

From: Stokes, Pam

Sent: Monday, November 25, 2019 9:28 AM

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Subject: 215929 - transportation project fund

Good morning,

Attached is the updated draft, but I'm still concerned with how tribal projects will be prioritized through the MPO or RTPO process.

In reviewing the federal statutes, tribal projects do not appear to be part of the planning processes, at least not that I can tell. According to 23 USC 134 (attached), the structure of an MPO consists of local elected officials, official of public agencies that administer transportation and appropriate state officials. (23 USC 134(d)(2)). The only mention of tribes in the statute is that a required long-range transportation plan discussion "shall be developed in consultation with Federal, State and tribal wildlife, land management, and regulatory agencies." (23 USC 134(i)(2)(D)).

RTPOs are included in the federal statute for statewide and nonmetropolitan transportation planning, Section 23 USC 135. While the statewide portion of that statute has several requirements to consider tribal concerns and consult with tribes (23 USC 135(e)(2); (f)(2)(C); (f)(4)(B); and (g)(2)(C)), I don't see RTPOs having the same requirements. Section 23 USC 135(m) provides for RTPOs. The structure "shall be established as a multijurisdictional organization of nonmetropolitan local officials or their designees..." I don't consider tribal officials to be "local officials" so this structure doesn't seem to include tribes, either. Also, one of a RTPO's duties is "considering and sharing plans and programs with neighboring [RTPOs], [MPOs], and, where appropriate, tribal organizations".

There may be something out there that I don't know about, but in reviewing these statutes it does not appear to me that tribal projects are part of a MPO or RTPO planning processes.

Lastly, I have to advise that, in my opinion, this bill is not germane to the 30-day session unless you get a message from the governor. That is not to say that the legislature would not find this bill germane. I've attached a memo on germaneness, but I'm happy to discuss it further if you'd like.

Thanks,

Pam
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