

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCS for HB 1673 Transportation Services for Persons with Disabilities and the Transportation Disadvantaged

SPONSOR(S): Transportation & Modals Subcommittee

TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Transportation & Modals Subcommittee		Hinshelwood	Hinshelwood

SUMMARY ANALYSIS

Florida law defines the term “transportation disadvantaged” as those persons who, because of physical or mental disability, income status, or age, are unable to transport themselves or to purchase transportation and are, therefore, dependent upon others to obtain access to health care, employment, education, shopping, social activities, or other life-sustaining activities, or children who are handicapped or high-risk. In 1989, the Legislature created the Commission within the Florida Department of Transportation (FDOT) to accomplish the coordination of transportation services provided to the transportation disadvantaged.

The bill amends the Commission’s membership by increasing the number of members from seven to 14 and amending requirements and qualifications for the members. The bill amends the Commission’s duties and requires the Commission to provide best practices, latest technology innovations, and preferential vendors lists to county transportation disadvantaged program managers; annually review and conduct a performance audit of each coordinator contract and transportation operator contract in each county; establish a system for the filing, receipt, and resolution of complaints regarding the transportation disadvantaged system; include in its annual report a summary for each county of the number of complaints filed regarding the transportation disadvantaged system, contract satisfaction, a breakdown of the total cost of services, the amount of funds provided by the commission, and the results of annual performance audits; ensure that drivers of motor vehicles used to provide paratransit service attend training programs delivered by the Agency for Persons with Disabilities (APD).

The bill also provides requirements specific to transportation service providers who provide paratransit services to persons with disabilities. Such requirements include providing training for drivers, installing cameras, providing access to camera footage by specified persons, providing ride booking and tracking services, establishing reasonable time periods between a request for service and the arrival of the transportation service provider at the location specified in the request, establishing best practices for limiting the duration of travel times, establishing transparency regarding the quality of paratransit service provided, establishing an efficient system for the reporting of adverse incidents. APD, in collaboration with FDOT, must establish requirements for the investigation of adverse incidents reported.

Lastly, the bill provides that the provisions of s. 287.057, F.S., which exempt the purchase of contractual services from competitive bidding requirements do not apply to contracts entered into by local governments and transportation service providers for the provision of paratransit service to persons with disabilities.

The bill will have an indeterminate fiscal impact on the state, local governments, and the private sector.

The bill has an effective date of July 1, 2024.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Commission for the Transportation Disadvantaged (Commission)

Definition of “Transportation Disadvantaged”

Florida law defines the term “transportation disadvantaged” as those persons who, because of physical or mental disability, income status, or age, are unable to transport themselves or to purchase transportation and are, therefore, dependent upon others to obtain access to health care, employment, education, shopping, social activities, or other life-sustaining activities, or children who are handicapped or high-risk.¹

Background and Purpose of the Commission

In 1989, the Legislature created the Commission within the Florida Department of Transportation (FDOT) to accomplish the coordination of transportation services provided to the transportation disadvantaged.² The goal of this coordination is to assure the cost-effective provision of transportation by qualified community transportation coordinators (CTCs) or transportation operators³ for the transportation disadvantaged.⁴ The Commission is the state-level board that develops policies and procedures for the coordination of services to the transportation disadvantaged population.⁵

Membership of the Commission

The Commission consists of seven members appointed by the Governor in accordance with the following qualifications:⁶

- Five of the members must have significant experience in the operation of a business, and it is the intent of the Legislature that, when making an appointment, the Governor select persons who reflect the broad diversity of the business community in this state, as well as the racial, ethnic, geographical, and gender diversity of the population of this state.
- Two of the members must have a disability and use the transportation disadvantaged system.
- Each member must be a resident and registered voter of this state.
- At least one member must be at least 65 years of age.
- A member may not, within the 5 years immediately before his or her appointment, or during his or her term on the Commission, have or have had a financial relationship with, or represent or have represented as a lobbyist, the following: a transportation operator; a CTC; a metropolitan planning organization (MPO);⁷ a designated official planning agency; a purchaser agency;⁸ a local coordinating board; a broker of transportation; or a provider of transportation services.

