

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

This bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

The Hillsborough County Public Transportation Commission (PTC), as of September 2006, has authorized permits for 613 taxicabs, 129 limousines, 225 van permits, and 49 handicab¹ permits with an estimated 6 of the total of the taxicab permits being “accessible” although the handicab vehicles may be used for the same purpose. The PTC sets taxicab rates at a maximum, regardless of accessibility; it sets limousine rates at a minimum; and handicabs, vans and ambulances set their own rates. The PTC estimates that there are 6 accessible taxicabs operating in Hillsborough County,² although four of those may be used primarily for the Medicaid clients of the transportation disadvantaged program.

The Americans with Disabilities Act (ADA)³ became law in July 1990 and protects the civil rights of people with disabilities, insuring access to public and private transportation which may include taxicabs, limousines, and vans. According to the ADA,⁴ a taxi service may not deny a ride to an individual because of disability if that individual can otherwise use that vehicle. If a person using a wheelchair⁵ can be stowed and the passenger can transfer from a wheelchair to a vehicle seat, the company must provide service, and neither the company nor its driver may require a passenger to wait for a lift-equipped van. A driver cannot refuse to assist with stowing a wheelchair in the trunk, charge a higher fee or fare for serving a person with a disability or charge a higher fee for stowing a wheelchair. Also, if a taxi company purchases or leases a new vehicle other than a sedan-type automobile, a van with a seating capacity of fewer than 8 people must be accessible unless the company is already providing “equivalent service”⁶ as provided by the ADA. However, it appears to be unresolved whether the ADA, in fact, requires the availability of public vehicles for those individuals who are restricted to a “common wheelchair” and cannot transfer from the wheelchair to a vehicle seat.

According to the ADA, transit providers who operate a fixed-route system are also required to provide complementary paratransit services which are aimed at a defined population of eligible individuals who are unable to use fixed-route.⁷

¹ “Handicabs” are defined as a motor-driven vehicle that has been modified for transporting the transportation disadvantaged. This is generally thought of as one modified for wheelchair service or stretcher service.

<http://www.hillsboroughcounty.org/publictransportation/faq/handicab.cfm>

² From emails received from Gregory Cox, Executive Director of the PTC dated 10/24/06 and 10/30/06. Explanatory Memorandum from the Hillsborough County Legislative Delegation for HB 1293 (dated December 7, 2006).

³ Americans with Disabilities Act of 1990 42 USCA §12101.

⁴ 42 U.S.C.A. § 12184.

⁵ A wheelchair is defined as a mobility aid belonging to any class of three or four-wheeled devices, usable indoors, designed for and used by individuals with mobility impairments, whether operated manually or powered. A “common wheelchair” is such a device which does not exceed 30 inches in width and 48 inches in length measured two inches above the ground, and does not weigh more than 600 pound when occupied. Title 49 CFR §37.3.

⁶ “Equivalent service” is defined as a demand-responsive system, when viewed in its entirety, where the service available to individuals with disabilities, including individuals who use wheelchairs, is provided in the most integrated setting appropriate to the needs of the individual. An integrated setting enables individuals with disabilities to interact with people without disabilities to the fullest extent possible. From “The Americans with Disabilities Act and You: Frequently Asked Questions on Taxicab Service” presented by Easter Seals Project ACTION and the Taxicab, Limousine & Paratransit Association, <http://projectaction.easterseals.com>.

⁷ 42 U.S.C.A. § 12142.

The Hillsborough Area Regional Transit (HART) reports that, from 07/01/05 through 06/30/06, HART provided 54,991 paratransit trips with the figure anticipated to rise to 71,403 in the current fiscal year. The FY 06 services cost HART \$2,077,800. With users paying fares ranging from \$2.60 to \$5.20, the farebox recovery was approximately 2 percent. The average cost of a trip was approximately \$32. HART has also experienced an 18.4 percent increase in FY 06 of bus trips by wheelchair, for a total of 36,019 trips.⁸ HART reported an approximate rate of 20 percent farebox recovery on the bus system.

Finally, the PTC addressed the Attorney General of the State of Florida in a letter dated September 13, 2006, as to whether the PTC already has the power to “require that taxicab companies equip a percentage of their permitted fleet as wheelchair accessible vehicles.”⁹ The Attorney General has not had the opportunity to respond yet.

Effect of Proposed Changes

This bill grants the Hillsborough County Public Transportation Commission authority to adopt a rule to ensure the availability of accessible vehicles that meet any applicable federal requirements for the transportation of individuals with mobility impairment, at their discretion.

This may provide more access to on-street transportation services to people with disabilities.

C. SECTION DIRECTORY:

Section 1: Grants the Hillsborough County Public Transportation Commission the discretionary authority to adopt a rule ensuring the availability of public vehicles for individuals with mobility impairments.

Section 2: Provides an effective date of July 1, 2007.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN?

January 30, 2007

WHERE?

The 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

The Economic Impact Statement notes that federal tax rules allow for a full deduction of conversion expenses up to \$15,000 and section 190 of the Internal Revenue Code provides a tax deduction for the

⁸ From e-mails dated 10/27/06 from Ed Crawford, AICP, Government Affairs Officer, HART. Explanatory Memorandum from the Hillsborough County Legislative Delegation for HB 1293 (dated December 7, 2006).

⁹ Explanatory Memorandum from the Hillsborough County Legislative Delegation for HB 1293 (dated December 7, 2006).

purposes of making a public transportation vehicle for use with a trade or business more accessible or usable to a person with a disability.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

The regulatory powers of the Hillsborough County Public Transportation Commission are established by special act of the legislature¹⁰ and are applicable countywide.

B. RULE-MAKING AUTHORITY:

The Hillsborough County Public Transportation Commission is required to adopt rules in conformance with chapter 120, F.S., the Administrative Procedures Act.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

¹⁰ Chapter 2001-299, Laws of Florida.
STORAGE NAME: h1293.ULA.doc
DATE: 3/7/2007