

STORAGE NAME: h1629a.ca

DATE: April 12, 2000

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
COMMUNITY AFFAIRS
ANALYSIS - LOCAL LEGISLATION**

BILL #: HB 1629

RELATING TO: Public Transportation Commission (Hillsborough County)

SPONSOR(S): Representative Bradley and others

TIED BILL(S): None

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) COMMUNITY AFFAIRS (PRC) YEAS 8 NAYS 0
 - (2) FINANCE & TAXATION (FRC)
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

This bill designates the Hillsborough County Public Transportation Commission (Commission) as an independent special district.

This bill expressly provides that the Commission cannot discriminate based on race, color, sex, religion, or national origin, and encourages the Commission to seek diversity in employment, contracts and appointments to the taxicab advisory council.

This bill provides definitions, and describes the powers and duties of the Commission, including provisions addressing public hearings.

This bill requires a joint effort between the Commission and the Board of County Commissioners, to agree on an appropriation to be paid by the Board to the Commission for a three year period, starting October 1, 2000.

This bill requires a public vehicle driver's license applicant to pay for the cost of a criminal background check.

The Economic Impact Statement indicates a fiscal impact.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

The Hillsborough County Public Transportation Commission was created by the Florida Legislature in 1983, through special act. (Ch. 83-423, L.O.F.) To date, this act has been amended eight times, through Chapters 87-496, 88-493, 94-408, 95-490, 96-515, 98-451, 98-477, and 99-476, L.O.F.

The local legislative delegation staff summary indicates the following:

Approximately 18 months ago, the Public Transportation Commission began making headlines when it refused one applicant permits to operate basic life support ambulances in Hillsborough County and, thereafter, granted them to another applicant. These decisions were apparently the result of a lack of judicially reviewable standards within the text of the PTC's enabling legislation and its rules. Further, a substantial number of them have been cited for "explication" (i.e., they appear to be an invalid exercise of delegated legislative authority) in a review completed by the Joint Administrative Procedures Committee (JAPC). There is a pervasive appearance of lack of due process (common to areas in addition to hearings for public convenience and necessity), whether valid or not, to safeguard the protection of individual rights with an orderly proceeding that provides an opportunity to be heard to enforce and protect these rights.

As a result of the adverse publicity, Senator Jim Hargrett, then chair of the Delegation, requested that studies be completed by the Center for Urban Transportation Research at USF (CUTR), the Office of Program Policy Analysis and Government Accountability (OPPAGA), and JAPC. Thereafter, the Delegation chair (Representative Sandra Murman) appointed a PTC ad hoc study committee to review the reports, take public testimony, and make recommendations to the Delegation.

Senator Hargrett, as chair of the ad hoc committee, proposed two routes to resolution: (1) clarifying that the PTC is an independent special district and providing the tools necessary to achieve that end (i.e., primarily through the use of "pro forma" language, generally standard to independent special districts) or (2) repealing the legislation in favor of a county ordinance. Because there was a clear indication that the municipalities would very much like to "opt out" of any such ordinance and possibly create the same situation which first precipitated the enactment of the special act in

1983 (separate ordinances resulting in jurisdictional problems), the first option was selected. The proposed local bill is a product of that ad hoc committee.

C. EFFECT OF PROPOSED CHANGES:

This bill amends the Hillsborough County Public Transportation Commission Special Act and designates the Commission as an independent special district.

This bill expressly provides that the Commission cannot discriminate based on race, color, sex, religion, or national origin, and encourages the Commission to consider diversity in employment, contracts and appointments to the taxicab advisory council.

This bill requires the Commission to prepare a financial statement of revenues and expenditures, an itemized budget, a fee schedule, and accounting systems and procedures in conformity with general practice.

This bill requires the Commission to appoint a taxicab advisory council.

This bill provides that an injured party may appeal per the Florida Administrative Procedure Act.

This bill requires the Commission and the Board of County Commissioners to engage in a joint effort to agree on an appropriation to be paid by the Board to the Commission for a three year period, starting October 1, 2000.

This bill requires a public vehicle driver's license applicant to pay for the cost of a criminal background check.

This bill repeals a requirement that the Commission impose license fees on operating companies for public vehicles and for public vehicle driver's licenses.

D. SECTION-BY-SECTION ANALYSIS:

Section 1 -- Classifies the Hillsborough County Public Transportation Commission (Commission) as an independent special district; cites ch. 189, F.S., along with general laws addressing special districts, as controlling authority; provides that the fiscal year starts October 1; provides that the Commission cannot discriminate on the basis of race, color, sex, religion, or national origin, in hire, termination, pay, tenure status, term, conditions, or privileges of employment; requires Commission to strive for diversity in gender, race, ethnicity, culture, and socioeconomic status, in employment and contracting, and, in the appointment of members to the taxicab advisory council.