¹ S. 427.011(1), F.S.

² S. 427.013, F.S.

³ The term “transportation operator” means one or more public, private for-profit, or private nonprofit entities engaged by the CTC to provide service to transportation disadvantaged persons pursuant to a coordinated system or plan. S. 427.011(6), F.S.

⁴ S. 427.013, F.S.

⁵ Florida Commission for the Transportation Disadvantaged, *2023 Annual Performance Report*, p. 8, https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/ctd/docs/aoraprdocs/2023_ctd_annual_performance_report-electronic_version2.pdf?sfvrsn=94e1d74a_3 (last visited Jan. 28, 2024).

⁶ S. 427.012(1), F.S.

⁷ Section 427.011(2), F.S., defines the term “metropolitan planning organization” as the organization responsible for carrying out transportation planning and programming in accordance with the provisions of 23 U.S.C. § 134, as provided in 23 U.S.C. § 104(f)(3).

- Each candidate for appointment to the Commission must, before accepting the appointment, submit fingerprints and pass a level 2 background screening.

Additionally, the following individuals, or their senior management level representatives, serve as ex officio, nonvoting advisors to the Commission:⁹

- The Secretary of Transportation,
- The Secretary of Children and Families,
- The Secretary of Economic Opportunity,
- The executive director of the Department of Veterans' Affairs,
- The Secretary of Elderly Affairs,
- The Secretary of Health Care Administration,
- The director of the Agency for Persons with Disabilities, and
- A county manager or administrator who is appointed by the Governor.

Duties of the Commission

The statutory mandates for the Commission to carry out its purpose include, among other requirements, the following:¹⁰

- Compile all available information on the transportation operations for and needs of the transportation disadvantaged in the state.
- Establish statewide objectives for providing transportation services for the transportation disadvantaged.
- Develop policies and procedures for the coordination of local government, federal, and state funding for the transportation disadvantaged.
- Identify barriers prohibiting the coordination and accessibility of transportation services to the transportation disadvantaged and aggressively pursue the elimination of these barriers.
- Serve as a clearinghouse for information about transportation disadvantaged services, training, funding sources, innovations, and coordination efforts.
- Assist communities in developing transportation systems designed to serve the transportation disadvantaged.
- Approve the appointment of all CTCs.
- Have the authority to apply for and accept funds, grants, gifts, and services from the federal government, state government, local governments, or private funding sources.
- Make an annual report to the Governor and Legislature by January 1 of each year.
- Prepare a statewide 5-year transportation disadvantaged plan which addresses the transportation problems and needs of the transportation disadvantaged, which is fully coordinated with local transit plans, compatible with local government comprehensive plans, and which ensures that the most cost-effective and efficient method of providing transportation to the disadvantaged is programmed for development.
- Develop an interagency uniform contracting and billing and accounting system that must be used by all CTCs and their transportation operators.
- Develop and maintain a transportation disadvantaged manual.
- Design and develop transportation disadvantaged training programs.
- Coordinate all transportation disadvantaged programs with appropriate state, local, and federal agencies and public transit agencies to ensure compatibility with existing transportation systems.
- Designate the official planning agency in areas outside of the purview of an MPO.
- Develop need-based criteria that must be used by all CTCs to prioritize the delivery of nonsponsored transportation disadvantaged services that are purchased with Transportation Disadvantaged Trust Fund moneys.

⁸ The term "purchasing agency" means a department or agency whose head is an ex officio, nonvoting adviser to the Commission, or an agency that purchases transportation services for the transportation disadvantaged. S. 427.011(8), F.S.

⁹ S. 427.012(1)(g), F.S.

¹⁰ S. 427.013, F.S.

