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# Policy Review

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## Hillsborough County Public Transportation Commission

Report 99-12 November 1999

*Office of Program Policy Analysis  
and Government Accountability*

*an office of the Florida Legislature*

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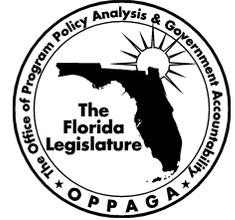
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# The Florida Legislature

## OFFICE OF PROGRAM POLICY ANALYSIS AND GOVERNMENT ACCOUNTABILITY



John W. Turcotte, Director

November 1999

The President of the Senate,  
the Speaker of the House of Representatives,  
and the Joint Legislative Auditing Committee

At the request of the Joint Legislative Auditing Committee, I have directed that a policy review be made of the Hillsborough County Public Transportation Commission. The results of this review are presented to you in this report. This review was conducted by Nancy Dufoe and Steven Birnholz under the supervision of Julie Ferris.

We wish to express our appreciation to the staff of the Hillsborough County Public Transportation Commission for their assistance.

Sincerely,

John W. Turcotte  
Director



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# Hillsborough County Public Transportation Commission

## Purpose

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The Joint Legislative Auditing Committee directed the Office of Program Policy Analysis and Government Accountability (OPPAGA) to conduct a limited review of the Hillsborough County Public Transportation Commission because of concerns regarding the commission's operations. This report examines the governance structure of the commission and how the commission performs its regulatory responsibilities. We also identified policy alternatives to the current governance structure.

## Background

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The Hillsborough County Public Transportation Commission regulates the operation of certain "for-hire" vehicles in Hillsborough County and its municipalities. Vehicles regulated are taxicabs, limousines, vans, handicabs, basic life support ambulances, and wreckers used for government purposes. As of June 1999, the commission had issued 1,302 vehicle permits.

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.

The commission is composed of seven officials representing Hillsborough County and its included municipalities. The county and municipalities each appoint member(s) of their elected boards to serve on the commission for two-year terms. Three members of the commission are from the Hillsborough County Board of County Commissioners; two members represent the Tampa City Council; and one member from each of the Temple Terrace and Plant City city councils serves on the commission. The commission has seven authorized positions: an

## *Executive Summary*

executive director, an administrative specialist, a receptionist/secretary, and four inspectors.

## *History of the Public Transportation Commission*

### *Regulatory duplication and jurisdictional problems led to the creation of the Public Transportation Commission*

The commission has its origins in the Taxicab Commission of the City of Tampa, created by special act in 1947 (Ch. 24921, Laws of Florida). Until 1976, Hillsborough County and the municipalities of Tampa, Plant City, and Temple Terrace had their own separate taxicab ordinances, resulting in duplication and jurisdictional problems. To resolve these problems and create a more centralized system of taxicab regulation, in 1976 the Florida Legislature authorized the establishment of a countywide taxicab regulatory agency, the Hillsborough County Consolidated Taxicab Commission. In 1982, the Legislature added vans, handicabs, and limousines to the commission's regulatory scope. To reflect this change, the name of the commission was changed in 1983 to the Hillsborough County Public Transportation Commission (Ch. 83-423, Laws of Florida). In 1987-88, the Legislature added basic life support ambulances and government wreckers to the commission's regulatory scope. In 1994, the Department of Community Affairs designated the commission as an independent special district.

## *Public Transportation Commission Resources*

### *The Public Transportation Commission is funded by fees and Hillsborough County subsidies*

To meet its obligations, the commission has two main sources of revenue—fees and Hillsborough County subsidies. Most of the commission's operations are funded through fees charged to the transportation businesses it regulates. The other main revenue source is Hillsborough County. Chapter 83-423, Laws of Florida, requires that the county "provide for annual budget review of the Public Transportation Commission and . . . furnish the Public Transportation Commission with a part-time attorney, inspector(s), and a secretary, along with office space and equipment, stationary and postage necessary to carry out (its) responsibilities . . ." <sup>1</sup> The county also subsidizes the commission if it has a budget deficit at year-end. Over the past three fiscal years, an average of 15.7% of the commission's revenues have come from the Hillsborough County General Fund.

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<sup>1</sup> Maintaining that the words "provide" and "furnish" are ambiguous, Hillsborough County neither furnishes nor pays for the Public Transportation Commission's inspectors. To clarify this ambiguity, Hillsborough County and the Public Transportation Commission requested an Attorney General's opinion in June 1999. Although the Attorney General recently ruled that the Special Act compels Hillsborough County to pay for such services, personnel, and material (AGO 99-47), the county and the commission have not made a decision regarding the specific implementation of the ruling.

# Governance Issues

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The Public Transportation Commission is an independent special district. It is unique in that it is the only special district in Florida that regulates for-hire vehicles. Although the commission has been designated to be an independent special district, it is unclear whether the commission currently meets the statutory definition of this type of entity. Furthermore, the commission is 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 options for improving the governance structure under which for-hire vehicle regulation is performed in Hillsborough County.

1. Amend Ch. 83-423, Laws of Florida, to clarify that the Public Transportation Commission is an independent special district. However, if the Legislature elects this option, the amendment should require the commission to clarify its fiscal 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. Although this option would prevent the jurisdictional problems and duplication that led to the creation of the commission, it would also likely result in a fee increase to the regulated industry due to the increased cost to meet accountability requirements.
2. Dissolve the Public Transportation Commission as a special district and allow Hillsborough County to either recreate the commission by ordinance as a dependent special district or assume the commission's responsibilities. Under this option, few changes would have to be made to the commission's current budgeting, accounting, and auditing processes. However, jurisdictional problems could result if the county's municipalities decided to opt out of the county's ordinance unless this issue was carefully negotiated between the county and the municipalities.<sup>2</sup>

Because the regulation of for-hire vehicles in Hillsborough County is a local concern, we recommend that the Hillsborough County Legislative Delegation work with county 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.

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<sup>2</sup> Hillsborough County's charter states, "In the event of a conflict between a county ordinance and a municipal ordinance, the municipal ordinance shall prevail within the municipality regardless of whether the municipal ordinance was adopted or enacted before or after the county ordinance."

# Regulatory Issues

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Our review focused on two aspects of the regulation of for-hire vehicles—public safety regulation and market entry regulation. While 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. Jurisdictions may use a variety of approaches to provide these types of regulation.

## *Public Safety Regulation*

*Public safety regulation is beneficial and should be continued*

Holders of Public Transportation Commission permits and licenses must comply with commission rules and regulations, including vehicle standards, driver qualifications, and insurance requirements. The commission is required to inspect all permitted vehicles annually and may inspect any vehicle at any time. Inspectors ensure that vehicles comply with commission standards and provide for the safety and comfort of passengers. The commission also makes certain that vehicle drivers are qualified, of good moral character, of sound health, and meet all requirements of law.

Much of the literature we reviewed supports some level of safety regulation of for-hire vehicle industries. 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 we interviewed agreed that the regulation of public safety is beneficial and should be continued. Our review uncovered little evidence of a chronic, pervasive problem with public safety regulation in Hillsborough County. Many stakeholders believe that the commission has been doing a good job of regulating public safety. Stakeholders also indicated that the public could benefit from safety regulation of other types of for-hire vehicles.

## *Market Entry Regulation*

The Public Transportation 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 establishing the commission (Ch. 83-423, Laws of Florida) prescribes a method for regulating market entry called "public convenience and necessity." Under this method, a person desiring to engage in the for-hire vehicle business in Hillsborough County must first apply to the commission for a certificate of public convenience and necessity. The

applicant must show whether public convenience and necessity will be promoted by the additional proposed service.

From a market entry perspective, the commission has been criticized for its handling of a recent application to provide ambulance services in the county. As a result of this situation, the applicant filed suit against the commission, alleging that the commission unfairly kept him from starting a new business.<sup>3</sup> In a related incident, a former commissioner and his partner, a former Tampa city attorney, were indicted for misusing their official public positions of trust to wrongfully induce an ambulance company not to oppose their own company's application for ambulance permits. These civil and criminal proceedings have raised questions about the commission's entry regulation policies and permitting procedures.