Section 2 -- Adds Subsection (3) to section 2 of ch. 83-423, L.O.F., as amended; provides that the Commission has powers to perform district business and accept and spend funds, maintain a minimum of \$1 million in insurance coverage liability, oversee a budget, to include the following:

Draft a financial statement of revenue and expenditures during the prior fiscal year and a balance sheet on November 30; adopt a detailed budget by July 1, including projected revenues and expenditures; create a fee schedule, to include certificate, permits, and public vehicle driver licenses fees; draft accounting system procedures per generally accepted governmental accounting principles and practices; select a depository, in accordance with s. 280.04, F.S.; create, maintain, invest and expend

surplus and contingency funds per general law and s. 215.44(1), F.S.; draft bylaws, to include signatures required for using funds; enter into contracts, interlocal agreements and other written documents; hire, discipline and terminate inspectors; provide a benefits plan to employees; hire and terminate professionals, such as attorneys and accountants; buy, sell and lease real and personal property; appoint hearing officers and empower them with the ability to pay costs; appoint a taxicab advisory council with representatives from civic associations with emphasis on those from underserved areas, and seek advise prior to altering the number of taxicabs allowed to operate; designate a maximum number of taxicab permits based on population, as listed in a University of Florida publication.

Section 3 -- Adds Subsections (18) and (28) to s. 3 of ch. 83-423, L.O.F., as amended, to define the following:

Benefits: Offered by the Commission, to include retirement, life and health insurance plans

Board: Hillsborough County Board of County Commissioners

Contingency Fund: Moneys held in reserve to pay debt

County: Hillsborough County

District: Hillsborough County Public Transportation Commission

Hearing Officer: Commission-appointed attorney; job duties as described in this act

Inspector: Hired and trained by Commission to enforce act

Liability Insurance: Insurance against legal liability, separate from insured's legal liability

Permit: Commission-issued license, provides for operation of specific public vehicles

Revenues: Funds collected through fees, appropriations or other sources, including interest

Surplus Funds: Revenues, with contingency funds deducted; can carry over to subsequent fiscal years.

Section 4 -- Amends s. 5, ch. 83-423, L.O.F. in the following manner: Provides that it is illegal for a person to drive a public vehicle on county highways unless that person is authorized under this act; requires a certificate from the Commission before a person can drive a public vehicle and requires the Commission to review the application and provide for a noticed public hearing; allows hearing officer to hold public hearing in addition to the Commission or a committee; authorizes commission, committee, or hearing officer to require parties to submit documents, compel testimony, limit cross-examination, consider all evidence, and provide for due process; requires committee or hearing officer to file report with Commission and authorizes applicant input; clarifies that Commission has final say on the application and may remand report for an additional hearing; provides that aggrieved party may pursue judicial, administrative appeal per the Florida Administrative Procedure Act.

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Section 5 -- Amends s. 10, ch. 83-423, L.O.F.; provides that Commission and law enforcement agencies operating within the county must enforce this act and the rules it adopts; authorizes Commission to issue summons to persons who violate act and may have warrant issued.

Section 6 -- Adds s. 16 to ch. 83-423, L.O.F.; Requires joint effort, by the Commission and the Board, to produce interlocal agreement containing an appropriation to the Commission to be negotiated and paid by the Board to the Commission for 3 years, to begin October 1, 2000.

Section 7 -- Amends subsection 3, s.9 of ch. 83-423, L.O.F., to clarify language relating to investigation of applicant and to require applicant to pay criminal background check fee.

Section 8 -- Repeals s. 6 of ch. 83-423, which relates to license fees.

Section 9 -- Provides for an effective date upon becoming a law.

III. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? January 25, 2000

WHERE? The Times, St. Petersburg Times

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

IV. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

House Bill 1627 is also referred to the House Committee on Community Affairs. This bill provides for the repeal of all performance auditing requirements currently imposed on the Hillsborough County Public Transportation Commission (PTC).

According to the Economic Impact Statement, this bill does contain a fiscal impact. Through Fiscal Year 1999-2000, the county has been paying about 15.7 percent of the Public Transportation Commission's expenses, although it is disputed as to whether it was funding the PTC in accordance with ch. 83-423, L.O.F., as amended.

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V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None

VI. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

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