- Establish a review procedure to compare the rates proposed by alternate transportation operators with the rates charged by a CTC to determine which rate is more cost-effective.
- Conduct a cost-comparison study of single-coordinator, multicoordinator, and brokered CTC networks to ensure that the most cost-effective and efficient method of providing transportation to the transportation disadvantaged is programmed for development.
- Develop a quality assurance and management review program to monitor, based upon approved commission standards, services contracted for by an agency, and those provided by a community transportation operator pursuant to s. 427.0155, F.S.
- Ensure that local CTCs work cooperatively with local workforce development boards established in ch. 445, F.S., to provide assistance in the development of innovative transportation services for participants in the welfare transition program.

CTCs

A CTC is a transportation entity competitively procured or recommended by an MPO or other appropriate official planning agency and local coordinating board and approved by the Commission, to ensure that safe, quality coordinated transportation services are provided or arranged in a cost-effective manner to serve the transportation disadvantaged in a designated service area.¹¹

The Commission contracts with CTCs, typically for up to five years, to ensure the provision of services at the local level.¹² While the Commission establishes guidelines for eligibility within the parameters laid out in Florida statutes, specific eligibility policies are determined at the local level within such guidelines.¹³

A CTC can be a public transportation organization (such as a transit authority), a private for-profit transportation company, a not-for-profit human services agency, or a local government entity.¹⁴ Through a competitive procurement process, the CTC may also contract (i.e., broker) with local transportation operators to provide services in its designated service area.¹⁵

Additionally, the Commission works with “purchasing agencies” to “sponsor” transportation for their transportation disadvantaged clients.¹⁶ Examples of purchasing agencies include the Agency for Health Care Administration (AHCA), Agency for Persons with Disabilities (APD), and local governments.¹⁷ A CTC may provide “sponsored” transportation for eligible individuals on behalf of a purchasing agency, such as trips to medical appointments covered under Florida’s Medicaid Managed Medical Assistance program.¹⁸

CTCs that operate fixed bus route services may also serve certain groups within the transportation disadvantaged population, such as individuals with disabilities who qualify for complementary paratransit services¹⁹ required by the federal Americans with Disabilities Act.²⁰

Local Coordinating Boards (LCBs)

The Local Coordinating Board (LCB) serves as a local advisory body to the Commission and assists the Commission in identifying the local service needs and providing information, advice, and direction

¹¹ S. 427.011(5), F.S.; Florida Commission for the Transportation Disadvantaged, *supra* note 5 at p. 34.

¹² Florida Commission for the Transportation Disadvantaged, *supra* note 5 at p. 8.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.* at 8-9.

¹⁸ *Id.* at p. 9.

¹⁹ “Paratransit” means those elements of public transit which provide service between specific origins and destinations selected by the individual user with such service being provided at a time that is agreed upon by the user and provider of the service. Paratransit service is provided by taxis, limousines, “dial-a-ride,” buses, and other demand-responsive operations that are characterized by their nonscheduled, nonfixed route nature. S. 427.011(9), F.S.

²⁰ *Id.*

on the coordination of services.²¹ LCBs are chaired by a local elected official, and its membership represents local and state stakeholders, including state agencies, riders of the system, the public education system, military veterans, the workforce development system, the medical community, and the transportation industry.²² LCBs meet at least quarterly and assist CTCs and designated official planning agencies (e.g., MPOs) in a variety of activities, including establishing eligibility guidelines and setting trip priorities funded by the transportation disadvantaged program, developing the Transportation Disadvantaged Service Plan, and evaluating the performance of the CTC on an annual basis.²³

Transportation Disadvantaged Trust Fund²⁴

The Commission administers several grant programs that are funded through the Transportation Disadvantaged Trust Fund (TDTF). TDTF funds are mostly used to purchase trips for eligible individuals to access activities “not sponsored” by other purchasing agencies. In order for an eligible individual to qualify for TDTF non-sponsored services, he or she must, at minimum, demonstrate no availability of any other funding or reimbursement (including self-pay), and no means of any other transportation (including public transit). Using an example discussed above, an eligible individual may receive “sponsored” trips to medical appointments under Florida’s Medicaid Managed Medical Assistance program; however, there may not be a similar funding source for that same individual to access grocery shopping and other life-sustaining activities, where such trips could be reimbursed using TDTF monies.