A related issue, the public hearing component of the permitting process, has also been a concern. Protracted cross-examinations can extend hearings for days, increasing the costs of the hearing process to both the applicant and intervenors. This is caused, in part, by cross-examinations that do not always directly address the core issues pertaining to public convenience and necessity.

*No consensus exists as to which regulatory approach is best*

Our review of relevant literature indicates that there is no clear best way to regulate for-hire vehicles. Whether or not for-hire vehicle markets operate more effectively under restricted or open entry conditions is the subject of a long-running debate. There is no consensus among researchers as to which type, if any, is the most effective.

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

Furthermore, the commission's regulatory method is not unique. Like Hillsborough County, 10 of the 18 Florida jurisdictions reviewed by the Center for Urban Transportation Research regulate for-hire vehicles through the restricted entry approach.<sup>4</sup> In fact, most cities in the U.S. that restrict entry use the same approach that is used in Hillsborough County, the public convenience and necessity standard. Our review also indicated that there have been few problems with the commission's permitting process. According to the commission's executive director, the commission rarely denies an application for a certificate of public convenience and necessity.<sup>5</sup>

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<sup>3</sup> In October 1999, a federal judge ruled that the applicant did not have a valid legal claim against the Public Transportation Commission. The commission was subsequently removed from the lawsuit.

<sup>4</sup> The 10 communities are Broward County, Daytona Beach, Gainesville, Hillsborough County, Jacksonville, Key West, Lakeland, Melbourne, Miami-Dade County, and Orlando.

<sup>5</sup> Historically, the Public Transportation Commission has not kept statistics regarding the outcomes of application decisions.

## Regulatory Recommendations

Our review of relevant literature clearly indicates that local jurisdictions are in the best position to determine which regulatory approach would be most effective for them. Although OPPAGA supports the least restrictive form of regulation, there is no clear advantage of one regulatory scheme over another. Furthermore, we found no compelling evidence to indicate the need for major revisions to the regulatory approach used in Hillsborough County.

We therefore recommend that local officials continue to monitor the effectiveness of the county's regulatory system. If systemic or chronic problems arise, officials should consider adopting an alternative method for providing market entry and/or public safety regulation. Stakeholders would want to review the advantages and disadvantages of the various approaches described in this report to determine if a different regulation method would better serve the needs of the county.

Furthermore, stakeholders indicated that the public could benefit from safety regulation of other types of for-hire vehicles. We therefore recommend that local officials investigate the possibility of expanding the scope of safety regulation to other vehicle types, if deemed cost-effective to do so.

Finally, if local officials decide to retain the present regulatory approach, we recommend that the cross-examination feature of the hearing process be examined. If it is determined that cross-examination is protracted and negatively affects the hearing process, we recommend that the commission more strictly enforce its rules regarding the introduction of "irrelevant, immaterial, or unduly repetitious" evidence during hearings.<sup>6</sup> This will help minimize the cost of the hearing process.

## Agency Response

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The Director of the Hillsborough County Public Transportation Commission provided a written response to our report findings and recommendations. The response is contained in Appendix D of this report.

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<sup>6</sup> Rule No. 2.4.7.4, *Rules and Regulations of the Hillsborough County Public Transportation Commission*.

# Introduction

## Purpose

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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.

The commission is composed of seven officials representing Hillsborough County and its included municipalities. The county and municipalities each appoint member(s) of their elected boards to serve on the commission for two-year terms. Three members of the commission are from the Hillsborough County Board of County Commissioners; two members represent the Tampa City Council; and one member from each

of the Temple Terrace and Plant City city councils serves on the commission.<sup>7</sup>

## ***History of the Public Transportation Commission***

The Public Transportation Commission has its origins in the Taxicab Commission of the City of Tampa, created by special act in 1947 (Ch. 24921, Laws of Florida). Until 1976, Hillsborough County and the municipalities of Tampa, Plant City, and Temple Terrace had their own separate taxicab ordinances. Taxicab companies had to obtain operating permits from each of the separate governments in order to serve the entire county, which resulted in duplication and jurisdictional problems. To resolve these problems and create a more centralized system of taxicab regulation, in 1976 the local legislative delegation asked the Florida Legislature to pass a special enabling act authorizing the establishment of a countywide taxicab regulatory agency. This act (Ch. 76-383, Laws of Florida) established the Hillsborough County Consolidated Taxicab Commission. The commission initially had authority to regulate only taxi service in the county. In 1982, the Legislature added vans, handicabs, and limousines to the commission's regulatory scope. To reflect this change, the name of the commission was changed in 1983 to the Hillsborough County Public Transportation Commission (Ch. 83-423, Laws of Florida). In 1987-88, the Legislature added basic life support ambulances and government wreckers to the commission's regulatory scope. In 1994, the Department of Community Affairs designated the commission as an independent special district. (For further discussion, see Chapter 2.)

## ***Public Transportation Commission Resources***

To meet its obligations, the Public Transportation Commission has two main sources of revenue—fees and Hillsborough County subsidies. Most of the commission's operations are funded through fees charged to the transportation businesses it regulates. The other main revenue source is Hillsborough County. Chapter 83-423, Laws of Florida, requires that the county "provide for annual budget review of the Public Transportation Commission and . . . furnish the Public Transportation Commission with a part-time attorney, inspector(s), and a secretary, along with office space and equipment, stationary and postage necessary to carry out (its)

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<sup>7</sup> Most stakeholders we interviewed support the current Public Transportation Commission composition because of the accountability and geographical representativeness of its elected members. Although some stakeholders raised the issue of bringing industry and/or consumer advocates into the policy making process, there was no consensus on how it should be done. Stakeholders we contacted included elected officials from the Public Transportation Commission, Hillsborough County, Tampa, Temple Terrace, and Plant City; Public Transportation Commission staff members; Hillsborough County staff members; industry representatives; industry experts; and private citizens.

responsibilities . . .<sup>8</sup> The county also subsidizes the commission if it has a budget deficit at year-end. Over the past three fiscal years, an average of 15.7% of the commission's revenues have come from the Hillsborough County General Fund. Commission funding for the last three fiscal years is shown in Exhibit 1-1.

**Exhibit 1-1  
Public Transportation Commission Budgets for  
Fiscal Years 1996-97 Through 1998-99**

	Fiscal Year 1996-97 Budget	Fiscal Year 1997-98 Budget	Fiscal Year 1998-99 Budget
<b>Revenues</b>			
Permits, fees, and charges	\$433,700	\$433,700	\$472,000
Interest earnings	5,403	5,000	3,000
Transfer from Hillsborough County General Fund	93,718	105,000	52,919
<b>Total Revenues</b>	<b>\$532,821</b>	<b>\$543,700</b>	<b>\$527,919</b>
<b>Expenditures</b>			
Personal services	\$417,969	\$437,802	424,859
Operating expenses	97,852	97,371	102,457
Capital outlay	17,000	22,000	20,000
<b>Total Expenditures</b>	<b>\$532,821</b>	<b>\$557,173</b>	<b>\$547,316</b>
<b>Fiscal Year Surplus (Deficit)<sup>1</sup></b>	<b>\$0</b>	<b>\$(13,473)</b>	<b>\$(19,397)</b>
<b>Number of Positions</b>	<b>7</b>	<b>7</b>	<b>7</b>

<sup>1</sup> Historically, Public Transportation Commission budget deficits have been funded by the Hillsborough County General Fund.

Source: Hillsborough County Management and Budget Department.

The Public Transportation Commission has seven authorized positions: an executive director, an administrative specialist, a receptionist/secretary, and four inspectors. Over the last three fiscal years, budgeted costs for these personal services have been an average of 78.3% of total budgeted expenditures.

## *Current Public Transportation Commission Issues*

The Public Transportation Commission is an independent special district. It is unique in that it is the only special district in Florida that regulates

<sup>8</sup> Maintaining that the words "provide" and "furnish" are ambiguous, Hillsborough County neither furnishes nor pays for the Public Transportation Commission's inspectors. To clarify this ambiguity, Hillsborough County and the Public Transportation Commission requested an Attorney General's opinion in June 1999. Although the Attorney General recently ruled that the Special Act compels Hillsborough County to pay for such services, personnel, and material (AGO 99-47), the county and the commission have not made a decision regarding the specific implementation of the ruling.

