

HOUSE OF REPRESENTATIVES STAFF ANALYSIS - Revised

BILL #: HB 1475 Commission for the Transportation Disadvantaged
SPONSOR(S): Robaina and others
TIED BILLS: IDEN./SIM. BILLS:

Table with 4 columns: REFERENCE, ACTION, ANALYST, STAFF DIRECTOR. Row 1: 1) Transportation Committee, Pugh, Miller. Row 2: 2) Transportation & Economic Development Appropriations Committee. Row 3: 3) State Infrastructure Council. Row 4: 4). Row 5: 5).

SUMMARY ANALYSIS

Part I of chapter 427, F.S., creates and regulates Florida's Transportation Disadvantaged (TD) program. The TD program coordinates and helps fund transportation services for disabled, elderly, and low-income residents using a combination of local, state and federal funds, as well as farebox revenues. All 67 counties have some level of TD service.

HB 1475 makes a number of changes to the Commission for the Transportation Disadvantaged. Specifically, the bill:

- Reduces the number of commissioners from 27 to 11;
• Removes all members representing entities providing transportation services to eligible TD clients;
• Specifies that notwithstanding any other law to the contrary, the state's annual General Appropriations Act shall provide for the exact amount of Medicaid funding the TD Commission is to get, and that amount is not subject to change by the Commission or the Agency for Health Care Administration (AHCA).
• Directs the Commission to use the same criteria to evaluate and fund all TD providers in the state.

HB 1475 does not raise any apparent constitutional or other legal issues.

It does not impact state funding, but local governments and community transportation providers likely would be impacted - some negatively, some positively - by the provision that the commission use the same criteria to evaluate and fund all TD providers.

HB 1475 would take effect July 1, 2005.

(NOTE: The bill's sponsor has indicated he plans to file a strike-everything-after-the-enacting clause amendment for consideration by the Transportation Committee. See "III. Drafting Issues or Other Comments" section below.)

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government: HB 1475 reduces from 27 to 11 the number of members on the Commission for the Transportation Disadvantaged.

B. EFFECT OF PROPOSED CHANGES:

Current Situation

The Transportation Disadvantaged program, created in 1979 by the Legislature pursuant to Part I of Chapter 427, F.S., coordinates a network of local and state programs providing transportation services for elderly, disabled and low-income citizens.

Over the years, the Legislature has modified the program's administrative structure, program responsibilities, and funding. A 27-member Commission sets state policy and oversees its statewide implementation, and distributes a share of its budgeted funds to the local providers, based on the Commission's criteria. Commissioners represent a broad spectrum of interested parties, including social service agencies, a public transit association, various citizens' advocacy groups from rural and urban areas, transportation providers, the non-transportation business community, and the Florida Department of Transportation. Appointments to the Commission are made by the Governor, the President of the Senate, and the Speaker of the House of Representatives.

Currently, this the Commission's makeup:

- The secretary of the Department of Transportation or the secretary's designee.
- The secretary of the Department of Children and Family Services or the secretary's designee.
- The Commissioner of Education or the commissioner's designee.
- The secretary of the now-defunct Department of Labor and Employment Security or the secretary's designee.
- The executive director of the Department of Veterans' Affairs or the executive director's designee.
- The secretary of the Department of Elderly Affairs or the secretary's designee.
- The director of the Agency for Health Care Administration or the director's designee.
- A representative of the Florida Association for Community Action, who shall serve at the pleasure of that association.
- A representative of the Florida Transit Association, who shall serve at the pleasure of that association.
- A person over the age of 60 who is a member of a recognized statewide organization representing elderly Floridians. Such person shall be appointed by the Governor to represent elderly Floridians and shall be appointed to serve a term of 4 years.
- A handicapped person who is a member of a recognized statewide organization representing handicapped Floridians. Such person shall be appointed by the Governor to represent handicapped Floridians and shall be appointed to serve a term of 4 years.
- Two citizen advocate representatives who shall be appointed by the Governor for a term of 4 years, one representing rural citizens and one representing urban citizens.
- A representative of the community transportation coordinators. Such person shall be appointed by the Governor to represent all community transportation coordinators and shall be appointed to serve a term of 4 years.
- One member of the Early Childhood Council. Such person shall be appointed by the Governor to represent maternal and child health care providers and shall be appointed to serve a term of 4 years.
- Two representatives of current private for-profit or private not-for-profit transportation operators each of which have a minimum of 5 years of continuous experience operating a broad-based

system of ambulatory and wheelchair/stretchers type transportation, utilizing not less than 50 vehicles and including dispatch and scheduling responsibilities. Such persons shall be appointed by the Commissioner of Agriculture to serve a term of 4 years.

