

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government: The bill reduces the number of members on the Florida Commission for the Transportation Disadvantaged from 27 to 7.

B. EFFECT OF PROPOSED CHANGES:

Current Situation

The Florida Commission for the Transportation Disadvantaged (Commission) was created in 1979 by the Legislature.¹ The Commission coordinates a network of local and state programs providing transportation services for elderly, disabled, and low-income citizens. Its mission is to ensure the availability of efficient, cost-effective and quality transportation services for transportation disadvantaged persons. The Commission also administers the Transportation Disadvantaged (TD) Trust Fund. The TD Trust Fund is used to subsidize trips, provide funding for TD eligible persons not otherwise funded, and provide for administrative expenses.

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 DOT. Appointments to the Commission are made by the Governor, the President of the Senate, and the Speaker of the House of Representatives.

The current Commission membership includes:

- The secretary of the DOT 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 director of the Agency for Workforce Innovation or the director'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 (AHCA) or the director's designee.
- A representative of the Florida Association for Community Action, who serves at the pleasure of that association.
- A representative of the Florida Transit Association, who serves 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 is appointed by the Governor for a term of four years to represent elderly Floridians.
- A person with a disability who is a member of a recognized statewide organization representing Floridians with disabilities. Such person is appointed by the Governor for a term of four years to represent Floridians with disabilities.
- Two citizen advocate representatives, appointed by the Governor for a term of four years, one representing rural citizens and one representing urban citizens.
- A representative of the community transportation coordinators appointed by the Governor for a term of four years, to represent all community transportation coordinators.

¹ See Part I of Chapter 427, F.S.

- One member of the Early Childhood Council. Such person is appointed by the Governor for a term of four years to represent maternal and child health care.
- Two representatives of current private for-profit or private not-for-profit transportation operators each of which have a minimum of five 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 are appointed by the Commissioner of Agriculture to serve a term of four years.
- Four representatives of current private for-profit or private not-for-profit transportation operators, each of which having a minimum of five 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 are appointed by the Commissioner of Agriculture to serve a term of four 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.²

The Commission is housed within DOT 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 elderly, disabled, or needy residents. According to the Commission's most recent annual report³, in fiscal year 2004-2005 over 53 million trips were provided to clients, that is a 6.69 percent decrease from fiscal year 2003-2004.⁴ There were 841,190 passengers served in 2005.⁵ Over 19 million of these trips were medically related and almost 10 million trips were to educational or training facilities.⁶

In fiscal year 2004-2005, total funding for TD services in Florida – from public and private sources – was approximately \$353 million.⁷ Not all of those funds were expended directly by the Commission, which relied, until recently, on an average of \$25 million to \$35 million which it received from four statutory program earmarks and special appropriations from the Legislature.

For fiscal year 2004-2005, the state appropriation was approximately \$39.6 million.⁸ As of November 1, 2004, with the signing of a memorandum of agreement with AHCA, the Commission also has spending authority over an estimated \$73,200,447 in Medicaid funds for non-emergency transportation (NET) services for Medicaid clients.⁹

The Commission coordinates TD services at the state and local level. At the statewide level, the Commission assists communities in establishing coordinated transportation systems; manages contracts and memoranda of agreement; ensures 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,

² Section 427.012, F.S.

³ 2005 Annual Report for the Florida Commission for the Transportation Disadvantaged, January 1, 2006 (on file with State Infrastructure Council staff).

⁴ Ibid, p. 36

⁵ Ibid

⁶ Ibid, p. 38

⁷ Ibid, p. 36

⁸ Ibid, p. 19

⁹ Ibid, p. 20

appoint and staff each local coordinating board. A local elected official chairs each coordinating board. These local boards also recommend the 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. The Commission enters into a memorandum of agreement for services with a CTC. This agreement identifies the anticipated service population, service area, information regarding any subcontractors, and rates for services.

The Commission has also recently assumed 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 providing the services.

According to the Commission, when AHCA transferred to the commission only \$68 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. The final allocation resulted in an approximate 11-percent reduction for all counties for the November 1, 2005 – June 30, 2006 time period.

Effects of Proposed Changes

The bill makes a number of administrative changes to the Commission. First, it significantly restructures the Commission by reducing the Commission's membership from 27 to 7 persons. All seven members are appointed by the Governor. Two of the members must be persons with a disability and who use the transportation disadvantaged system. Five of the members must have significant experience in the operation of a business. One member, at any given time, must be at least 65 years of age. In addition, when making an appointment, the bill provides it is the intent of the Legislature that the Governor selects persons who reflect the broad diversity of the business community in the state, as well as the racial, ethnic, geographical, and gender diversity of the population of this state.

