

The Florida Senate
PROFESSIONAL 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: SB 1622

INTRODUCER: Senator Dockery

SUBJECT: Polk Transit Authority / Polk County

DATE: April 18, 2007 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Eichin	Meyer	TR	Favorable
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

The bill creates the Polk Transit Authority (PTA) as an independent special district to accommodate the consolidation of transit systems within Polk County. The bill will become the charter for the authority, and generally complies with the minimum statutory requirements for the creation of an independent special district. It provides for: definitions; the purpose, functions, duties, boundaries and fiscal year of the authority; charter amendments; a board of directors, and its membership, powers, functions and duties; authority to levy ad valorem taxes and non-ad valorem assessments; the use and deposit of authority funds; the issuance of bonds; and the liberal construction and severability of the act.

This bill creates an unnumbered section of Florida Law.

II. Present Situation:

Polk County Transit Providers

Currently, there are three transit providers in Polk County: the Lakeland Area Mass Transit District (LAMTD), Winter Haven Area Transit (WHAT), and Polk County Transit Services (PCTS).

LAMTD is a special independent taxing district created by county ordinance, with taxing authority approved through voter referendum. The transit service provided by LAMTD, known as the Citrus Connection, began operating in 1982. Governance of LAMTD is vested in the LAMTD Board, which consists of three Lakeland City Commissioners and two Polk County Commissioners. LAMTD operates 28 fixed routes – fifteen regular routes, a trolley for downtown Lakeland, five limited service (afternoon only) routes, two connector routes to other

cities, and five routes under contracted service to WHAT. LAMTD also provides paratransit service to qualifying individuals. LAMTD's primary funding sources are ad valorem tax, federal transportation operating and capital grants, Florida Department of Transportation (FDOT) operating grants, and local funding. With a fleet of 64 buses, 125 employees, and an operating budget of \$7 million, LAMTD provides service to an area of approximately 200,000 residents and covers 7,500 miles of routes daily.

WHAT is governed by the WHAT Policy Board. The Policy Board is responsible for the establishment of all fares, service standards, rules and regulations for the public transportation services. Voting members include two representatives from the City of Winter Haven, two representatives from the Polk County Board of County Commissioners, and one representative from FDOT. Polk County Transit Services has been contracted by WHAT to provide the fixed-route motorbus system in the City of Winter Haven. Two WHAT routes are provided by the PCTS and five are provided by LAMTD.

PCTS provides fixed-route bus service throughout Polk County and is governed by the Polk County Board of County Commissioners. Para-transit service is also provided. PCTS is the Project Manager for WHAT and provides fixed-route service on two WHAT routes, ADA complementary paratransit service for all WHAT routes, and connector service between LAMTD and WHAT routes and various cities throughout the county.

Polk Regional Transportation Organization

The Polk Regional Transportation Organization (RTO) was created in 2004 to improve the coordination of existing transit services and lead a transition to a new countywide transit system. The RTO adopted a strategy to combine and consolidate the existing transit providers.

The Board of the RTO comprises ten members, including:

- 2 elected officials from the Polk County Board of County Commissioners;
- 2 elected officials from the City of Winter Haven;
- 2 elected officials from the City of Lakeland representing LAMTD;
- 1 elected official from the City of Auburndale;
- 1 elected official from the City of Bartow;
- 1 elected official from the Polk Transportation Planning Organization; and
- 1 representative from the FDOT.

The RTO Board includes ex officio representatives from all current transit stakeholders in Polk County.

Special Districts

Independent special districts are limited forms of government created to perform specialized functions. Special districts have no home rule power; rather, they only have the powers expressly provided by, or which can be reasonably implied from, the authority legislatively provided in their charter. Chapter 189, F.S., is the "Uniform Special District Accountability Act" (Act). The Act provides it is the specific intent of the Legislature that independent special districts may only be created by legislative authorization as provided in the Act.

Section 189.404, F.S., prohibits special acts creating independent special districts that are exempt from general law requirements regarding:

- General requirements and procedures for elections (s. 189.405, F.S.);
- Bond referenda requirements (s. 189.408, F.S.);
- Bond issuance reporting requirements (s.189.4085, F.S.);
- Public facilities reports (s. 189.415, F.S.); and
- Notice, meetings, and other required reports and audits (ss.189.417 & 189.418, F.S.).