In FY 2022-23, the Legislature appropriated approximately \$61.2 million to the TDTF. The following pie chart provides a breakdown of the revenues that were deposited within the TDTF (as of June 30, 2023). The largest portion of TDTF revenues come from the vehicle registration fees that are paid by residents when they renew their license tag with the state of Florida.

²¹ *Id.*

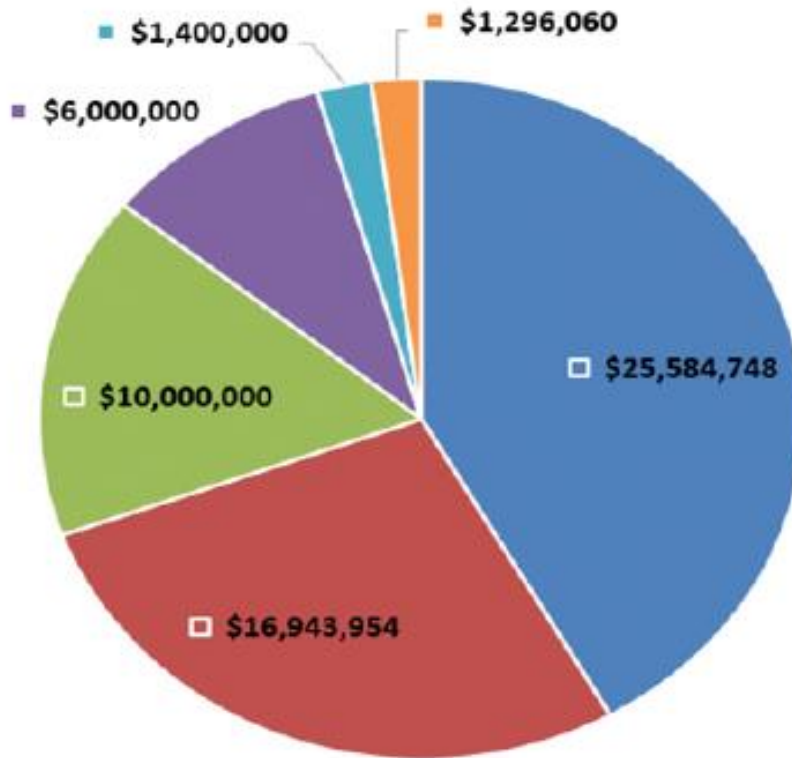
²² *Id.*

²³ *Id.*

²⁴ *Id.* at p. 10.

FY2022-23 TDTF Revenues

\$61,224,762



- HSMV - Registration, Parking, Donations
- FDOT Public Block Grant (15%)
- SB 1998 - State Transportation Trust
- FDOT Trust Fund
- FDOT Trust Fund - Capital Equipment
- Interest

Coordinated Transportation System Organization

In summary, the Commission ensures the availability of transportation services for the transportation disadvantaged through “coordinated transportation,” where the Commission works with state and local partners to deliver transportation services to the transportation disadvantaged population.²⁵ These services are collectively provided through the Coordinated Transportation System.²⁶

The Coordinated Transportation System includes the CTC, the transportation operators and coordination contractors under contract with the CTC, the official planning agency, and local coordinating board involved in the provision of service delivery to the transportation disadvantaged within the designated service area.²⁷ Below is a chart illustrating the Coordinated Transportation System.²⁸

²⁵ Florida Commission for the Transportation Disadvantaged, *supra* note 5 at p. 5.

