

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Health and Human Services Appropriations Committee

BILL: CS/CS/SB 788

INTRODUCER: Committee on Health and Human Services Appropriations, Transportation and Economic Development Appropriations Committee and Senator Fasano

SUBJECT: Transportation Disadvantaged/Services

DATE: April 22, 2008

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Davis	Meyer	TR	<b>Favorable</b>
2.	Molloy	Yeatman	CA	<b>Favorable</b>
3.	Weaver	Noble	TA	<b>Fav/CS</b>
4.	Dull	Peters	HA	<b>Fav/CS</b>
5.				
6.				

**I. Summary:**

Senate Bill 788 revises ss. 427.011 – 427.016, F.S., to ensure the coordinated planning of transportation disadvantaged services by all human service agencies; strengthen the alternative provider procedure process for purchasing agencies to ensure all agencies follow the same process; require all agencies to identify dollars spent on non-emergency transportation services to transportation disadvantaged clients; and require agencies to pay the transportation rates established by the service plan unless the procedure to use an alternative provider has been completed. The bill allows the agency to continue to contract for non-emergency transportation services in area 11 with managed care plans under contract before July 1, 2004. The bill also updates terminology, deletes obsolete language, and makes other technical changes.

This bill substantially amends the following sections of the Florida Statutes: 409.908, 427.011, 427.012, 427.013, 427.0135, 427.015, 427.0155, 427.0157, 427.0158, 427.0159, and 427.016.

**II. Present Situation:**

***The Transportation Disadvantaged Program - ch. 427, F.S.*** - The Transportation Disadvantaged (TD) Program was created by the Legislature in 1979 and coordinates a network of local and state programs providing transportation services for elderly, disabled, and low-income citizens. The TD Program is administered by a 7-member commission through a decentralized network of state and local organizations (see Exhibit) but various state agencies provide funding for specific client groups. At the local level, coordination of TD services is accomplished through planning agencies, local advisory boards, community transportation coordinators and transportation operators.

***Commission for the Transportation Disadvantaged (commission)*** - The Legislature created commission in 1989 as an independent entity within the Department of Transportation, to set state policy for the TD program and oversee statewide implementation. Commissioners represent the non-transportation business community and disabled individuals who use the transportation disadvantaged system. Appointments to the commission are made by the Governor. Currently, the commission's membership includes seven voting members appointed by the Governor. Two of the members must be persons with a disability who use the transportation disadvantaged system, and five of the members must have significant experience in the operation of a business.<sup>1</sup> The commission is housed within the DOT for administrative and fiscal accountability purposes only.

It is the intent of the Legislature that when making appointments, the Governor selects persons who reflect the broad diversity of the business community in the state, as well as the geographical, racial, ethnic, and gender diversity of the state's population. In addition, the top executive (or a designee) from each of the following entities will serve as ex officio, nonvoting advisors of the commission:

- The Department of Transportation (DOT);
- The Department of Children and Family Services;
- The Agency for Workforce Innovation;
- The Department of Veterans' Affairs;
- The Department of Elderly Affairs;
- The Agency for Health Care Administration (AHCA);
- The Agency for Persons with Disabilities; and
- A county manager or administrator who is appointed by the Governor.

The commission is required to meet at least quarterly, or more frequently at the call of the chairperson. Five members of the commission constitute a quorum, and a majority vote of the members present is necessary for any action taken by the commission.

***Funding*** - The commission distributes a share of its budgeted funds to the local providers, based on the commission's criteria, to ensure the availability of efficient and quality transportation services for transportation disadvantaged persons in a cost-effective manner. The commission also plays a critical role in the delivery of Medicaid non-emergency transportation services and services delivered from the funds in the Transportation Disadvantaged Trust Fund (trust fund). The trust fund receives moneys from a \$1.50 fee on each initial registration and registration renewal of vehicles pursuant to s. 320.03(9), F.S., and revenues as designated by the Legislature. The trust fund subsidizes trips, provides funding for TD eligible persons not otherwise funded, and provides for administrative expenses.<sup>2</sup>

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<sup>1</sup> S. 20.052, F.S.

