

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Transportation Committee</u>	<u>15 Y, 0 N, w/CS</u>	<u>Pugh</u>	<u>Miller</u>
2) <u>Transportation & Economic Development Appropriations Committee</u>	<u></u>	<u></u>	<u></u>
3) <u>State Infrastructure Council</u>	<u></u>	<u></u>	<u></u>
4) <u></u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

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 w/CS makes a number of changes to the Commission for the Transportation Disadvantaged. Specifically, the bill:

- Reduces the number of commissioners from 27 to 15.
- Removes all member slots representing entities providing transportation services to eligible TD clients.
- Establishes term limits of two, 4-year terms for commissioners.
- Prohibits TD commissioners from either being employed by, or benefiting financially from, community transportation coordinators or transportation providers.
- Requires all TD Commission candidates, before accepting appointment, to undergo background checks by the Florida Department of Law Enforcement and the FBI.
- Allows the TD Commission to establish three technical advisory committees to address TD issues related to TD transportation coordinators and providers, transportation planning, and business interests.
- Directs that 30 days prior to the submittal of its legislative budget request, the TD Commission must present to the Legislative Budget Commission for its approval the allocation formula for the Medicaid non-emergency funding the TD Commission anticipates receiving from the Agency for Health Care Administration for the upcoming fiscal year. The TD Commission also must document the funds to be allocated to the counties. No changes to the formula or to the county allocations shall be implemented without Legislative Budget Commission approval.
- Directs the TD Commission to develop a methodology or formula that equitably distributes funds under its control using certain criteria, and which ensures that counties and providers are not financially penalized for incorporating public school buses or public fixed-route transit vehicles into their TD services.

HB 1475 w/CS does not raise any apparent constitutional or other legal issues, nor does it impact state funding.

HB 1475 w/CS would take effect July 1, 2005.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h1475b.TR.doc
DATE: 3/29/2005

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government: HB 1475 w/CS reduces from 27 to 15 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 w/CS 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 secretary of the Department of Children and Family Services. or designee;
- The Commissioner of Education or designee;
- The director of the Agency for Workforce Innovation or designee;
- The secretary of the Department of Elder Affairs or designee;
- The director of AHCA or designee;
- A person over the age of 60 who uses paratransit services. This person shall be appointed by the Governor to serve a term of 4 years.
- A disabled person who uses paratransit services. This person also shall be appointed by the Governor to serve a term of 4 years.
- Seven additional members from the seven FDOT districts. Two persons shall appointed by the Governor and one each by the President of the Senate and the Speaker of the House of Representatives; these persons shall be selected from FDOT's urban districts. The remaining three members shall be appointed by the Commissioner of Agriculture from the rural FDOT districts.

Supporters of the bill say they wanted to remove the 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 w/CS also specifies a number of requirements on TD commissioners. These are:

- Commissioners are reminded that they represent the needs of transportation disadvantaged persons statewide, and that they shall not subordinate the transportation needs of persons statewide to favor a specific region of the state.
- Commissioners may not serve more than two full terms.
- Commissioners must be citizens of Florida and registered voters.

- Commissioners, other than elected officials, may not be an employee or agent of a community transportation coordinator (CTC), a contractor or subcontractor of a CTC, or a director or indirect subcontractor to a contractor employed by a CTC.
- Commissioners, other than elected officials, may not have any direct or indirect interest in any contract, franchise, privilege, or other benefit granted to or awarded by the TD Commission, AHCA, or the Department of Children and Families while serving on the commission and for two years afterward.
- The bill requires "level 2" background checks, pursuant to s. 435.04, F.S., of TD Commission candidates. Each candidate shall supply to FDOT a complete set of his or her fingerprints, which in turn will be submitted to the Florida Department of Law Enforcement (FDLE) and the FBI. FDOT shall review the results of each screening and shall report to the TD Commission any candidate that fails to meet the requirements of s. 435.04, F.S., which lists 47 criminal offenses that, if they show up in a person's background check, means that person cannot serve. The cost of the background screening may be borne by FDOT or by the candidate. Currently, the FDLE fingerprint check costs \$24 and the FBI fingerprint check costs \$25.
- TD commissioners may create three technical advisory committees, and set their membership, size, and focus. The committee members will serve without compensation but are entitled to per diem or travel expenses, pursuant to s. 112.061, F.S. One technical advisory committee shall provide the TD Commission with information, advice and direction on community coordinated transportation and paratransit services; another on transportation planning issues; and the third on business-related issues, including insurance, marketing, economic development, and financial planning.

HB 1475 w/CS also includes two finance-related provisions:

- Section 427.012, F.S., is amended to direct the TD Commission to submit each year to the 14-member Legislative Budget Commission, for its approval, the formula for allocating the Medicaid non-emergency transportation funds from AHCA and the amount of these funds each county expects to receive to operate TD programs. No changes to the allocation formula or allocations shall be implemented by the TD Commission until approved by the Legislative Budget Commission.
- Section 427.013, F.S., is amended to direct the TD Commission to develop a funding methodology or formula that equitably distributes the funds under its control to counties, CTCS, and other entities. The methodology or formula shall take into account such factors as actual per-trip costs, program efficiencies, and alternative pricing strategies. Further, programs that use school buses or fixed-route transit services (city-owned buses, for example) to provide TD transportation should not be penalized financially.

HB 1475 w/CS takes effect July 1, 2005.

C. SECTION DIRECTORY:

Section 1: Amends s. 427.012, F.S., to amend membership of the TD Commission. Specifies requirements for commissioners. Provides for creation of technical advisory committees. Requires Legislative Budget Commission of certain funds and formulas.

Section 2: Amends s. 427.013, F.S., to require the Commission to develop equitable funding methodology or formula. Provides some criteria.

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:

HB 1475 w/CS gives the Legislature greater oversight, and possibly control, over how the TD Commission plans to spend the Medicaid funds it expects to receive from AHCA pursuant to their interagency contract, as well as the development of the TD allocation formulas. How this will impact individual counties can not be determined at this time. But it is possible that the criteria listed in section 2 of the bill, pertaining to development of an allocation methodology that does not penalize counties incorporating public fixed-route transit and school buses into their TD programs may generate a larger share of TD funding for those counties and a smaller share for other counties, 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 w/CS 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 w/CS.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

At its March 28, 2005, meeting, the Transportation Committee adopted without objection a strike-everything-after-the-enacting clause amendment. Briefly, that strike-all amendment:

- Reconfigured the TD Commission's membership to 15;
- Specified the members cannot serve more than two, 4-year terms;
- Specified that no member, other than an elected local official, can be a contractor, employee, agent, or subcontractor to a CTC;
- Specified 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;
- Established how vacancies are filled;
- Gave the TD Commission the discretion to create three technical advisory committees: one representing transportation providers and coordinators, one representing planners, and one representing business interests.
- Directed 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.
- Provided a more detailed description of what the TD Commission's allocation methodology or formula should consider as factors.

The committee then voted 15-0 to report the bill as favorable, with a committee substitute.