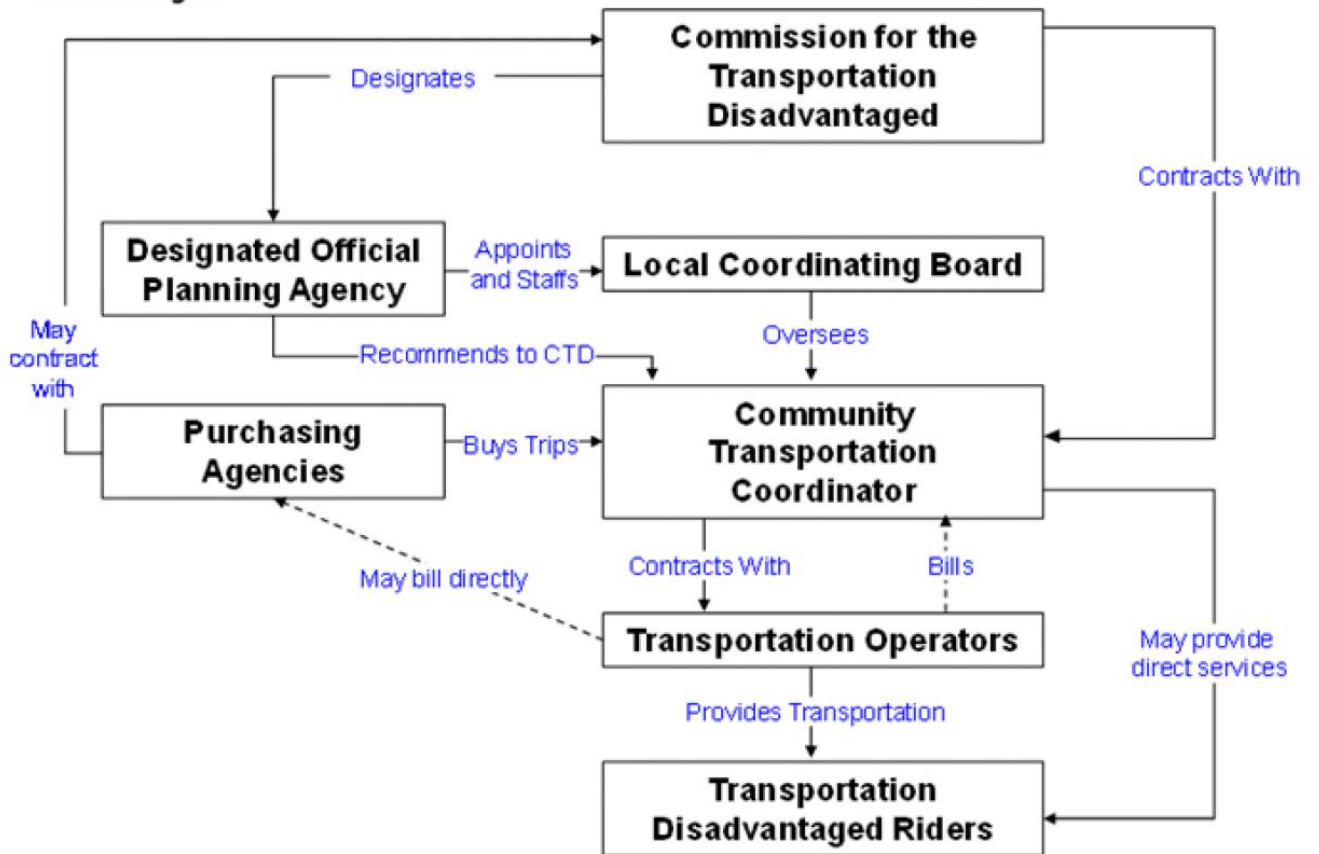
²⁶ *Id.*

²⁷ *Id.* at p. 35.

²⁸ *Id.* at 21.