<sup>2</sup> Persons are considered transportation disadvantaged when physical or mental disability, income status, or age make them unable to transport themselves or to purchase transportation. These conditions cause them to rely on others to obtain access to health care, employment, education, shopping, or other life-sustaining activities. Handicapped children or children at-risk or high-risk are also eligible for services under this program. See s. 427.011, F.S.

In fiscal year 2006-2007, total funding for TD services in Florida from all sources was \$368 million which included a state appropriation of \$38 million. Not all of the funds were expended directly by the commission which, until 2004, relied on the average \$25 million to \$35 million it received from four statutory program earmarks and special appropriations from the Legislature. In November, 2004, the AHCA executed a memorandum of agreement authorizing the commission to oversee an additional \$68 million in Medicaid funds for non-emergency transportation (NET) services for Medicaid clients.

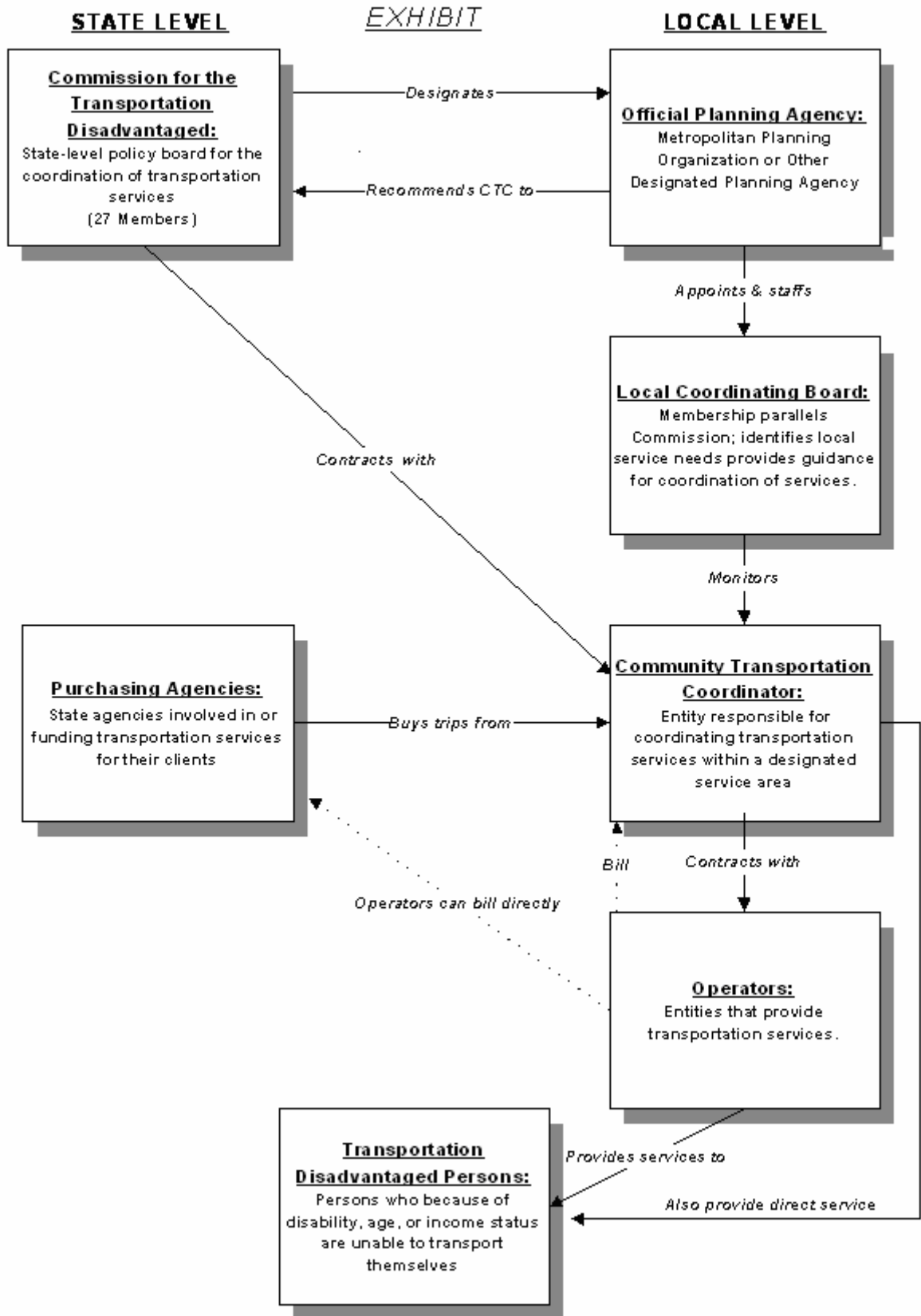
***Coordination of services at the statewide level*** - At the statewide level, the commission assists communities in establishing coordinated transportation systems, manages contracts and memoranda of agreement, ensures state agencies purchase transportation services from within the TD coordinated system 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. As managers of the Medicaid 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, pay the local transportation operators actually providing the services.

***Coordination of services at the local level*** - At the local level, the TD program is implemented through a network of planning agencies, local advisory boards, community transportation coordinators (CTCs), and transportation operators. Local planning agencies, such as a metropolitan planning organization (MPO) or regional planning council, appoint and staff each local coordinating board. A local elected official chairs each coordinating board. These local boards also recommend the CTCs to the commission.

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

***Service areas*** - Florida’s 67 counties are divided into 48 TD service areas. While most urban counties are single-county service areas, some rural counties are organized into multi-county service areas. All counties have some level of TD service for their elderly, disabled, or needy residents. According to the commission’s latest annual report, 51.5 million trips were provided to clients in fiscal year 2006-2007, approximately 2 percent fewer than in the previous fiscal year. These trips served 697,159 passengers, and about one-third were to a doctor’s office or medical facility. Trips to educational or training facilities rank second.

## OVERVIEW OF THE TRANSPORTATION DISADVANTAGED PROGRAM



### III. Effect of Proposed Changes:

**Section 1** amends s. 409.908, F.S.; to clarify that the agency may contract for non-emergency transportation services provided in a more cost-effective manner after consultation with the commission; and to clarify that the agency may continue to contract for non-emergency transportation services in area 11 with managed care plans under contract before July 1, 2004.

**Section 2** amends definitions in s. 427.011, F.S. Subsection (8) redefines "member department" as "purchasing agency" to mean a department or agency whose head is an ex officio, nonvoting advisor to the commission, or an agency that purchases transportation services for the transportation disadvantaged. Subsection (12), defining "annual budget estimate" is deleted and subsection (13) is redesignated as subsection (12).

**Section 3** amends subsection (4) of s. 427.012, F.S., to reduce the number of commissioners that constitute a quorum from five to four.

**Section 4** amends subsections (7), (8), (9), (14), and (26) of, and creates subsection (29) in, s. 427.013, F.S., to require that all procedures, guidelines and directives issued by purchasing agencies are conducive to the coordination of transportation services unless otherwise provided by state and federal law; create a new process for purchasing agencies to contract with transportation providers other than through the commission when the purchasing agency cannot reach mutually acceptable contract terms with the commission, and has a means of obtaining services in a more cost-effective manner of comparable or higher quality standards; provide cross-references to this process where applicable within Part I of chapter 427; exempt agencies that meet these standards and are using an alternative providers, from the rules developed by the commission for community transportation coordinators, and transportation operators or coordination contractors; include a provision requiring the commission to collect information about the amounts collected by each official planning agency, and removes a provision from current law requiring the commission to issue a report regarding the consolidated annual budget estimates for state agencies, local governments, and directly federally funded agencies; eliminate the provision that allows staff of the quality assurance and management review program to function independently and be directly responsible to the executive director; allow the commission to incur expenses for the purchase of advertisements, marketing services and promotional items.

**Section 5** amends s. 427.0135, F.S., to provide the following:

- Amends subsection (1) to delete the authority for the Medicaid agency to purchase transportation services.<sup>3</sup>
- Subsection (2) is created to require a purchasing agency to pay the rates established in the service plan or negotiated statewide contract unless the alternative provider procedures have been completed and the agency can demonstrate that a proposed alternative provider can provide comparable quality transportation services at a lower cost.
- Subsection (3) is created to provide that a purchasing agency may not procure transportation services without first negotiating with the commission. If after consulting the commission, the agency determines that it cannot reach mutually acceptable contract terms with the

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<sup>3</sup> Under the memorandum executed in November, 2004, the commission negotiates Medicaid NET services.

commission, the agency may contract for cost-effective and comparable or higher quality standards of service.

- Subsection (4) is created to require that each purchasing agency to identify in the annual legislative budget request submitted to the Governor the specific amount of any money to be allocated for transportation disadvantaged services.

**Section 6** amends subsections (2) and (3) of s. 427.015, F.S., to require that each MPO or designated official planning agency request actual (not estimated) expenditures on services from each local government in its jurisdiction. Consolidated reports submitted by the MPO or designated official planning agency on local government expenditures must be submitted to the commission by September 15 of each fiscal year.

**Section 7** amends subsection (7) of s. 427.0155, F.S., to clarify that the eligibility guidelines established by the CTC are established in cooperation with the local coordinating board pursuant to criteria developed by the commission.

**Section 8** amends subsection (4) of s. 427.0157, F.S., to require that the local coordinating board assist the CTC in the development of eligibility guidelines for recipients of services purchased with trust fund moneys.

**Section 9** amends subsections (2) and (3) of s. 427.0158, F.S., to provide that information relating to the use of school board vehicles at actual cost when those vehicles are not being used to transport students must be provided to the CTC upon request. Semi-annual reporting requirements are deleted. Information relating to the public transit fixed route or fixed schedule system must also be submitted to the CTC upon request instead of in an annual report.

**Section 10** adds subsection (4) to, s. 427.0159, F.S., to provide that a purchasing agency may deposit funds into the trust fund for the commission to implement, manage, and administer the purchasing agency's transportation disadvantaged funds as defined in s. 427.011(10), F.S.

**Section 11** amends subsections (1) and (2) of s. 427.016, F.S., to clarify that a purchasing agency may establish maximum fee schedules, individualized reimbursement policies by provider type, negotiated fees, or any other mechanism, including contracting after the initial negotiation with the commission, which the agency considers more cost-effective and of comparable or higher quality standards than those of the commission for the purchase of services on behalf of its clients, if it has fulfilled the requirements of s. 427.0135 (3) or the procedure for an alternative provider. Requires each agency, whether or not it is an ex officio nonvoting advisor of the commission, to annually identify in the legislative budget request provided to the Governor for the General Appropriations Act the specific amount of any money the agency will allocate for the provision of transportation disadvantaged services.

**Section 12** provides this act shall take effect July 1, 2008.

**IV. Constitutional Issues:**

## A. Municipality/County Mandates Restrictions:

None.

## B. Public Records/Open Meetings Issues:

None.

## C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

None.

## C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Additional Information:**

## A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Committee on Health and Human Services Appropriations on April 22, 2008:**

The CS clarifies that the agency may contract for non-emergency transportation services provided in a more cost-effective manner after consultation with the commission; allows the agency to continue to contract for non-emergency transportation services in area 11 with managed care plans under contract before July 1, 2004; ensures that purchasing agencies purchase all trips within the coordinated system unless they have fulfilled alternative requirements and use a more cost-effective provider with comparable quality standards; eliminates the provision requiring the dollar amount for non-emergency transportation services be separately identified in the General Appropriations Act; and

provides that information relating to the use of school board vehicles at actual cost when those vehicles are not being used to transport students must be provided to the CTC upon request.

**CS by Transportation and Economic Development Appropriations on April 2, 2008:**

The CS clarifies that a purchasing agency may not procure transportation services without initially consulting with the commission. If after consulting with the commission, the agency determines a mutually acceptable contract cannot be reached, the agency may contract for services that are more cost-effective and of equal or higher standards than those of the commission.

**B. Amendments:**

None.