## *Introduction*

for-hire vehicles. Although the commission has been designated to be an independent special district, it is unclear whether the commission currently meets the statutory definition of this type of entity. Furthermore, the commission is not meeting special district accountability requirements, and its lack of contingency funds for extraordinary expenses could adversely affect its service delivery to the public. (See Chapter 2.)

From a regulatory perspective, the commission has been criticized for its handling of a recent application to provide ambulance services in the county. As a result of this situation, the applicant filed suit against the commission, alleging that the commission unfairly kept him from starting a new business.<sup>9</sup> In a related incident, a former commissioner and his partner, a former Tampa city attorney, were indicted for misusing their official public positions of trust to wrongfully induce an ambulance company not to oppose their own company's application for ambulance permits. These civil and criminal proceedings have raised questions about the commission's entry regulation policies and permitting procedures. (See Chapter 3.)

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<sup>9</sup> In October 1999, a federal judge ruled that the applicant did not have a valid legal claim against the Public Transportation Commission. The commission was subsequently removed from the lawsuit.

# Governance Issues

## Introduction

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The Public Transportation Commission is an independent special district. It is unique in that it is the only special district in Florida that regulates for-hire vehicles. Although the commission has been designated to be an independent special district, it is unclear whether the commission currently meets the statutory definition of this type of entity. Furthermore, the commission is 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 options for improving the governance structure under which for-hire vehicle regulation is performed in Hillsborough County.

1. Amend Ch. 83-423, Laws of Florida, to clarify that the Public Transportation Commission is an independent special district. However, if the Legislature elects this option, the amendment should require the commission to clarify its fiscal 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.
2. Dissolve the Public Transportation Commission as a special district and allow Hillsborough County to either recreate the commission by ordinance as a dependent special district or assume the commission's responsibilities.

Because the regulation of for-hire vehicles in Hillsborough County is a local concern, we recommend that the Hillsborough County Legislative Delegation work with county and commission officials to determine whether the commission should be statutorily designated as an independent special district or whether the Special Act should be repealed.

# Governance Structure

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## *The Public Transportation Commission has been designated an independent special district*

The Public Transportation Commission was created by a special act of the Legislature in 1983.<sup>10</sup> Subsequent to its creation, both the commission and Hillsborough County considered the commission to be an "independent regulatory agency."<sup>11</sup> A county review of the applicable laws and the relationship between the two entities confirmed that position. However, in late 1993, the Hillsborough County Legislative Delegation asked the Department of Community Affairs for a legal opinion regarding the special district status of the commission. Based on its interpretation of applicable law and information provided by the county attorney, the department designated the commission to be an independent special district in March 1994.<sup>12</sup>

Special districts are local special purpose governments that are authorized by state law to manage, own, operate, construct, and finance capital infrastructure, facilities, and services. Special districts generally finance service costs through ad valorem taxes, special assessments, or fees. Individuals who reside or own property within the districts' service boundaries and who benefit from the districts' services pay these costs. Special districts provide a variety of infrastructures and services, including health care, fire control, juvenile welfare, and water supply.

There are two types of special districts, dependent and independent. A dependent special district is basically an extension of the general purpose local government (municipality or county), where the governing board of local government has certain control over the district. Counties and municipalities have the prerogative to create dependent special districts and may do so by enacting an ordinance prescribing a charter for the district. Independent special districts are an alternative available to the public sector to manage, own, operate, construct, and finance basic capital infrastructure, facilities, and services. While independent special districts should cooperate and coordinate with their general purpose local governments, they are autonomous and are not controlled by those local

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<sup>10</sup> Chapter 83-423, Laws of Florida.

<sup>11</sup> As noted in correspondence between the Hillsborough County Attorney and the Department of Community Affairs, February 18, 1994.

<sup>12</sup> In making their decision, attorneys for the Department of Community Affairs cited a 1994 legal opinion provided by the Hillsborough County Attorney, a 1990 legal opinion rendered by the department regarding the City of Miami's Department of Off-Street Parking, and Ch. 189, F.S., which establishes general provisions for special districts.

governments. As shown in Exhibit 2-1, Ch. 189, F.S., establishes criteria for distinguishing between dependent and independent special districts. Independent special districts are also required to submit an annual financial report to the Department of Banking and Finance and an annual financial audit report to the Auditor General.<sup>13</sup>

**Exhibit 2-1  
Definitions of Dependent and Independent Special District**

District Type	Definition
Dependent	<p>Dependent special district means a special district that meets at least one of the criteria below.</p> <ul style="list-style-type: none"> <li>▪ The membership of its governing body is identical to that of the governing body of a single county or a single municipality.</li> <li>▪ All members of its governing body are appointed by the governing body of a single county or a single municipality.</li> <li>▪ During their unexpired terms, members of the special district's governing body are subject to removal at will by the governing body of a single county or a single municipality.</li> <li>▪ The district has a budget that requires approval through an affirmative vote or can be vetoed by the governing body of a single county or a single municipality.</li> </ul>
Independent	<p>Independent special district means a special district that is not a dependent special district as defined above. A district that includes more than one county is an independent special district unless the district lies wholly within the boundaries of a single municipality.</p>

Source: Chapter 189.403, F.S.

*The Public Transportation Commission is unique*

The Public Transportation Commission is the only special district in Florida that regulates for-hire vehicles. In other areas of the state, county or city governments have this responsibility. One possible reason for the commission's uniqueness is Hillsborough County's history of jurisdictional conflict with regard to the taxicab industry. Until 1976, Hillsborough County and the municipalities of Tampa, Plant City, and Temple Terrace had their own separate taxicab ordinances. Taxicab companies had to obtain operating permits from each of the separate governments in order to serve the entire county, which resulted in duplication and jurisdictional problems. The Public Transportation Commission's predecessor, the Hillsborough County Consolidated Taxicab Commission, was established by the Legislature to resolve these problems and create a more centralized system of taxicab regulation (Ch. 76-383, Laws of Florida).

<sup>13</sup> Sections 11.45 and 218.32, F.S.

## *Elements of the Public Transportation Commission's governance structure are unclear*

Although the Public Transportation Commission has been designated to be an independent special district, it is unclear whether the commission currently meets the statutory definition of this type of entity. According to s. 189.403, F.S., a special district is independent if it does not meet at least one of the four criteria for being a dependent special district (see Exhibit 2-1). In accordance with its designation as an independent special district, the commission clearly does not meet the first three dependent special district criteria regarding membership of its governing body.<sup>14</sup> However, many stakeholders we interviewed questioned whether the commission meets the fourth criterion for being a dependent special district—having a budget that requires approval through an affirmative vote or can be vetoed by the governing body of a single county or a single municipality. If the commission meets the fourth criterion, it should be a dependent rather than an independent district. Issues were raised about the commission's budget approval process and Hillsborough County's subsidy of the commission.

### Budget Approval Process

*The Public Transportation Commission's budget is embedded in the county's budget*

Chapter 189.403, F.S., states that an independent special district cannot have a budget that requires approval through an affirmative vote by the governing body of a single county or a single municipality. However, the Public Transportation Commission's budget is embedded in the budget of Hillsborough County. Therefore, the commission's budget is not adopted until the county's budget is approved. The commission must also submit budget amendments to the county for approval.

The commission's and county's budgets are integrated because the commission's trust fund is part of the county's account structure. The commission's funds are accounted for in the Public Transportation Commission Trust Fund, a subfund of one of Hillsborough County's governmental type, special revenue funds.<sup>15</sup> Because the Public Transportation Commission Trust Fund is a county subfund, it is controlled and maintained by the county.

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<sup>14</sup> The members of the Public Transportation Commission are from more than one entity (the Hillsborough County Board of County Commissioners and the city councils of Tampa, Plant City, and Temple Terrace) and are not subject to removal at will by any one of those entities.

