



**THE ATTORNEY GENERAL
OF TEXAS**

**JIM MATTOX
ATTORNEY GENERAL**

November 14, 1990

Honorable Fred G. Rodriguez
Criminal District Attorney
Bexar County Justice Center
300 Dolorosa, Suite 5072
San Antonio, Texas 78205-3030

LO-90-91

Dear Mr. Rodriguez:

You have asked for an opinion in regard to the structure of Metropolitan Planning Organizations. The state has designated Metropolitan Planning Organizations for urban areas so that transportation projects in urban areas will be eligible for federal funds. See generally, Sierra Club v. Austin Transportation Study Policy Advisory Committee, 746 S.W.2d 298 (Tex. Ct. App. - Austin 1988, writ denied); Atlanta Coalition On the Transportation Crisis, Inc., v. Atlanta Regional Commission, 599 F.2d 1333 (5th Cir. 1979) (both cases providing background information in regard to Metropolitan Planning Organizations). Your specific question is as follows:

May an agreement between a Metropolitan Planning Organization and the State Department of Highways and Public Transportation include a provision that would allow a voting member to send an authorized alternate member of the governmental agency, selected by the governmental agency to be represented, to a steering committee meeting of the Metropolitan Planning Organization.

In regard to the structure of Metropolitan Planning Organizations, federal law provides as follows:

(a) Designation of a metropolitan planning organization shall be made by agreement among the units of general purpose local government and the Governor. To the extent possible, only one metropolitan planning organization

should be designated for each urbanized area or group of contiguous urbanized areas.

(b) Principal elected officials of general purpose local governments shall be represented on the metropolitan planning organization to the extent agreed to pursuant to paragraph (a) of this section.

23 C.F.R. § 450.106. In other words, the structure of a metropolitan planning organization must be determined by the governor and the general purpose governing bodies of the affected urban area. See generally Attorney General Opinion JM-772 (regarding duties placed on governor under federal law). A report published in 1990 by the State Department of Highways and Public Transportation indicates that the designated metropolitan planning organization for San Antonio is known as the "Steering Committee."¹ Metropolitan Planning Organizations and State Dept. of Hwy. and Public Trans. for Sunset Advisory Comm'n. (July 1990).

The designation of a metropolitan planning organization must be made by the governor and affected local governments. We do not address whether the governor and the affected local governments could, in designating a metropolitan planning organization, provide for the use of alternates. We think it is clear, however, that a metropolitan planning organization, acting on its own, does not have authority to provide for alternate members. See Attorney General Opinion JM-903 (1988) (members of Racing Commission may not have alternates perform their non-ministerial on deliberative duties although chief clerk of comptroller may act as alternate because he is statutorily authorized to do so).

Yours very truly,



Sarah Woelk
Assistant Attorney General
Opinion Committee

SW/lcd

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1. This designation is confusing since, according to the State Department of Highways and Public Transportation manual, some metropolitan planning organizations have two committees, the policy committee, which is made up elected officials, and the steering committee, which is made up mainly of technical and administrative personnel. However, the manual indicates that the policy committee for the San Antonio Metropolitan Planning Organization is called the "Steering Committee."