

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

Prepared By: Transportation Committee

BILL: CS/SB 1168

SPONSOR: Transportation Committee and Senators Constantine and Alexander

SUBJECT: Transportation Disadvantaged

DATE: March 30, 2005

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Davis	Meyer	TR	Fav/CS
2.			CJ	
3.				
4.				
5.				
6.				

I. Summary:

Part I of ch. 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.

CS/SB 1168 (CS) makes a number of changes to the Commission for the Transportation Disadvantaged (Commission). Specifically, the CS:

- Significantly restructures the Commission to reduce 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 appointed commissioners;
- Prohibits TD commissioners from either being employed by, or benefiting financially from, community transportation coordinators or transportation providers;
- Deletes the provision specifying nine Commission members constitute a quorum;
- Allows the Commission to establish three technical advisory committees to address TD issues related to TD transportation coordinators and providers, transportation planning, and business interests.
- Requires a candidate for appointment to the Commission to undergo a security background investigation which includes fingerprinting for all purposes and checks through the Florida Department of Law Enforcement and the Federal Bureau of Investigation;
- Specifies any candidate found through fingerprinting to have failed to meet level 2 screening standards may not be appointed as a member of the Commission; and

- Requires the costs of the background screening to be paid by the Department of Transportation or the appointed candidate.

This CS substantially amends section 427.012 of the Florida Statutes.

II. Present Situation:

Overview of the Transportation Disadvantaged Program

The Commission for the Transportation Disadvantaged, an independent entity within the Department of Transportation (DOT), 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. The mission of the Commission is to ensure the availability of efficient, cost-effective and quality transportation services for transportation disadvantaged persons. The Commission also administers the Transportation Disadvantaged 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.¹

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.

Currently, this is the Commission's makeup:

- 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 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 (AHCA) 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.

¹Persons 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 (s. 427.011, F.S.)

- 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 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 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 a 7-percent increase over 2002-2003. There were 888,241 passengers served 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 – was \$307 million in fiscal 2003-2004.² 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.

²Commission for the Transportation Disadvantaged, *2004 Annual Report*, available at: <http://www.dot.state.fl.us/ctd/APR/2004/PDF/2004%20layoutONE.pdf>

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 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. Typically, 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.

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.

III. Effect of Proposed Changes:

CS/SB 1168 makes a number of administrative changes to the TD Commission. First, it significantly restructures by reducing the Commission's membership from 27 to 15 persons. The new members would be:

- The DOT secretary or 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 Agency for Health Care Administration director or designee;
- The Agency for Persons with Disabilities director or designee;
- The chair of the Commission, who shall be appointed by the Governor; and
- Seven members appointed by the Governor for terms of 4 years, who shall be from each of the seven districts of DOT. One of the members must be a person over the age of 60 who uses paratransit services and one member must be a person with a disability who uses paratransit services.

As a result of reducing the membership of the Commission, the CS also deletes the provision specifying nine Commission members constitute a quorum.

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

- Commissioners are reminded they represent the needs of transportation disadvantaged persons statewide, and they shall not subordinate the transportation needs of persons statewide to favor a specific region of the state.
- Appointed 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 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 Commission, AHCA, or the Department of Children and Family Services while serving on the Commission and for two years afterward.
- The Commission may create three technical advisory committees, and set their membership, size, and focus. The technical advisory committee members will serve without compensation. Of the three, one technical advisory committee shall provide the Commission with information, advice and direction on community coordinated transportation and paratransit services; one technical advisory committee shall provide the Commission with information, advice and direction on transportation planning issues; and one technical advisory committee shall provide the Commission with information, advice and direction on business-related issues, including insurance, marketing, economic development, and financial planning.

In addition, the CS requires each appointed 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 DOT. The fingerprints must be submitted to the Department of Law Enforcement for state processing, and to the Federal Bureau of Investigation 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 CS requires the costs of the background screening to be paid by DOT or the appointed candidate. Currently, the FDLE fingerprint check costs \$24 and the FBI fingerprint check costs \$25.

IV. Constitutional Issues:

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:

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

C. Government Sector Impact:

DOT may be responsible for costs associated with the required background screening of a candidate prior to appointment to the Commission.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

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

VIII. Summary of Amendments:

None.

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