<sup>15</sup> According to Hillsborough County's Fiscal Year 1999-2000 budget, a governmental type fund is used to account for the county's expendable financial resources and related liabilities. One subtype of a governmental fund is called a special revenue fund, which is used to account for the proceeds of specific revenue sources that are legally restricted to certain purposes.

## County Subsidy of the Commission

### *Hillsborough County subsidizes the Public Transportation Commission*

Although Ch. 189, F.S., does not require independent special districts to be self-sufficient, an independent entity's reliance on subsidies from other governments raises questions about its independent status. Over the past three fiscal years, Hillsborough County has provided an average of 15.7% of the Public Transportation Commission's revenues. The county subsidizes the commission in two ways. First, the county covers the commission's year-end deficits. Second, the county provides certain statutorily required services to the commission.

The county supplements the Public Transportation Commission Trust Fund with unrestricted revenues from the county's general fund when there is a shortfall in the commission's budget (see Exhibit 1-1). Although such a subsidy is not statutorily required, it has been the county's practice for at least 10 years.

In addition, Ch. 83-423, Laws of Florida, requires the county to "provide for annual budget review of the Public Transportation Commission and . . . furnish[es] the Public Transportation Commission with a part-time attorney, inspector(s), and a secretary, along with office space and equipment, stationary and postage necessary to carry out their responsibilities... " <sup>16</sup> However, it is unclear which entity, the county or the commission, decides the form and amount of these services. For example, Ch. 83-423, Laws of Florida, does not state how many "inspector(s)" the county must "furnish" to the commission or which entity should determine that number. <sup>17</sup> The county also "furnish[es]" the commission with a part-time attorney, although that attorney works for both the county and the commission and must withdraw from situations if the interests of the two conflict.

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<sup>16</sup> Chapter 83-423, Laws of Florida.

<sup>17</sup> Currently, Hillsborough County does not "furnish" the Public Transportation Commission with any inspectors or the funding to employ inspectors. Although the Attorney General recently ruled that the Special Act compels Hillsborough County to pay for all statutorily required services, personnel, and material (AGO 99-47), the forms and amounts of that payment were not addressed.

## *The Public Transportation Commission is not meeting special district accountability requirements*

Chapter 189, F.S., states that special districts exist to serve the public and that they can best do so by meeting certain minimum standards of accountability designed to inform the public of their status and activities.<sup>18</sup> One of these standards is a requirement that independent special districts with annual revenues or expenditures in excess of \$50,000 submit an annual financial audit report to the Auditor General. This report includes the district's general purpose financial statements as well as the auditor's reports on those statements and the district's internal controls.

*The Public Transportation Commission has never filed a statutorily required annual financial audit report*

However, since being designated an independent special district in 1994, the Public Transportation Commission has never filed an annual financial audit report with the Auditor General. Rather than being audited as an independent special district separate from Hillsborough County, the commission has continued to be audited as a part of the county. This practice raises both compliance and accountability concerns. From a compliance standpoint, Auditor General rules only allow dependent special districts to be audited as part of the audit of the local general-purpose government.<sup>19</sup> The Department of Community Affairs' *1999 Special District Handbook* also restricts this practice to dependent special districts. From an accountability perspective, the commission's participation in the county's annual audit does not provide as comprehensive an evaluation of the commission's finances as having a separate audit would. Instead of focusing solely on the commission's finances, county auditors commingle the commission's and the county's transactions and then sample them for an overall analysis of the county. To auditors evaluating the county's \$887 million of expenditures, the commission's \$579,000 of expenditures is immaterial.<sup>20</sup>

The commission has stated that it "does not appear to be required, or in a position to be required, to provide for a separate financial audit of its accounts" pursuant to statute.<sup>21</sup> The commission claims that it does not have any accounts within its direct control on which an audit could be performed and that Hillsborough County controls and maintains the Public Transportation Commission Trust Fund. Although this rationale explains why the commission believes it cannot comply with statutory

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<sup>18</sup> More specifically, it is the intent of the Legislature that public trust be secured by requiring each independent special district in the state to register and report its financial and other activities.

<sup>19</sup> Chapter 10.555(2)(a), Rules of the Auditor General.

<sup>20</sup> Data is for Fiscal Year 1998-99.

<sup>21</sup> Public Transportation Commission correspondence with the Auditor General, April 20, 1999.

audit requirements, it does not alleviate its need to meet legislative intent with regard to special district accountability. Furthermore, the commission's rationale adds to the confusion surrounding its governance structure, as discussed above.

## ***Extraordinary Public Transportation Commission expenses could affect the public***

It is the Legislature's intent that local governmental entities meet their financial obligations and provide essential services without interruption. However, because the Public Transportation Commission has no contingency funds, extraordinary expenses could adversely affect its service delivery to the public.

*The Public Transportation Commission does not have contingency funds to cover extraordinary expenses, potentially impeding its ability to perform its duties*

The commission's budget only covers its normal operating costs (see Exhibit 1-1). Staff salaries and benefits account for an average of 78% of that budget. The commission does not have contingency funds to cover extraordinary expenses.

This inability to provide for extraordinary expenses could impede the commission's ability to perform its duties. As stated in commission correspondence with the Attorney General,

The commission, however, is concerned that if faced with extraordinary expenses outside the usual course of its business, such as unforeseen major litigation costs, it may not be in a position to fund such extraordinary expenses without adversely impacting the industries it regulates, its own operations, and most importantly, the safety of the public, given its limited powers to generate revenues. Owing to the status of the commission as a functioning independent special district and a creature of the Florida Legislature, local governments in Hillsborough County would not appear to be obligated to subsidize any such extraordinary expense.<sup>22</sup>

In fact, such a situation recently occurred. Because of extraordinary legal costs arising from a 1997 lawsuit against the commission, the commission left one of its four inspector positions unfilled during 1998.<sup>23</sup> It is

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<sup>22</sup> December 8, 1998.

<sup>23</sup> When a denied ambulance company certificate led to a 1997 lawsuit affecting the Public Transportation Commission and members of Hillsborough County government, the Public Transportation Commission hired a private law firm to represent them. It should be noted that the Public Transportation Commission does not have liability insurance to cover its legal costs.

foreseeable that the commission will face other extraordinary expenses in the future, including litigation and/or auditing costs.<sup>24</sup>

## *Governance options*

We identified two options for improving the governance structure under which for-hire vehicle regulation is performed in Hillsborough County.

1. Amend Ch. 83-423, Laws of Florida, to clarify that the Public Transportation Commission is an independent special district. However, if the Legislature elects this option, the amendment should require the commission to clarify its fiscal 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.
2. Dissolve the Public Transportation Commission as a special district and allow Hillsborough County to either recreate the commission by ordinance as a dependent special district or assume the commission's responsibilities.

The advantages and disadvantages of these options are described below.

### *Option 1: Amend Chapter 83-423, Laws of Florida, to clarify that the Public Transportation Commission is an independent special district*

**Description.** Under this option, the Public Transportation Commission would be operationally the same, but would have to function with genuine independence and accountability. Specifically, the amendment to Ch. 83-423, Laws of Florida, would direct the commission to adopt changes to clarify its fiscal relationship with Hillsborough County, meet all special district accountability requirements, and develop methods for dealing with extraordinary expenses without impeding its service delivery.

To clarify its fiscal relationship with Hillsborough County, the commission would need to segregate its budgeting and accounting processes from those of Hillsborough County. Moreover, an economically self-sufficient commission would leave no doubt as to the commission's statutory and fiscal independence. Economic self-sufficiency, however, would entail the commission financing its normal operations and deficits without fiscal dependence on Hillsborough County.

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<sup>24</sup> For example, Ch. 99-476, Laws of Florida, requires the Public Transportation Commission to undergo a performance audit by April 30, 2003.

To improve its accountability both to the citizens of Hillsborough County and to the state, the commission would need to fund an annual financial audit separate from the county's audit. Although county budget officials have indicated that a separate financial audit could be performed on the commission's finances within the current account structure, it may be preferable to segregate the commission's fiscal processes from those of the county before conducting such an audit.