Coordinated Transportation System Organization



Non-Emergency Transportation Services Covered by Medicaid

Medicaid is the medical assistance program that provides access to health care for low-income families and individuals.²⁹ Medicaid also assists the elderly and people with disabilities with the costs of nursing facility care and other medical and long-term care expenses.³⁰ In Florida, AHCA is responsible for Medicaid.³¹

Medicaid reimburses for medically necessary non-emergency transportation services for a Medicaid eligible recipient and a personal care attendant or escort, if required, who have no other means of transportation available to any Medicaid covered service.³² Examples of Medicaid-covered non-emergency transport include transport to:³³

- Doctor appointments

²⁹ Florida Agency for Health Care Administration, *Welcome to Statewide Medicaid Managed Care!*, <https://ahca.myflorida.com/medicaid/statewide-medicare-managed-care> (last visited Jan. 28, 2024).

³⁰ *Id.*

³¹ *Id.*

³² Florida Agency for Health Care Administration, *Non-Emergency Transportation Services*, <https://ahca.myflorida.com/medicaid/medicaid-policy-quality-and-operations/medicaid-policy-and-quality/medicaid-policy/medical-and-behavioral-health-coverage-policy/specialized-health-services/non-emergency-transportation-services> (last visited Jan. 28, 2024).

³³ Florida Agency for Health Care Administration, *Medicaid Transportation Services Brochure*, https://ahca.myflorida.com/content/download/6918/file/MEDICAID_TRANSPORTATION_BROCHURE.pdf (last visited Jan. 28, 2024).

- Dental appointments
- Mental health appointments
- Receive dialysis services
- Receive services at a prescribed pediatric extended care center.

If a Medicaid recipient has a complaint about a transportation trip, AHCA recommends first calling the transportation provider.³⁴ If the transportation provider is not able to resolve the problem, AHCA provides two ways of filing a formal complaint: AHCA's Medicaid Helpline or AHCA's complaint website.³⁵

Effect of the Bill

Membership of the Commission

The bill amends the Commission's membership such that it will consist of 14 members, rather than seven members, appointed by the Governor as follows:

- The director of the Agency for Persons with Disabilities.
- The Secretary of Transportation or his or her designee from within the agency.
- The Secretary of Children and Families or his or her designee from within the agency.
- The Secretary of Elderly Affairs.
- The State Surgeon General or his or her designee from within the agency.
- Two county managers or administrators, one from a rural county and one from a county with a population of more than 150,000 according to the last state census.
- The chief executive officer or president of a hospital in this state.
- The director of the Division of Blind Services.
- Five members who have experience in transit, transportation services, innovative technology, government procurement, mobility, or service of persons with disabilities or who have disabilities and use transportation for the transportation disadvantaged.

Each member must be a resident of this state. Appointed members will serve four-year terms, except that initially, to provide for staggered terms, the Governor must appoint three members to serve two-year terms and two members to serve three-year terms. All subsequent appointments must be for four-year terms. A member may be reappointed for one additional four-year term.

The bill removes the requirement for members of the Commission to submit fingerprints and pass a level 2 background screening. The bill also removes the prohibition on members of the Commission having a financial relationship with specified entities or representing such entities as a lobbyist.

Duties of the Commission

The bill amends the Commission's duties and requires the Commission to:

- Provide best practices, latest technology innovations, and preferential vendors lists to county transportation disadvantaged program managers.
- Annually review and conduct a performance audit of each coordinator contract and transportation operator contract in each county.
- Establish a system for the filing, receipt, and resolution of complaints regarding the transportation disadvantaged system.
- Include in its annual report a summary for each county of the number of complaints filed regarding the transportation disadvantaged system, contract satisfaction, a breakdown of the total cost of services, the amount of funds provided by the commission, and the results of annual performance audits.

³⁴ *Id.*

³⁵ *Id.* The Medicaid Helpline is 1-877-254-1055. AHCA's complaint website is

<http://ahca.myflorida.com/Medicaid/complaints/>.

- Ensure that drivers of motor vehicles used to provide paratransit service³⁶ attend training programs delivered by APD.