Section 189.404(2), F.S., requires submission of a statement to the Legislature documenting the purpose of the proposed district; the authority of the proposed district; and an explanation of why the district is the best alternative. In addition, that section requires submission of a resolution or official statement issued by the appropriate local governing body in which the proposed district is located affirming that the creation of the proposed district is consistent with approved local government plans of the local governing body, and that the local government has no objection to the creation of the proposed district.

Section 189.404(5), F.S., requires the charter of any newly created special district to contain a reference to the status of the special district as dependent or independent. Section 189.404(2)(a), F.S., prohibits special laws which create independent districts that do not, at a minimum, conform to the minimum requirements in s. 189.404(3), F.S. The charters of independent districts must address and include certain provisions, including geographical boundaries, taxing authority, bond authority, and Board selection procedures.

In addition to these extensive requirements for local bills creating independent special districts, other criteria mandated by the Florida Constitution must be fulfilled including notice requirements applicable to all local bills.

III. Effect of Proposed Changes:

Generally, the bill creates the Polk Transit Authority (PTA) as an independent special district to accommodate the consolidation of transit systems within Polk County. The bill will become the charter for the authority, and generally complies with the minimum statutory requirements for the creation of an independent special district. It provides for: definitions; the purpose, functions, duties, boundaries and fiscal year of the authority; charter amendments; a board of directors, and its membership, powers, functions and duties; authority to levy ad valorem taxes and non-ad valorem assessments; the use and deposit of authority funds; the issuance of bonds; and the liberal construction and severability of the act.

Section 1 provides definitions.

Section 2 creates the PTA to be an independent special district encompassing all of incorporated and unincorporated Polk County. The PTA is a public corporation created to provide transit services in Polk County. The PTA's charter may only be amended by the Legislature.

Section 3 establishes the purpose of the PTA is to plan, finance, acquire, construct, operate, and maintain transit facilities and systems, as well as any supplemental assistance necessary to

service the needs of Polk County. The purpose also includes the consolidation of transit services into a countywide system.

Section 4 provides for a governing board of nine voting members and one non-voting member. Membership is as follows:

- 3 Polk County Commissioners;
- 2 Lakeland City Commissioners;
- 1 Winter Haven City Commissioner;
- 1 City Commissioner rotating biannually between the Cities of Bartow and Auburndale;
- 1 City Commissioner rotating biannually between the Cities of Haines City and Lake Wales;
- 1 member appointed biannually by each of following cities in a succession determined by descending population size:
 - Fort Meade
 - Lake Alfred
 - Mulberry
 - Frostproof
 - Dundee
 - Eagle Lake
 - Davenport
 - Polk City
 - Lake Hamilton
- The FDOT District One Secretary or designee as a non-voting member.

The bill provides for staggered terms in order to preserve continuity of the board. Members do not receive compensation but may receive payment for expenses incurred.

In order to better facilitate the consolidation of transit services, several of the initial appointments to the PTA board must be commissioners whom also represent existing transit stakeholders. Two Polk County Commissioners and the Lakeland City Commissioners initially appointed to the board must also serve on the LAMTD board. The Winter Haven Commissioner must also be a member of the WHAT board. The Polk RTO will oversee the formation of the PTA board. The LAMTD and the PCTS staffs will provide support, policy recommendations, and strategic planning for the PTA during the consolidation.

Section 5 establishes the powers, functions, and duties of the PTA. The bill grants the authority powers typical of other authorities such as the power to sue and be sued, execute contracts, contract for professional services, receive any federal or state grants, loans, and financing, and buy and hold personal and real property. Other powers more specific to the PTA include the power to:

- study, plan, design, establish, acquire, construct, own, lease, operate, manage, maintain, dispose of, improve, and expand transit facilities and services within Polk County;
- establish, charge, and collect fares, fees, and fines for use of products or services;
- levy special assessments upon lands located within the authority;

- lease or rent its easements to other publicly-owned transit providers;
- buy, lease, operate, manage, or control any publicly or privately owned transit facilities;
- divide the authority's facilities into separate units or subsystems for the purpose of imposing special assessments, setting rates, and other purposes;
- enter into interlocal agreements; and
- to exercise all privileges, immunities, and exemptions accorded municipalities and counties.

Board actions are to be conducted in noticed public meetings. The provisions of ch.120, F.S., the Administrative Procedure Act, do not apply to the authority. Requirements for financial disclosure, meeting notices, reporting, public records maintenance, and per diem expenses are as established in chs. 112, 119, 189, and 286, F.S.