To be able to fund extraordinary expenses without reducing service delivery, the commission would need to take two actions. First, the commission would need to research the cost-effectiveness of purchasing liability insurance as protection against future litigation (including both founded or unfounded litigation). The cost of this insurance has potentially increased as a result of recent litigation. Second, the commission would need to establish a contingency fund to provide for extraordinary expenses. Monies for this fund could be generated by increasing regulated companies' fees (the main source of commission revenue). In the past, the commission has been concerned that a fee increase would ultimately be passed on to consumers. However, the effects of any fee increase may be able to be mitigated by varying its amount and/or duration.

**Advantages.** Performing for-hire vehicle regulation as an independent special district prevents the jurisdictional infighting that was the impetus for creating the commission. As noted above, jurisdictional problems caused pre-commission taxicab regulation to be inefficient and ineffective. The same situation could occur if municipalities were to opt out of any local ordinance establishing for-hire vehicle regulation by the county.<sup>25</sup>

**Disadvantages.** There are two main disadvantages to the commission remaining an independent special district. First, the state would still be involved in the regulation of for-hire vehicles in Hillsborough County, an issue that is a local concern. Second, the commission would have to generate new revenue to cover the additional costs of segregating its budgeting and accounting processes from the county's, performing an annual financial audit separate from the county's, and establishing a contingency fund for extraordinary expenses.

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<sup>25</sup> Hillsborough County's charter states, "In the event of a conflict between a county ordinance and a municipal ordinance, the municipal ordinance shall prevail within the municipality regardless of whether the municipal ordinance was adopted or enacted before or after the county ordinance."

***Option 2: Dissolve the Public Transportation Commission as a special district and allow Hillsborough County to either recreate the commission by ordinance as a dependent special district or assume the commission's responsibilities***

**Description.** Under this option, after the Legislature dissolves the Public Transportation Commission by repealing Ch. 83-423, Laws of Florida, the county would pass an ordinance either recreating the commission as a dependent special district or allowing the county to assume the commission's responsibilities. If recreated as a dependent special district, the Public Transportation Commission would change little operationally. The commission's budgeting, accounting, reporting, and auditing processes are already consistent with county and dependent special district requirements. However, if the county assumes the commission's responsibilities, regulatory services could be altered and performed by a variety of organizational entities, including a new or existing county department.

**Advantages.** Under this option, the state would no longer be involved in the regulation of for-hire vehicles in Hillsborough County, an issue that is a local concern. Furthermore, few changes would have to be made to the commission's current budgeting, accounting, and auditing processes since the commission's accounts are already folded into the county's account structure, and the commission's transactions are already sampled as part of the county's annual audit.<sup>26</sup> The county would also officially assume budgetary approval power and could provide for any extraordinary expenses of the commission.

**Disadvantages.** Because the commission would be re-created by county ordinance, Tampa, Plant City, and Temple Terrace could opt out and establish their own regulatory systems and policies. The result could be the same jurisdictional problems and regulatory duplication that led to the Legislature's creation of the commission's predecessor, the Hillsborough County Consolidated Taxicab Commission. In addition, should the commission assume a dependent relationship with the county, its policy-making independence could be affected.

## ***Recommendations***

Although designated as an independent special district, the Public Transportation Commission does not appear to meet the statutory definition of this type of entity. Furthermore, the commission is not meeting special district accountability requirements, and its lack of contingency funds for extraordinary expenses could adversely affect its

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<sup>26</sup> Hillsborough County may require additional reporting from its dependent special districts.

service delivery to the public. In addition, the commission is unique in that it is the only entity in Florida that regulates for-hire vehicles through a special act of the State Legislature. In other areas of the state, county or city governments have this responsibility. In our opinion, the commission does not need to be designated as an independent special district to carry out its mission.

However, relevant literature indicates that local government officials are usually in the best position to determine the most effective means for regulating for-hire vehicles.<sup>27</sup> Thus, the decision on how to structure this function should be made at the local level. We therefore recommend that the Hillsborough County Legislative Delegation work with county and commission officials to determine whether the commission should be statutorily designated as an independent special district, or whether the Special Act should be repealed and the commission be designated as a dependent special district or the commission be abolished and this function be assumed by the county government.

- If the Legislature and local officials determine that the best option is to amend Ch. 83-423, Laws of Florida, to statutorily designate the commission as an independent special district, the amendment should also require the commission to meet the independent special district requirements of s. 189.404, F.S.<sup>28</sup> Although this option would prevent the jurisdictional problems and duplication that led to the creation of the commission, it would also likely result in a fee increase to the regulated industry due to the increased cost to meet accountability requirements.
- If the Legislature and local officials determine the commission should not be an independent special district, the Legislature should repeal Ch. 83-423, Laws of Florida. In repealing the act, the Legislature should clearly indicate the entity that will assume the commission's liabilities upon dissolution.<sup>29</sup> The county should then pass an ordinance either recreating the commission as a dependent special district or allowing the county government to assume the commission's responsibilities. Under this option, few changes would have to be made to the commission's current budgeting, accounting, and auditing processes. However, jurisdictional problems could result if the county's municipalities decided to opt out of the county's ordinance unless this issue was carefully negotiated between the county and the municipalities.

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<sup>27</sup> See Appendix B for a bibliography.

<sup>28</sup> See Appendix C for the text of Section 189.404, F.S. The provisions of this section were not applied in 1994 when the Department of Community Affairs designated the commission to be an independent special district.

<sup>29</sup> Section 189.4045(2), F.S., states, "Unless otherwise provided by law or ordinance, the dissolution of a special district government shall transfer the title to all property owned by the preexisting special district government to the local general-purpose government, which shall also assume all indebtedness of the preexisting special district."

# Regulatory Issues

## Introduction

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This chapter focuses on two aspects of the regulation of for-hire vehicles—public safety regulation and market entry regulation. While 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. Jurisdictions may use a variety of approaches to provide these types of regulation.

Our review of relevant literature clearly indicates that local jurisdictions are in the best position to determine which regulatory approach would be most effective for them. Although OPPAGA supports the least restrictive form of regulation, there is no clear advantage of one regulatory scheme over another. Furthermore, we found no compelling evidence to indicate the need for major revisions to the regulatory approach used in Hillsborough County.

## Public Safety Regulation

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*Regulatory method  
used in Hillsborough  
County*

In addition to issuing certificates of public convenience and necessity to regulated companies, the Public Transportation Commission permits the vehicles owned by those companies and licenses vehicle operators. Holders of permits and licenses must comply with commission rules and regulations, including vehicle standards, driver qualifications, and insurance requirements.

The commission is required to inspect all permitted vehicles annually and may inspect any vehicle at any time. Inspectors ensure that vehicles comply with commission standards and provide for the safety and comfort of passengers. The commission also makes certain that vehicle drivers are qualified, of good moral character, of sound health, and meet all requirements of law.

Certificates, permits, and licenses are subject to suspension or revocation by the commission if holders violate commission rules or regulations. Violations may also be criminally punishable. Chapter 83-423, Laws of Florida, authorizes the commission to issue a summons to appear before it to any violator of its rules and may obtain from the state attorney a

warrant or *capias* for rule violations. The commission may also secure enforcement of its rules and regulations by any legal action, such as injunctive relief.

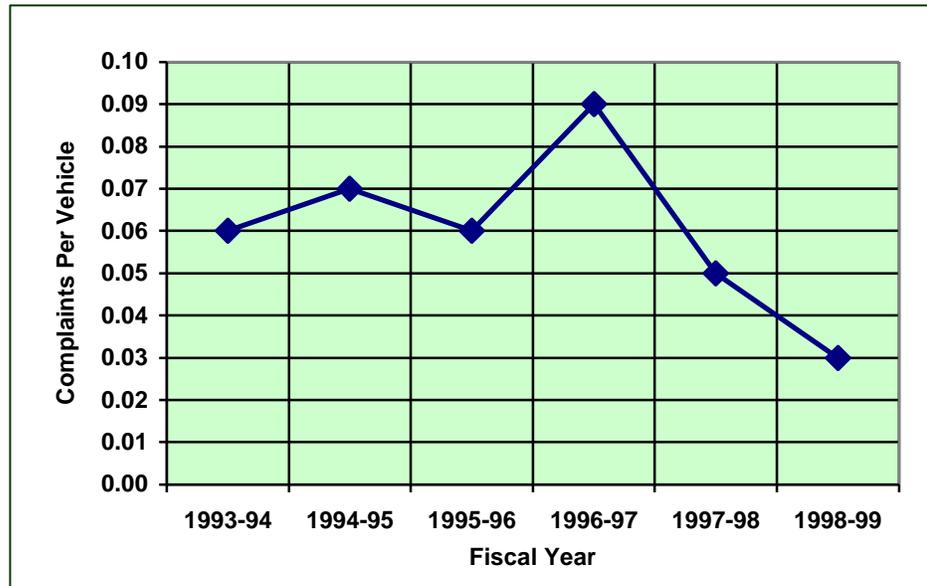
***Public safety regulation is necessary***

Much of the literature we reviewed supports some level of safety regulation of for-hire vehicle industries. 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 we interviewed agreed that the regulation of public safety is beneficial and should be continued.

