

TURF TESTIMONY ON MPOs

Senate Transportation Committee
Interim Charge on MPOs
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Taxation without representation -

Only elected officials should have voting powers on MPOs. Since MPOs have the power to allocate billions in tax money, to allow un-elected bureaucrats voting powers is tantamount to taxation without representation. The San Antonio-Bexar County MPO, in particular, egregiously lacks representation of taxpayers' interests in this way with nearly half of its members being un-elected bureaucrats. Though the federal law creating MPOs allows TxDOT and transit officials to be a part of MPOs, we strongly believe it must be in an advisory capacity only. Not only is there a conflict of interest in voting for its own projects and to vote itself more money (through tolls, etc.), it already possesses the power to approve all projects through the Texas Transportation Commission, which already results in most MPOs deferring to TxDOT in formulating and voting on MPO plans. For all the talk of "local control," TxDOT steers and often controls MPOs, not the local officials who sit on these local transportation planning boards.

All of the above notwithstanding, MPOs consistently vote against the public input when making transportation decisions. When hundreds of concerned citizens show-up on their own dime and take the time to wade through hundreds of pages of MPO plans and do their due diligence to be heard on multi-billion dollar tax decisions, and when federal law requires MPOs to take into account the public input, and an MPO STILL votes to toll roads when the overwhelming public input begs them to do otherwise, it demonstrates the total disregard for the public interest if not the corruption of these boards. MPOs, like TxDOT, view public comment as a box to check, then proceed to completely ignore the public feedback, especially regarding toll projects. This MUST be remedied in order to fix the completely dysfunctional state of transportation funding and decision-making in Texas. It's forced the citizens to turn to the courts and use other means to seek remedies (causing more delays).

It is this body's duty to reform these entities and restore the public trust. The public cannot continue to be kicked to the curb if the goal is to move transportation forward. Failure to recognize this will only continue the gridlock.

Funding and the toll regime -

Something must be changed in regards to how projects are marked in an MPO Transportation Improvement Program (or TIP) and other plans. TxDOT and tolling entities rig the planning process by exploiting the "financially-constrained" requirements and almost exclusively mark projects "toll" (instead of using other funding scenarios to keep the plan financially-constrained) to get a project into the plan. The FHWA has said that as long as a project is marked "toll" in an MPO plan, it will only be considered for tolling, not as a non-toll project. So this locks in a toll scenario for nearly all new capacity to Texas roads for the next 25 years.

This practice not only violates the National Environmental Policy Act (or NEPA) that requires all alternatives to be considered, but neither the public nor the department can wrest the project away

from a tolled scenario once the toll entity becomes the project "sponsor." Considering many toll entities are conducting their own environmental studies, the control remains in the hands of those who stand to benefit directly from a toll alternative emerging as the "preferred alternative" under NEPA. This is the fox guarding the henhouse and takes virtually all decision-making on toll tax decisions out of the hands of the public and their elected representatives.

While MPO long-range plans ought not to have wildly overoptimistic plans that are way outside the realm of reasonable funding sources, requiring MPOs to show funding 24 years from now is completely flawed. The Texas legislature funds all state programs in two-year budget cycles. Local governments often operate using a single budget year. Yet, MPOs have to show funding for projects 24 years out in order to even start ANY level of work on a future road project? It makes no sense. **An entity ought to be allowed to conduct environmental work and preliminary engineering for a project without having to show funding for construction which could be years, even decades away. Both engineering and environmental review need to be underway if not completed in order to even have realistic project cost estimates for which an MPO can properly program funding.**

Who's *really* in charge?

TxDOT rules dictate that "funding levels are estimated in cooperation with TxDOT." That's a real problem when many MPOs want to resist tolling, but have to rely on TxDOT's agenda of heavy reliance on tolling and forecasts that have been consistently unreliable. If an MPO would prefer to use gas tax or sources of funds other than tolling to project future funding scenarios, it should have the flexibility to do so.

Examples of threats and intimidation to push unwanted toll roads:

- Members of the CAMPO board admitted TxDOT strong-armed them into voting for toll roads their own constituents didn't want or funding for other projects would be pulled.
- TxDOT also threatened to withhold funding for a road project as well as joint rail relocation study with New Mexico when the El Paso MPO voted to reject toll roads by electing NOT to create an RMA.
- TxDOT also removed local transit board members from their positions serving on SAMPO for voting against toll roads.

This behavior **MUST** stop before any progress can be made with restoring the public trust.