metropolitan Council staff members and open to the public—open with the following declaration: “The Metropolitan Council is the seven county regional governing body and serves at the pleasure of the Governor.”
 - Explanation: nationally, some governor-appointed bodies are seen, by the public, as the political responsibility of the governor (the NY MTG, e.g.). Part of the challenge in Minnesota is that the public at large—and apparently the press—do not hold the governor directly responsible for the actions of the Metropolitan Council, even through the board members serve at the pleasure of the governor. Remedying this disconnect could help establish Council accountability,

The goals of the state transportation system are as follows:

- (1) to minimize fatalities and injuries for transportation users throughout the state;
- (2) to provide multimodal and intermodal transportation facilities and services to increase access for all persons and businesses and to ensure economic well-being and quality of life without undue burden placed on any community;
- (3) to provide a reasonable travel time for commuters;
- (4) to enhance economic development and provide for the economical, efficient, and safe movement of goods to and from markets by rail, highway, and waterway;
- (5) to encourage tourism by providing appropriate transportation to Minnesota facilities designed to attract tourists and to enhance the appeal, through transportation investments, of tourist destinations across the state;
- (6) to provide transit services to all counties in the state to meet the needs of transit users;
- (7) to promote accountability through systematic management of system performance and productivity through the utilization of technological advancements;
- (8) to maximize the long-term benefits received for each state transportation investment;
- (9) to provide for and prioritize funding of transportation investments that ensures that the state's transportation infrastructure is maintained in a state of good repair;
- (10) to ensure that the planning and implementation of all modes of transportation are consistent with the environmental and energy goals of the state;
- (11) to promote and increase the use of high-occupancy vehicles and low-emission vehicles;
- (12) to provide an air transportation system sufficient to encourage economic growth and allow all regions of the state the ability to participate in the global economy;
- (13) to increase use of transit as a percentage of all trips statewide by giving highest priority to the transportation modes with the greatest people-moving capacity and lowest long-term economic and environmental cost;
- (14) to promote and increase bicycling and walking as a percentage of all trips as energy-efficient, nonpolluting, and healthy forms of transportation;
- (15) to reduce greenhouse gas emissions from the state's transportation sector;
and
- (16) to accomplish these goals with minimal impact on the environment.