***There is no compelling evidence that major changes are needed in Hillsborough County***

Our review uncovered little evidence of a chronic, pervasive problem with public safety regulation in Hillsborough County. Many stakeholders believe that the commission has been doing a good job of regulating public safety. Over the past six years, the commission has received an average of 61 complaints per year. This represents an annual average of one complaint for every 19 permitted vehicles. On a per vehicle basis, the number of complaints has declined since 1993 (see Exhibit 3-1). Stakeholders did indicate that the public could benefit from safety regulation of other types of for-hire vehicles.

**Exhibit 3-1  
Number of Complaints Per Vehicle Has Declined Since 1993**



# Market Entry Regulation

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*Regulatory method  
used in Hillsborough  
County*

The Special Act establishing the Public Transportation Commission (Ch. 83-423, Laws of Florida) prescribes a method for regulating market entry called "public convenience and necessity."<sup>30</sup> Under this method, a person desiring to engage in the for-hire vehicle business in Hillsborough County must first apply to the commission for a certificate of public convenience and necessity. The applicant must show whether public convenience and necessity will be promoted by the additional proposed service. In determining whether or not public convenience and necessity will be promoted by the additional proposed service, the commission may consider the following:

- the adequacy of existing services;
- the probable permanence and quality of the proposed service;
- the character of the proposed service as demonstrated by the proposed use of any radio communications, the proposed use of terminals and hack stands, the time of day and night when service is to be offered, and the proposed number and character of vehicles;
- the financial status, character, and responsibility of the applicant as demonstrated by the applicant's ability to provide, maintain, and operate the number of vehicles proposed, the applicant's criminal and traffic record, and the applicant's credit record if any; and
- the experience of the applicant in the operation of the type of service proposed.

In addition to these statutory requirements, commission rules require taxicab companies to have 24-hour central dispatch availability and vehicles that are five years old or less. Commission rules also limit the number of taxicab permits that can be issued to one permit per 2,000 inhabitants of Hillsborough County.

Pursuant to Ch. 83-423, Laws of Florida, the commission is required to investigate circumstances surrounding an application and designate a time and place for a public hearing regarding the application. The commission is also required to notify each existing certificate holder to allow them the opportunity to intervene in the application process. The public hearing may be held by the commission as a whole or by a committee made up of members appointed by the commission for that purpose. The committee would then report to the commission its finding and recommendations for approval, disapproval, or modification of the application. The commission may then conduct further hearings or investigations before ruling on the application.

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<sup>30</sup> Wrecker applications are specifically excluded from the public hearing requirement because wreckers are not authorized to transport passengers.

In 1993, the commission altered this hearing process by establishing, through rule, a quasi-judicial process led by a special master. This new process was intended to provide more expertise and consistency in the public hearing process and reduce the application-specific workload of the commissioners. Under these new rules, any certificate holder who wants to present testimony or cross-examine witnesses at the special master hearing can do so by filing a notice with the commission. Strict rules of evidence do not apply, but evidence must be relevant to the issues. The purpose of allowing cross-examinations is to help the special master assess whether an applicant has met the criteria for public convenience and necessity. The applicant and any intervenors are required to bear the costs of the special master public hearing. After the public hearing, the special master is required to submit the findings and recommendation to the commission, which makes the final determination on the application.

## *Current Issues*

The Public Transportation Commission has been criticized for its handling of a recent application to provide ambulance services in the county. In 1996, the commission denied an application by a local businessman to operate a basic life support ambulance service. The commission ruled that the applicant did not demonstrate that there was a need for the new service or that he had the financial means to sustain the proposed business. Then, in early 1997, the commission approved an application for a basic life support ambulance from a former commissioner, who had voted against the 1996 application.

As a result of these events, the local businessman filed suit against the commission, alleging that the commission unfairly kept him from starting a new business.<sup>31</sup> Moreover, the former commissioner and his partner a former Tampa city attorney, were indicted for misusing their official public positions of trust to wrongfully induce an ambulance company not to oppose their own company's application for ambulance permits. These civil and criminal proceedings have raised questions about the commission's entry regulation policies and permitting procedures.

A related issue, the cross-examination portion of the public hearing process, has also been a concern. Protracted cross-examinations can extend hearings for days, increasing the costs of the hearing process to both the applicant and intervenors. This is caused, in part, by cross-examinations that do not always directly address the core issues pertaining to public convenience and necessity.

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<sup>31</sup> In October 1999, a federal judge ruled that the applicant did not have a valid legal claim against the Public Transportation Commission. The commission was subsequently removed from the lawsuit.

## *Approaches for regulating market entry*

Numerous studies have been done regarding taxicab regulation in the United States and other countries.<sup>32</sup> Although the Public Transportation Commission regulates vehicles other than taxicabs, the regulatory principles described in these studies are still generally applicable. The literature identifies three main approaches to regulatory control: restricted entry, open entry, and open entry with minimum standards.

### *Restricted entry*

**Description.** Restricted entry involves controlling or limiting the number of vehicles allowed to operate in an area. The most common methods of restricted entry are: requiring proof of public convenience and necessity, tying the maximum number of permits to population in a formula, or setting a flat ceiling on the number of permits.

**Advantages.** Regulation proponents argue that regulation helps maintain a stable and economically healthy industry by avoiding destructive competition. The historic rationale for regulation of the taxicab industry is that taxicabs are common carriers, which are often held to service standards, and in return are accorded some protection from competition through restrictive licensing criteria. One of the major arguments for regulating for-hire vehicles is the existence of market imperfections peculiar to the for-hire vehicle industry. These market imperfections make typical supply and demand analysis inapplicable. Unlike in other industries, consumers buying for-hire vehicle services often have little comparative pricing or service information.

**Disadvantages.** The criteria for restricting entry can be very subjective and does not readily lend itself to a formulaic or criteria-based decision-making format. Without well-defined criteria, the subjective nature of the process can pit an applicant, who has the burden of proving the need for additional services, against the existing certificate holders, who have a vested interest in keeping new businesses out of the market. Thus, restricting entry tends to limit competition. This type of regulatory control strongly favors existing businesses and can reduce incentives to innovate, develop new services, and control costs. Moreover, in the absence of market forces, it is difficult to determine the optimum supply of vehicles needed. This can result in either under-supply and excess profits or over-supply and insufficient profits to maintain equipment at desired levels.

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<sup>32</sup> At the request of the Legislature, the Center for Urban Transportation Research recently conducted a study of taxicab regulations in Florida and the United States. For a bibliography listing this report and other related research, see Appendix B.

## Open entry

**Description.** Open entry refers to the economic deregulation of the for-hire vehicle industry. Under open entry, competition and market forces are allowed to determine the quantity, and in part, the quality of services provided.

**Advantages.** The argument in favor of open entry is based on the belief that competition will lead to lower fares, improved service, and innovation. Open entry can also create employment opportunities for displaced workers, recently arrived immigrants, and people on welfare to become economically self-sufficient in an easy-entry, low-cost business. Through increased competition, open entry can prevent monopolies from forming and can lead to lower prices, which is important, as many users of for-hire vehicles are low-income citizens.