Section 6 allows the PTA to levy and assess an ad valorem tax of up to 3 mills on all taxable property and tangible personal property in Polk County, subject to approval by countywide referendum. Non-ad valorem taxes may be levied and assessed in accordance with chs. 189 and 197, F.S.

Section 7 establishes the authority's fiscal year as October 1 to September 30.

Section 8 requires all authority funds to be deposited into qualified public depositories in accordance with ch. 280, F.S.

Section 9 authorizes the board to borrow money or issue other evidences of indebtedness for the purposes of the authority in accordance with ch. 189, F.S. The board may by resolution authorize the issuance of general obligation bonds payable from any lawful sources for construction of capital improvements or expansion purposes of the transit services that the authority exists to provide, subject to a referendum of the qualified electors of the authority. The authority is prohibited from lending its credit to corporations, associations, partnerships or persons. The authority may finance or refinance the acquisition, construction, expansion and improvement of facilities relating to a governmental function or purpose through the issuance of its bonds, notes or other obligations. The authority may also issue bond anticipation notes in connection with the authorization, issuance and sale of bonds. The bonds may be issued as serial bonds, as term bonds, or both. The authority may issue capital appreciation bonds or variable rate bonds. Any bonds, notes or other obligations must be authorized by resolution of the authority and bear the date; mature at the time, not exceeding 40 years from their respective dates; bear interest at the rate; be payable at the time; be in the denomination; be in the form; carry the registration privileges; be executed in the manner; be payable from the sources and in the medium or payment and at the place; and be subject to the terms of redemption, including redemption prior to maturity, as the resolution may provide. If any officer whose signature, or a facsimile of whose signature, appears on any bonds, notes or other obligations ceases to be an officer before the delivery of the bonds, notes or other obligations, the signature or facsimile remains valid. The bonds, notes or other obligations may be sold at public or private sale for such price as the authority shall determine in accordance with ch. 189, F.S. Pending preparation of the definitive bonds, the authority may issue interim certificates. The bonds may be secured by a form of credit enhancement, as the authority deems appropriate. The bonds may be secured by an indenture of

trust or trust agreement. In addition, the authority may delegate to an officer, official or agent, the power to determine the time; manner of sale, public or private; maturities; rate of interest; and other terms and conditions. However, the amount and maturity of the bonds, notes or other obligations and the interest rate of the bonds, notes or other obligations must be within the limits prescribed by the governing body of the authority and its resolution delegating to an officer, official or agent the power to authorize the issuance and sale of the bonds, notes or other obligations. Bonds, notes or other obligations issued by the authority may be validated as provided in ch. 75, F.S., relating to bond validation.

Section 10 requires a public record to be kept of all meetings of the board and that such meetings must be open to the public.

Section 11 allows for the continued existence and operation of the LAMTD if necessary and until such time as a dedicated funding source for a countywide transit is available.

Section 12 provides for liberal interpretation of the act.

Section 13 provides a severability clause.

Section 14 provides the act becomes effective upon becoming law, except for the authorization to levy ad valorem taxation which may only take effect upon an affirmative approval of a majority of the electors in the county.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

Public records and open meeting requirements are established in the bill.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

This bill may result in additional taxes or fees paid by county residents. The bill authorizes the levying and assessment of ad valorem taxes on real and tangible personal

property in Polk County, upon affirmative approval by the countywide electorate via a referendum.

C. Government Sector Impact:

Future expenditures are contingent on the actions of the Polk Transit Authority Board of Directors, and are indeterminate. Future funding is contingent on efforts to merge the Lakeland Area Mass Transit District into the newly formed Polk Transit Authority. It is anticipated that current federal and state grant funding of the existing agencies will be allocated to the Polk Transit Authority once a consolidation has occurred.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The Board of County Commissions of Polk County submitted Resolution 2007-021 dated March 7, 2007, pursuant to s.189.404(2)(e) 4., F.S., providing the creation of the district is consistent with the Polk County approved local government plans and that the county has no objection to the creation of the Polk Transit Authority. This resolution and the bill itself appear to satisfy the requirements of s. 189.404(2)(e) 1.,2. and 3., F.S., for a statement documenting the purpose of the proposed district, the authority of the proposed district, and an explanation of why a district is the best alternative.

Contingent upon the passage of SB 1778, the Charter County Transit System Surtax could also provide a funding source for the Polk Transit Authority.

VIII. Summary of Amendments:

None.

This Senate Professional Staff Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
