

oppaga

Progress Report



September 2001

Report No. 01-43

Hillsborough County Public Transportation Commission Has Implemented OPPAGA's Recommendations

at a glance

The Legislature and the Hillsborough County Public Transportation Commission have taken steps to implement the recommendations in our 1999 report.¹ The Legislature passed Ch. 2001-299, *Laws of Florida*, which created the Hillsborough County Public Transportation Commission as an independent special district. The commission has

- negotiated an inter-local agreement with the Hillsborough Board of County Commissioners and the office of the clerk of the circuit court to clarify its role as an independent special district;
- monitored the effectiveness of the county's regulatory system and promoted studies to improve the regulatory process; and
- directed hearing officers to limit the introduction of irrelevant, immaterial, or unduly repetitious evidence during application hearings.

Purpose

In accordance with state law, this report describes action by the Legislature and the Hillsborough County Public Transportation Commission in response to a 1999 OPPAGA report.² It assesses the extent to which the

findings included in our report have been addressed.

Background

The Public Transportation Commission regulates the operation of certain "for-hire" vehicles in Hillsborough County and its municipalities. Types of vehicles regulated include taxicabs, limousines, vans, handicabs, basic life support ambulances, and wreckers used for government purposes.

The commission supervises and regulates vehicles and their operators to protect the traveling public. For this purpose, the commission establishes rules and regulations regarding company, vehicle, and operator standards. Commission inspectors enforce these standards. For taxicabs, the commission is also responsible for approving zones, rates, fares, and charges.

Prior Findings

In our prior report, we concluded that the commission was generally effective in protecting the public with regard to the types of vehicles regulated. However, we noted two areas, governance structure and regulatory issues, in which action was needed to continue that protection in accordance with state laws.

¹ *Review of the Hillsborough County Public Transportation Commission*, OPPAGA [Report No. 99-12](#), November 1999.

² Section 11.45(7)(f), *Florida Statutes*.

Governance Structure —

Although the Department of Community Affairs had designated the commission to be an independent special district in 1994, it was unclear whether the commission met the statutory definition of that type of entity. Furthermore, the commission was not meeting special district accountability requirements, and its lack of contingency funds for extraordinary expenses could adversely affect its service delivery to the public.

We identified two alternatives for legislative action to improve the governance structure under which for-hire vehicle registration is performed in Hillsborough County.

1. Amend the special act creating the commission (Ch. 83-423, *Laws of Florida*), to clarify that the commission is an independent special district. If the Legislature adopted this alternative, the amendment should require the commission to clarify its financial relationship with Hillsborough County, meet all special district accountability requirements, and develop methods for dealing with extraordinary expenses that do not reduce its service delivery or harm the public. This alternative could prevent jurisdictional problems and duplication in regulating public transportation in the county, but could also result in an increase in fees charged to the regulated industry due to increased cost to meet the accountability requirements.
2. Dissolve the commission as a special district and allow Hillsborough County to either re-create the commission by ordinance as a dependent special district or assume the commission's responsibilities. Adoption of this alternative would require few changes to the commission's current budgeting, accounting, and auditing processes. However, it could result in jurisdictional problems if any of the county's municipalities decided to opt out of the county's ordinance, as they could under Hillsborough County's charter.

Because regulation of public transportation in Hillsborough County is a local concern, we recommended that the Hillsborough County legislative delegation work with the Board of County Commissioners and commission officials to determine whether the commission should be statutorily designated as an independent special district or whether Ch. 83-423, *Laws of Florida*, should be repealed.

Regulatory Issues —

Our prior report focused on two aspects of the regulation of for-hire vehicles—public safety regulation and market entry regulation. Public safety regulation establishes safety requirements for vehicles and vehicle operators. Market entry regulation places limits on the number of for-hire vehicles that can operate in a jurisdiction.

Public safety regulation is beneficial and should be continued

Many stakeholders believed that the commission was doing a good job of regulating public safety. Without public safety regulation, unqualified operators and/or unsafe vehicles could put passengers at risk. Moreover, unsafe for-hire transportation can tarnish a community's image for citizens and tourists. Stakeholders agreed that regulation of public safety was beneficial and should be continued, and indicated that the public could benefit from safety regulation of other types of for-hire vehicles. We recommended that local officials continue to monitor the effectiveness of the county's regulatory system and examine the feasibility and cost-effectiveness of expanding the scope of safety regulation to other types of vehicles.

Public Transportation Commission addresses market entry regulation in a manner similar to other Florida jurisdictions

The commission issues certificates of public convenience and necessity to regulated companies, permits the vehicles owned by those companies, and licenses vehicle operators. The special act that originally established the

commission (Ch. 83-423, *Laws of Florida*) prescribed a method for regulating market entry called "public convenience and necessity." Under that act, a person desiring to engage in the for-hire vehicle business in Hillsborough County had to first apply to the commission for a certificate of convenience and necessity. The applicant had to show that public convenience and necessity would be promoted by the additional proposed service.