- Four representatives of current private for-profit or private not-for-profit transportation operators, each of which having a minimum of 5 years of continuous experience operating a broad-based system of ambulatory and wheelchair or stretcher-type transportation, utilizing not less than 50 vehicles, and including dispatch and scheduling responsibilities. Such persons shall be appointed by the Commissioner of Agriculture to serve a term of 4 years.
- Six citizens representing the nontransportation business community of the state, three members appointed by the President of the Senate and three members appointed by the Speaker of the House of Representatives.

The Commission is housed within the Florida Department of Transportation (FDOT) for administrative purposes only.

Florida's 67 counties are divided into 50 TD service areas. While most urban counties are single-county service areas, some rural counties are organized into multi-county service areas. All 67 counties have some level of TD service for their elderly, disabled, or needy residents. According to the commission's most recent annual report, in fiscal year 2003-2004 more than 56.8 million trips were provided to clients, about an 7-percent increase over 2002-2003. There were 888,241 people who received TD services last fiscal year. About half of the trips are to doctor's offices or medical facilities, and transportation to educational or training facilities ranks second.

Total funding for TD services in Florida – from public and private sources – was \$307 million in fiscal 2003-2004.¹ Not all of those funds were expended directly by the Commission, which relied, until recently, on an average \$25 million to \$35 million it received from four statutory program earmarks and special appropriations from the Legislature.

For fiscal year 2004-2005, its state appropriation was \$38 million. As of November 1, 2004, with the signing of a memorandum of agreement with AHCA, the Commission also has spending authority over an estimated \$75 million in Medicaid funds for non-emergency transportation (NET) services for Medicaid clients.

The Commission uses a somewhat complicated structure to coordinate TD services. Briefly:

- At the statewide level, the Commission assists communities in establishing coordinated transportation systems; manages contracts and memoranda of agreement; ensures that state agencies purchase transportation services from within the TD coordinated system, unless a more cost-effective provider outside the coordinated system can be found by the purchasing agency; and approves the local entities that manage the delivery of transportation services to eligible clients.
- At the local level, the TD program is implemented through a network of planning agencies, local advisory boards, community transportation coordinators (CTC's), and transportation operators. Local planning agencies, such as a metropolitan planning organization (MPO) or regional planning council, typically appoint and staff each local coordinating board. A local elected official chairs each coordinating board. These local boards also recommends the local community transportation coordinator (CTC) to the Commission.
- The CTC's are the entities responsible for the actual arrangement or delivery of transportation services within their local service area. A CTC may be a government entity, a transit agency, a private not-for-profit agency or a for-profit company. A CTC may function as a sole-source provider of TD services, or it may broker part or all of the trips to transportation operators. Typically, the Commission enters into a memorandum of agreement for services with a CTC.

¹ Commission for the Transportation Disadvantaged, *2004 Annual Report*, available at:
http://www.dot.state.fl.us/ctd/2005/CTD/APR/HTM/APR_Directory.htm#2004%20Data

This agreement identifies the anticipated service population, service area, information regarding any subcontractors, and rates for services.

Another layer to this hierarchy of TD services has come into play with the Commission assuming responsibility and funding for the Medicaid NET services. As managers of the NET program, the Commission identifies and enters into agreements with "subcontracted transportation providers," and pays them a monthly lump-sum amount. These subcontracted transportation providers in turn use these funds to pay the local transportation operators actually providing the services.

Last year, as the Commission was working out its agreement with AHCA, it decided to re-evaluate its funding formula for the counties. When AHCA transferred to the Commission only \$67 million in Medicaid funds, rather than the \$75 million the Commission had budgeted for NET services, the Commission readjusted its formula to address the budget cut. Larger counties, such as Miami-Dade and Duval, as well as the Orange-Osceola-Seminole metropolitan area that is served by the same CTC, lost millions of dollars in anticipated Medicaid funds for their TD programs. AHCA eventually released the withheld funding. At that time, the Commission decided to base its revised formula on 2001 cost data, since it was the most recent year where complete information was available for all 67 counties. The Commission also has contracted with the Center for Urban Transportation to develop a new allocation formula.