**Disadvantages.** Open entry can result in an over-supply of vehicles, which often results in reduced operator incomes and leads to deferred maintenance, high driver turnover, and deteriorating service. In fact, many cities that have tried deregulation have subsequently re-enacted regulations due to service quality problems. Several studies show the negative effects of deregulation of the taxicab industry that occurred in many U.S. cities during the 1970s and 1980s. These studies cite evidence of increases in price, highway congestion, and pollution, and declines in operational efficiency and productivity, driver income, and service quality.

## Open entry with minimum standards

**Description.** Open entry with minimum standards is a hybrid of the restricted entry and open entry approaches. Under the minimum standards approach, the regulatory body determines and enforces the quality of service offered and leaves the quantity to be determined by market forces. Minimum standards can be established for various aspects of vehicle operation, such as a minimum fleet size, type of dispatch, vehicle condition, driver qualifications, and insurance requirements.

**Advantages.** The minimum standards approach provides benefits found in both restricted entry and open entry systems. A regulatory body can set minimum standards that will ensure service quality while allowing for market-enhancing competition. Moreover, if fleet-size minimum standards are established (e.g., a company must operate a minimum number of vehicles), regulation of enforcement is much easier, and the regulated companies will be somewhat self-policing.

**Disadvantages.** Proponents for both the restricted entry approach and the open entry approach have concerns about using minimum standards. Those favoring restricted entry argue that, by not limiting the number of vehicles in the market, the minimum standards approach opens the door

for destructive competition that will erode service quality. Conversely, advocates for open entry fear that minimum standards will be set so high that market entry will be nearly impossible for small businesses.

## *Method for regulating entry is best determined at the local level*

*No consensus exists as to which regulatory approach is best*

Our review of relevant literature indicates that there is no clear best way to regulate for-hire vehicles. Whether or not for-hire vehicle markets operate more effectively under restricted or open entry conditions is the subject of a long-running debate. There is no consensus among researchers as to which type, if any, is the most effective. According to a 1998 article in *Governing* about taxi regulation,

Over the past half-century, cities have experimented with just about every form of taxi oversight, from rigid supervision to virtual laissez-faire. All of these strategies have had one thing in common: They haven't worked very well. Hardly any city seems to be able to figure out how to provide its residents with uniformly clean, safe, reliable and courteous cab service.<sup>33</sup>

Given this lack of consensus, decisions regarding which regulatory method to use are best made at the local level. According to the Center for Urban Transportation Research, "The challenge is to identify the most appropriate types and levels of regulation that produce a high quality service that meets local needs in a manner consistent with local conditions."<sup>34</sup>

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

Furthermore, the commission's regulatory method is not unique. Ten of the 18 Florida jurisdictions reviewed by the Center for Urban Transportation Research regulate for-hire vehicles through the restricted entry approach.<sup>35</sup> In fact, most cities in the U.S. that restrict entry use the same approach that is used in Hillsborough County, the public convenience and necessity standard. Our review also indicated that there have been few problems with the commission's permitting process. According to the commission's executive director, the commission rarely denies an application for a certificate of public convenience and necessity.<sup>36</sup>

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<sup>33</sup> "Taxicab Turmoil," Charles Mathesian, *Governing*, December 1998, pp. 26-7.

<sup>34</sup> Center for Urban Transportation Research, *A Review of the Method and Structure of Taxicab Regulations in Representative Communities in Florida and Other States*, University of South Florida, June 1999.

<sup>35</sup> The 10 communities are Broward County, Daytona Beach, Gainesville, Hillsborough County, Jacksonville, Key West, Lakeland, Melbourne, Miami-Dade County, and Orlando.

<sup>36</sup> Historically, the Public Transportation Commission has not kept statistics regarding the outcomes of application decisions.

# Recommendations

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Our review of relevant literature clearly indicates that local jurisdictions are in the best position to determine which regulatory approach would be most effective for them. Although OPPAGA supports the least restrictive form of regulation, there is no clear advantage of one regulatory scheme over another. Furthermore, we found no compelling evidence to indicate the need for major revisions to the regulatory approach used in Hillsborough County.

We therefore recommend that local officials continue to monitor the effectiveness of the county's regulatory system. If systemic or chronic problems arise, officials should consider adopting an alternative method for providing market entry and/or public safety regulation. Stakeholders would want to review the advantages and disadvantages of the various approaches described in this report to determine if a different regulation method would better serve the needs of the county.

Furthermore, stakeholders indicated that the public could benefit from safety regulation of other types of for-hire vehicles. We therefore recommend that local officials investigate the possibility of expanding the scope of safety regulation to other vehicle types, if deemed cost-effective to do so.

Finally, if local officials decide to retain the present regulatory approach, we recommend that the cross-examination feature of the hearing process be examined. If it is determined that cross-examination is protracted and negatively affects the hearing process, we recommend that the commission more strictly enforce its rules regarding the introduction of "irrelevant, immaterial, or unduly repetitious" evidence during hearings.<sup>37</sup> This will help minimize the cost of the hearing process.

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<sup>37</sup> Rule No. 2.4.7.4, *Rules and Regulations of the Hillsborough County Public Transportation Commission*.



## Appendix A

# Vehicles Regulated by the Public Transportation Commission

Vehicle	Description	Number of Permitted Vehicles (as of June 1999)
Taxicab	Any motor-driven vehicle with a capacity for not more than nine passengers, including the driver, for the transportation for hire of passengers, which operates within Hillsborough County not including site-seeing cars or buses, street cars, or motor buses operated under or pursuant to franchise.	513
Van	Any motor-driven vehicle with a capacity of at least 10 but not more than 15 passengers including the driver, for transportation for hire of passengers, which operates within Hillsborough County not including site-seeing cars and buses, streetcars, motor buses operated under or pursuant to franchise or courtesy vans and limousines not for hire.	192
Limousine	Any motor vehicle not equipped with a taximeter, which provides seating accommodations for not more than 15 persons, including the driver. This classification includes luxury-limousines and luxury sedans.	256
Handicab	A vehicle designed, constructed, reconstructed, or operated for the transportation of persons with non-emergency conditions where no medical assistance is needed or anticipated en route; or for persons who are unable to comfortably use a standard means of conveyance; or for persons who cannot enter, occupy, or exit a vehicle without extensive assistance; or where specialized equipment is used for wheelchair or stretcher service; and where the chauffeur/driver serves as both a chauffeur/driver and attendant to assist in door-to-door or bed-to-bed service. No emergency equipment other than a fire extinguisher may be carried.	9
Basic Life Support Ambulance	Any private or publicly owned vehicle that is designed, constructed, reconstructed, maintained, equipped, or operated for and is used for or intended to be used for the transportation of sick or injured persons who may need medical treatment during transport by qualified person(s) through the use of techniques such as patient assessment, cardiopulmonary resuscitation, splinting, obstetrical assistance, bandaging, administration of oxygen, application of medical antishock trousers, and other techniques described in the Emergency Medical Technician Course Curriculum of the United States Department of Transportation.	74
Wrecker	Any privately owned motor driven vehicle used in the recovery, towing, or removal of wrecked, disabled, stolen, and abandoned motor vehicles and contracted for use by, through or for any unit of local, county, or state government, and not authorized to transport passengers for hire.	258

Source: Chapter 83-423, Laws of Florida, and *Rules and Regulations of the Hillsborough County Public Transportation Commission*.

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## Chapter 189.404, Florida Statutes

If the Legislature and local officials determine that the best option is to amend Ch. 83-423, Laws of Florida, to statutorily designate the Public Transportation Commission as an independent special district, the amendment should also require the commission to meet the independent special district requirements of s. 189.404, F.S.