The following serve as ex officio, nonvoting advisors to the Commission:

- The DOT secretary or a designee;
- The Department of Children and Family Services secretary or designee;
- The Agency for Workforce Innovation director or designee;
- The Department of Veteran's Affairs executive director or designee;
- The Department of Elderly Affairs secretary or designee;
- The AHCA director or designee;
- The Agency for Persons with Disabilities director or designee; and
- A Governor-appointed ex-officio, nonvoting member who is a county manager or administrator.

As a result of reducing the membership of the Commission, the bill revises the number of Commission members to five which are needed to constitute a quorum. In addition, the bill provides the chair of the Commission will be appointed by the Governor. The vice chairperson will be elected annually from the membership of the commission.

The bill also specifies a number of requirements on TD commissioners. These are:

- Commissioners must represent the needs of transportation disadvantaged persons statewide, and they may not subordinate the transportation needs of persons statewide to favor a specific region of the state.
- Appointed commissioners serve a term of four years and may be reappointed for one additional four-year term.
- Commissioners must be residents of Florida and registered voters.

- Commissioners, other than elected officials, may not within the five years immediately before the appointment, or during his or her term on the Commission, have or have had a financial relationship with, or represent or have represented as a lobbyist as defined in s. 11.045, F.S., the following:
 - A transportation operator;
 - A community transportation coordinator;
 - A metropolitan planning organization;
 - A designated official planning agency;
 - A purchaser agency;
 - A local coordinating board;
 - A broker of transportation; or
 - A provider of transportation services.

Additionally, the bill requires each appointed Commission candidate, prior to accepting the appointment, to undergo a security background investigation pursuant to s. 435.04, F.S. A complete set of fingerprints taken by an authorized law enforcement agency must be filed with the Department of Transportation (DOT). The fingerprints must be submitted to the Florida Department of Law Enforcement (FDLE) for state processing, and to the Federal Bureau of Investigation (FBI) for federal processing. The DOT must screen the background results and report to the Commission any candidate who fails to meet the level 2 screening standards of s. 435.04, F.S., which list 47 criminal offenses. Any candidate found through fingerprint processing to have failed to meet such standards may not be appointed as a member of the Commission. Finally, the bill requires the costs of the background screening to be paid by DOT or the appointed candidate.

The Commission is required to appoint a technical working group, and set the size and membership to include representatives of private paratransit providers. The technical working group will advise the Commission on issues of importance to the state, including information, advice and direction regarding the coordination of services for the transportation disadvantaged. In addition, the Commission may appoint other technical working groups whose members may include representatives of community transportation coordinators; metropolitan planning organizations; regional planning councils; experts in insurance, marketing, economic development, or financial planning; and users of the transportation disadvantaged system, or their relatives, parents, guardians, or service professionals who tend to their needs.

C. SECTION DIRECTORY:

Section 1. Amends s. 427.012, F.S., to amend membership of the Commission. Specifies requirements for commissioners. Provides for ex officio, nonvoting advisors to the Commission. Requires each appointed Commission candidate, prior to accepting the appointment, to undergo a security background investigation. Provides for appointment of technical advisory committees.

Section 2. Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

DOT may be responsible for costs associated with the required background screening of a candidate prior to appointment to the Commission. FDLE indicates each criminal history check costs \$47.¹⁰

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Candidates for the Commission may be responsible for costs associated with the required background screening prior to appointment to the Commission.

FDLE reports each request will cost \$47; \$23 goes into the FDLE Operating Trust Fund. \$24 from each request is forwarded to the FBI; this is not revenue for Florida, but an expense for the private sector.¹¹

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This mandates provision is not applicable to the bill 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.

3. Other:

None

B. RULE-MAKING AUTHORITY:

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

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On **March 14, 2006**, the State Infrastructure Council considered HB 487 and adopted the following four amendments:

¹⁰ Fiscal analysis of HB 487 by FDLE (on file with State Infrastructure Council staff).

¹¹ Ibid

Amendment 1: adds language that states the Governor must appoint the commission's members in accordance with the requirements of s. 20.052, F.S.

Amendment 2: requires at least one commission member to be at least 65 years of age. Amendment 2 also changed a Governor-appointed ex-officio, nonvoting member from an elected local government official to a county manager or administrator.

Amendment 3: changes the technical advisory committee to a technical working group.

Amendment 4: removes section 2 of the bill regarding the development of allocation methodologies or formulas for equitable distribution of Commission funds.

The bill was then reported favorable as a council substitute.