We noted that the public hearing component of the permitting process often involved protracted cross-examinations that could extend hearings and increase costs of the hearing process to both the applicant and any interveners. In part this was caused by cross-examinations that did not always directly address the core issues pertaining to public convenience and necessity. Accordingly, we recommended that the commission examine its cross-examination procedures and more strictly enforce its rules regarding introduction of "irrelevant, immaterial, or unduly repetitious" evidence during hearings.

We found no compelling evidence that major changes were needed in Hillsborough County

The commission's regulatory method was not unique. Ten of 18 Florida jurisdictions reviewed in a 1999 study by the Center for Urban Transportation Research regulated for-hire vehicles through the restricted entry approach. Most cities in the U.S. that restrict entry used the same "public convenience and necessity standard" approach that was used by the commission. Our prior report concluded there were few problems with the permitting process. The commission's executive director stated that the commission rarely denied an application for a certificate of public convenience and necessity.

Current Status

Governance has been revised

In response to our 1999 report, the Legislature and the Hillsborough County Public Transportation Commission acted to implement our recommendations.

New legislation makes the commission an independent special district. Consistent with our recommendation, the 2001 Legislature passed Ch. 2001-299, *Laws of Florida*, that created the Hillsborough County Public Transportation Commission as an independent special district and required the commission to comply with all applicable provisions of Ch. 189, *Florida Statutes*, and any other general laws relating to special districts. The law further established the commission's mandatory and discretionary powers.

Under the new law, the commission is authorized to maintain at least \$1 million liability coverage and other insurance coverage as it may find necessary, to be responsible for its own budget, to establish accounting systems and procedures designed to fulfill the requirements of generally accepted governmental accounting principles, practices, and good internal controls, and to adopt procedural rules for and convene administrative hearings to abate, correct, or assess civil penalties for a violation.

An inter-local agreement has clarified the commission's status as an independent special district. Working with the Hillsborough County legislative delegation, the Board of County Commissioners, and the county staff, the commission developed an inter-local agreement to seek legislation to clarify the commission's status as an independent special district. The agreement basically says that all parties recognize the commission as an independent special district. The agreement further provides that

- the county's funding of the commission will be reduced annually through county Fiscal Year 2003, at which time the county will cease funding the commission's activities;
- the commission will increase its fees as necessary to maintain a balanced budget, including a fiscally prudent reserve;
- the county will provide, and the commission will pay for, administrative support of the commission;
- the clerk will provide financial services for the commission but the commission's board will assume responsibility for preparation and approval of its annual budget. The

Progress Report

commission's accounts will be segregated and maintained in the county's computerized accounting system;

- the commission will be audited separately from the county's annual financial audit; and
- beginning the first day of the county Fiscal Year 2001, the commission assumed costs of leasing office facilities and attorney's fees.

The commission is implementing the requirements of an independent special district. The commission's executive director reported that under the inter-local agreement, the commission's funds continue to be received, held, and disbursed by the county, but are maintained distinctly separate from the county's general funds. The commission board, not the Board of County Commissioners, now approves the commission's annual budget. A separate financial audit has been conducted for the last two years for the commission and all required financial reports required of independent special districts have been filed with the appropriate agencies. The director also reported that the commission has initiated and is building a contingency fund to assist with extraordinary expenses and that a \$1 million liability insurance policy has been put in place to assist with legal liabilities.

The commission is continuing to review market entry policies and procedures

According to the commission's executive director, the commission regularly discusses the effectiveness of the regulatory system and is conducting studies to assess its processes for determining permit caps and evaluating market demand. However, the scope of the commission's regulatory authority is limited to the types of public vehicles defined in the law (i.e., taxicabs, limousines, vans, handicabs, basic life-support ambulances, and government wreckers) and the commission has not sought authority to expand safety regulation to other types of vehicles.

The commission has improved its cross-examination process. The new law authorizes the commission or its hearing officers to "...reasonably limit cross examination to relevant matters." The commission's executive director said that procedures have been written into local rules and regulations that describe the actions required and allowed during the hearing process by the applicant and any interveners. He further said that the commission's hearing officers, as practicing attorneys, have taken steps to restrict cross-examination to information introduced during direct testimony, and that they have been successful in limiting the introduction of irrelevant, immaterial or unduly repetitious evidence during hearings.

OPPAGA provides objective, independent, professional analyses of state policies and services to assist the Florida Legislature in decision making, to ensure government accountability, and to recommend the best use of public resources. This project was conducted in accordance with applicable evaluation standards. Copies of this report in print or alternate accessible format may be obtained by telephone (850/488-0021 or 800/531-2477), by FAX (850/487-3804), in person, or by mail (OPPAGA Report Production, Claude Pepper Building, Room 312, 111 W. Madison St., Tallahassee, FL 32399-1475).

Florida Monitor: <http://www.oppaga.state.fl.us/>

Project supervised by Nancy Dufoe (850/487-9242)

Project conducted by Ben Powell (850/487-9245)

John W. Turcotte, OPPAGA Director