Over the summer and fall of 2004, several legislators statewide expressed concerns about the Commission, the AHCA contract, and the TD funding formulas.

Effect of Proposed Changes

HB 1475 makes a number of administrative and financial changes to the TD Commission. First, it reduces the Commission's membership from 27 to 11 persons. The new members would be:

- The FDOT secretary or designee;
- The director of AHCA or designee;
- A representative of the Florida Association for Community Action, who shall serve at the pleasure of that association.
- A representative of the Florida Transit Association, who shall serve at the pleasure of that association.
- A person over the age of 60 who is a member of a recognized statewide organization representing elderly Floridians. Such person shall be appointed by the Governor to represent elderly Floridians and shall be appointed to serve a term of 4 years.
- A handicapped person who is a member of a recognized statewide organization representing handicapped Floridians. Such person shall be appointed by the Governor to represent handicapped Floridians and shall be appointed to serve a term of 4 years.
- Five additional members, one to be appointed by the Governor and two each by the President of the Senate and the Speaker of the House of Representatives.

Supporters of the bill say they wanted to remove the seven seats currently on the Commission for representatives of CTC's and transportation vendors, to avoid even the appearance of a conflict of interest.

HB 1475 also specifies that notwithstanding any other law to the contrary, the state's annual General Appropriations Act shall provide for the exact amount of Medicaid funding the TD Commission is to get, and that amount is not subject to change by either the Commission or AHCA. Supporters of the bill say this will ensure that the Legislature has sufficient control and accountability over funding they appropriate for TD services.

Finally, the bill directs the Commission to use the same criteria to evaluate and fund all TD providers in the state. Bill supporters say this should help ensure that all counties are treated equitably.

C. SECTION DIRECTORY:

Section 1: Amends s. 427.012, F.S., to amend membership of the TD Commission. Specifies TD funding in the General Appropriations Act may not be changed by the Commission or AHCA.

Section 2: Amends s. 427.013, F.S., to require the Commission to use the same criteria in its funding formula for all counties.

Section 3: Provides an effective date of July 1, 2005.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See "D. FISCAL COMMENTS" below.

2. Expenditures:

See "D. FISCAL COMMENTS" below.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Indeterminate.

D. FISCAL COMMENTS:

If the Commission's funding formula or methodology considers the same or unweighted criteria for all counties, then the possibility exists that some counties may receive a larger share of TD funding and some counties a smaller share, as compared with past funding proportions.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This mandates provision is not applicable to HB 1475 because the legislation does not require counties or municipalities to expend local funds or to raise local funds, nor does it reduce their state revenue-sharing.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The Commission has sufficient rulemaking authority to implement the provisions of HB 1475.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issues

One of the entities that HB 1475 wants to keep on the Commission has changed its name. The Florida Transit Association is now known as the "Florida Public Transportation Association."

Also, no length of term is specified for the five Commission members to be appointed by the Governor and legislative leaders.

Bill Sponsor's Intent to Offer Amendments

The bill's sponsor plans to file a strike-everything-after-the-enacting-clause amendment for consideration by the Transportation Committee.

Briefly, that strike-all amendment:

- Reconfigures the Commission's membership to 15;
- Specifies the members cannot serve more than two, 4-year terms;
- Specifies that no member, other than an elected local official, can be a contractor, employee, agent, or subcontractor to a CTC;
- Specifies that members, other than an elected local official, can not receive financial benefit from the Commission, AHCA, or the Department of Children and Family Services while serving on the board and for two years after leaving the board;
- Establishes how vacancies are filled;
- Gives the Commission the discretion to create three technical advisory committees: one representing transportation providers and coordinators, one representing planners, and one representing business interests. The commission shall determine the size, composition and focus of each committee.
- Directs the TD Commission to present to the Legislative Budget Commission for its review and approval the Medicaid allocation formula and the amount of funding each county is expected to receive that fiscal year. The information is due to the Legislative Budget Commission 30 days prior to submittal of the TD Commission's legislative budget request.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES