

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS/SB 772

SPONSOR: Senator Webster

SUBJECT: Rules Authorization Bill

DATE: February 22, 2000 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>McAuliffe</u>	<u>Meyer</u>	<u>TR</u>	<u>Favorable/CS</u>
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

In 1996, the Legislature enacted s. 120.536, F.S., which eliminates an agency's ability to rely on broad statutory authority for its rules and requires specific statutory authority for the powers exercised in a rule.

Pursuant to s. 120.536, F.S., the Florida Department of Transportation (FDOT) and the Commission for the Transportation Disadvantaged (commission) has identified the areas of current rule making authority where specific grants of power by the Legislature are necessary to continue implementation of the rules. This CS provides statutory authorization for existing FDOT and commission rules or portions thereof which FDOT or the commission deems necessary but which currently exceed the agencies' or commission's rulemaking authority.

The CS provides specific legislative authority for the FDOT to promulgate rules: to delegate authority beyond the assistant secretaries; to establish prepaid escrow accounts; to approve aggregate sources; to provide for prompt settlement or legal defense of claims and disqualification for failure to settle claims; to provide for toll facility operations; and to provide for relocation assistance.

The CS authorizes the commission to develop by rule standards for community transportation coordinators and any transportation operator or coordination contractor from whom service is purchased or arranged by the community transportation coordinator, including minimum liability insurance requirements for all transportation services purchased.

Further, the CS provides specific legislative authority for the commission to promulgate rules providing that an agency which is a member of the commission may not serve as the community transportation coordinator.

This bill substantially amends sections 20.23, 334.187, 334.044, 337.18, 338.155, 339.09, 427.013, 427.0135, and 427.015 of the Florida Statutes.

II. Present Situation:

In 1996, the Legislature enacted s. 120.536, F.S., which eliminates an agency's ability to rely on broad statutory authority for its rules and requires specific statutory authority for the powers exercised in a rule.

Pursuant to s. 120.536, F.S., the Department of Transportation and the Commission for the Transportation Disadvantaged have identified the areas of current rule making authority where specific grants of power by the Legislature are necessary to continue implementation of the rules. This CS provides statutory authorization for existing FDOT and commission rules or portions thereof which FDOT and the commission deems necessary but which currently exceed rulemaking authority.

Rule 14-1.003 provides for the delegation of authority beyond the FDOT assistant secretaries. This rule exceeds the authority of the FDOT to promulgate rules as there is not such authority delegated by statute.

Rule 14-114 provides for the use of FDOT prepaid escrow accounts. This rule exceeds the authority of the FDOT to promulgate rules as there is not such authority authorized by statute.

Rule 14-103 provides for aggregate source approval. This rule exceeds the authority of the FDOT to promulgate rules as there is not such authority authorized by statute.

Rule 14-24.001 provides for prompt settlement or legal defense of claims and disqualification for failure to settle claims. This rule exceeds the authority of the FDOT to promulgate rules as there is no such authority authorized by statute.

Rule 14-80 provides for toll facility operations and the rules for Florida Guaranteed Toll Accounts. This rule exceeds the authority of the FDOT to promulgate rules as there is no such authority related to guaranteed toll accounts authorized by statute.

Rule 14-66 provides regulations in regard to relocation assistance. This rule exceeds the authority of the FDOT to promulgate rules as there is not such authority authorized by statute for relocation assistance for transportation projects other than highway projects.

Rule 41-2.006 authorizes the commission to develop standards for community transportation coordinators and contractors including minimum liability insurance requirements. This rule exceeds the authority of the commission to promulgate rules as there is not such requirement imposed by statute.

Rule 41-2.005 provides that no member department may be selected as a community transportation coordinator. This rule exceeds the authority of the commission to promulgate rules as there is no such requirement imposed by statute.

III. Effect of Proposed Changes:

Section 20.23, F.S., is amended to authorize FDOT to adopt rules necessary for the delegation of authority beyond the assistant secretaries.

Section 334.187, F.S., is amended to authorize FDOT to adopt rules relating to the use of prepaid escrow accounts for purchases from the FDOT.

Section 334.044, F.S., is amended to authorize FDOT to adopt rules relating to approval of aggregate and other material sources.

Section 337.18, F.S., is amended to authorize the FDOT to adopt rules relating to surety bonds and contract awards. The section specifies such rules must include provisions under which FDOT will refuse to accept bonds on contracts when a surety wrongfully fails or refuses to settle or provide a defense for claims or actions arising under a contract for which the surety previously furnished a bond.

Section 338.155, F.S., is amended to authorize the FDOT to adopt rules relating to guaranteed toll accounts.

Section 339.09, F.S., is amended to expand FDOT rule authorization for spending transportation funds on relocation assistance and moving costs for persons displaced by highway construction to include other related transportation projects.

Section 427.013, F.S., is amended to authorize the Commission for the Transportation Disadvantaged to develop by rule standards for community transportation coordinators and any transportation operator or coordination contractor from whom service is purchased or arranged by the community transportation coordinator including minimum liability insurance requirements for all transportation services purchased.

Sections 427.0135 and 427.015, F.S., are amended to provide that an agency which is a member of the Commission for the Transportation Disadvantaged may not serve as the community transportation coordinator.

The CS provides an effective date of July, 2000.

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