Requirements for Transportation Services for Persons with Disabilities

The bill requires a transportation service provider to:

- Provide training to each driver of a motor vehicle used to provide paratransit service³⁷ to persons with disabilities which, at a minimum, meets requirements established by the APD for training and professional development of staff providing direct services to clients of the agency.
- Install an interior video camera monitoring system in each motor vehicle used to provide paratransit service to persons with disabilities. Each component of the interior video camera monitoring system must be mounted securely inside the motor vehicle, must be located outside the head protection zone as described in 49 C.F.R. § 571.222, must be located in an area in which the component is not likely to cause injury, and must have no sharp edges or projections.
- Upon request, provide access to footage captured by an interior video camera monitoring system to the local government, FDOT, APD, or a parent, legal guardian, caretaker, or immediate family member³⁸ of a person who receives paratransit service from the transportation service provider.
- Offer Internet-based, application-based, and smartphone-based ride booking and vehicle tracking services. Each of these services must be provided in accessible formats.
- Regularly maintain and upgrade all technology-based services.
- Offer both pre-booking and on-demand service to paratransit service users.

Further, the bill requires that a transportation service provider, in collaboration with the local government with which the provider contracts, establish:

- Reasonable time periods between a request for service³⁹ and the arrival of the transportation service provider at the location specified in the request, taking into account the number of persons requesting paratransit service on the same date, the distance between locations, usual or expected traffic conditions during the provision of paratransit service, and any other factor deemed necessary by the provider or the local government. If a transportation service provider exhibits a pattern of late arrivals based on such established reasonable time periods, the local government may authorize another provider to provide such paratransit service, including the acceptance of any prepaid vouchers for future paratransit service, notwithstanding the terms of the contract with the original provider.
- Best practices for limiting the duration of travel times for persons receiving paratransit service. To avoid unreasonably long travel times, the provider and the local government must consider the level of service offered to persons without disabilities by a public entity operating a fixed route as compared to the level of paratransit service offered by the transportation service provider in accordance with 49 C.F.R. § 37.121.
- Transparency regarding the quality of paratransit service provided by the transportation service provider, including, but not limited to, data relating to the timeliness of paratransit service provided and the handling of complaints.
- An efficient system for the reporting of adverse incidents occurring during the provision of paratransit service to persons with disabilities. Such system may include the assignment of a quick-response code to each motor vehicle used to provide such service for the purpose of reporting adverse incidents with a smartphone or other mobile device. Reports of adverse incidents received by the local government or the transportation service provider must be submitted to the APD and FDOT.

³⁶ See definition of “paratransit”, *supra* note 19.

³⁷ *Id.*

³⁸ The bill defines “immediate family member” to mean a spouse, child, parent, sibling, grandparent, aunt, uncle, or first cousin of a person or the person’s spouse or a person who resides in the primary residence of the person.

³⁹ The bill defines “request for service” to mean a request made to a transportation service provider by a person with a disability, or by such person’s immediate family member, for paratransit service.

APD, in collaboration with FDOT, must establish requirements for the investigation of adverse incidents reported, including periodic review of ongoing investigations and documentation of final outcomes thereof. The investigation of a reported adverse incident must commence within 48 hours after receipt of the report by APD and FDOT.

Lastly, the bill provides that the provisions of s. 287.057, F.S., which exempt the purchase of contractual services from competitive bidding requirements do not apply to contracts entered into by local governments and transportation service providers for the provision of paratransit service to persons with disabilities.

Effective Date

The bill provides an effective date of July 1, 2024.

B. SECTION DIRECTORY:

Section 1 Amends s. 427.011, F.S., relating to definitions.

Section 2 Amends s. 427.012, F.S., relating to The Commission for the Transportation Disadvantaged.

Section 3 Amends s. 427.013, F.S., relating to The Commission for the Transportation Disadvantaged; purpose and responsibilities.

Section 4 Amends s. 427.0159, F.S., relating to Transportation Disadvantaged Trust Fund.

Section 5 Amends s. 427.02, F.S., relating to Transportation services for persons with disabilities.

Section 6 Provides an effective date of July 1, 2024.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Indeterminate.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

Indeterminate.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Indeterminate.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Rulemaking may be necessary in order to conform to changes made by the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

N/A