### *189.404 Legislative intent for the creation of independent special districts*

- (1) LEGISLATIVE INTENT. It is the intent of the Legislature that, after September 30, 1989, at a minimum, the requirements of subsection (3) must be satisfied when an independent special district is created.
- (2) SPECIAL ACTS PROHIBITED. Pursuant to s. 11(a)(21), Art. III of the State Constitution, the Legislature hereby prohibits special laws or general laws of local application which:
  - (a) Create independent special districts that do not, at a minimum, conform to the minimum requirements in subsection (3);
  - (b) Exempt independent special district elections from the appropriate requirements in s. 189.405;
  - (c) Exempt an independent special district from the requirements for bond referenda in s. 189.408;
  - (d) Exempt an independent special district from the reporting, notice, or public meetings requirements of s. 189.4085, s. 189.415, s. 189.417, or s. 189.418;
  - (e) Create an independent special district for which a statement has not been submitted to the Legislature that documents the following:
    1. The purpose of the proposed district;
    2. The authority of the proposed district;
    3. An explanation of why the district is the best alternative; and
    4. A resolution or official statement of the governing body or an appropriate administrator of the local jurisdiction within which the proposed district is located stating that the creation of the proposed district is consistent with the approved local government plans of the local governing body and that the local government has no objection to the creation of the proposed district.

- (3) **MINIMUM REQUIREMENTS.**--General laws or special acts that create or authorize the creation of independent special districts and are enacted after September 30, 1989, must address and require the following in their charters:
- (a) The purpose of the district.
  - (b) The powers, functions, and duties of the district regarding ad valorem taxation, bond issuance, other revenue-raising capabilities, budget preparation and approval, liens and foreclosure of liens, use of tax deeds and tax certificates as appropriate for non-ad valorem assessments, and contractual agreements.
  - (c) The methods for establishing the district.
  - (d) The method for amending the charter of the district.
  - (e) The membership and organization of the governing board of the district. If a district created after September 30, 1989, uses a one-acre/one-vote election principle, it shall provide for a governing board consisting of five members. Three members shall constitute a quorum.
  - (f) The maximum compensation of a governing board member.
  - (g) The administrative duties of the governing board of the district.
  - (h) The applicable financial disclosure, noticing, and reporting requirements.
  - (i) If a district has authority to issue bonds, the procedures and requirements for issuing bonds.
  - (j) The procedures for conducting any district elections or referenda required and the qualifications of an elector of the district.
  - (k) The methods for financing the district.
  - (l) If an independent special district has the authority to levy ad valorem taxes, other than taxes levied for the payment of bonds and taxes levied for periods not longer than 2 years when authorized by vote of the electors of the district, the millage rate that is authorized.
  - (m) The method or methods for collecting non-ad valorem assessments, fees, or service charges.
  - (n) Planning requirements.
  - (o) Geographic boundary limitations.
- (4) **LOCAL GOVERNMENT/GOVERNOR AND CABINET CREATION AUTHORIZATIONS.** Except as otherwise authorized by general law, only the Legislature may create independent special districts.
- (a) A municipality may create an independent special district which shall be established by ordinance in accordance with s. 190.005, or as otherwise authorized in general law.
  - (b) A county may create an independent special district which shall be adopted by a charter in accordance with s. 125.901 or s. 154.331 or chapter

## Appendix C

155, or which shall be established by ordinance in accordance with s. 190.005, or as otherwise authorized by general law.

- (c) The Governor and Cabinet may create an independent special district which shall be established by rule in accordance with s. 190.005 or as otherwise authorized in general law. The Governor and Cabinet may also approve the establishment of a charter for the creation of an independent special district which shall be in accordance with s. 373.1962, or as otherwise authorized in general law.
- (d)
  1. Any combination of two or more counties may create a regional special district which shall be established in accordance with s. 950.001, or as otherwise authorized in general law.
  2. Any combination of two or more counties or municipalities may create a regional special district which shall be established in accordance with s. 373.1962, or as otherwise authorized by general law.
  3. Any combination of two or more counties, municipalities, or other political subdivisions may create a regional special district in accordance with s. 163.567, or as otherwise authorized in general law.
- (5) STATUS STATEMENT. After October 1, 1997, the charter of any newly created special district shall contain and, as practical, the charter of a preexisting special district shall be amended to contain, a reference to the status of the special district as dependent or independent. When necessary, the status statement shall be amended to conform with the department's determination or declaratory statement regarding the status of the district.

History.--s. 6, Ch. 89-169; s. 106, Ch. 90-136; s. 6, Ch. 97-255.

# Response from the Hillsborough County Public Transportation Commission

In accordance with the provisions of s. 11.45(7)(d), F.S., a draft of our report was submitted to the Director of the Hillsborough County Public Transportation Commission for his review and response.

The director's written response has been reproduced herein beginning on page 32.

# HILLSBOROUGH COUNTY PUBLIC TRANSPORTATION COMMISSION

P.O. Box 1110, Tampa, Florida 33601 (813) 272-5814 Fax (813) 272-6288

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October 4, 1999

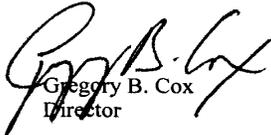
Mr. John W. Turcotte, Director  
Office of Program Policy Analysis and  
Governmental Accountability  
Post Office Box 1735  
Tallahassee, Florida 32305

Dear Mr. Turcotte:

Enclosed is the requested response to your preliminary findings and recommendations of your review of the Hillsborough County Public Transportation Commission. The professionalism and thoroughness of your staff was and is greatly appreciated. It is understandably difficult to assess an organization in existence for almost 17 years and develop a snapshot picture of that organization that is useful to the Florida Legislature to assist with their difficult decisions, but your staff did an admirable job. I hope that this response, coupled with your staff's assessment, will help present an accurate and useful report.

My comments will be formatted so that they respond directly to the comments included in the report. I hope that these comments will clarify any issues or will provide additional information useful to the readers of your review. I respectfully request that a copy of this response be provided to the Legislative Delegation Public Transportation Commission Ad Hoc Study Committee as it reviews the OPPAGA report.

Sincerely,



Gregory B. Cox  
Director

cc: The Honorable Tom Rossin  
The Honorable Kenneth P. Pruitt  
The Honorable James Hargrett  
Commissioner Chris Hart  
Commissioner Rich Glorioso  
Commissioner Joe Affronti  
Commissioner Shawn Harrison  
Commissioner Pat Frank  
Commissioner Charlie Miranda  
Commissioner Ben Wacksman  
Mr. Daniel A. Kleman, Hillsborough County Administrator  
Ms. Amy Acton, Hillsborough County Attorney  
Ms. Candace Hundley

Chairman  
Chris Hart

Vice-Chairman  
Rich Glorioso

Commission  
Member  
Joseph Affronti

Commission  
Member  
Pat Frank

Commission  
Member  
Shawn Harrison

Commission  
Member  
Charlie Miranda

Commission  
Member  
Ben Wacksman

Response Comments to OPPAGA review of Hillsborough County Public Transportation Commission.

Page 1, Background: “As of June 1999, the commission had issued 1,302 vehicle permits.” As of September 30, 1999, over 1364 permits have issued by the commission.

Page 2, Public Transportation Commission Resources: “To meet its obligations, the Public Transportation Commission has two main sources of revenue—fees, and Hillsborough County subsidies.” The report goes on to explain that 83-423, Laws of Florida, states that Hillsborough County shall provide for numerous items to include personnel in the way of inspectors, a secretary, etc. The report does not explain that the County has not budgeted for these and the Commission has. Carrying these expenditures in the Commission budget has created an image of needing subsidies. The State Attorney General has recently rendered an opinion that the County should be funding these items. If the County had been funding these items each year as the statute requires, the Public Transportation Commission fees would have greatly exceeded the operational expenditures which would have created a surplus large enough to fund any legal fees, audit expenses, and other inordinate emergency situation. This issue is currently being addressed by the County Administration and the Public Transportation Commission and should be resolved before the end of November 1999.

Page 3, Exhibit 1-1: This chart reflects that at the end of each year the County transfers funds from the Hillsborough County General Fund to the Commission’s budget. This is a fiscal year end accounting practice to balance a fiscal budget. It is not reflective of the balancing of actual expenditures and revenues. This year, for example, the actual expenditures will be approximately \$70K less than estimated budgeted expenditures.

Page 4, Current Public Transportation Issues: ....”Furthermore, the commission is not meeting special district accountability requirements, and its lack of contingency funds for extraordinary expenses could adversely affect its service delivery to the public.” The report does not account for the numerous attempts by the commission to obtain clarification of the auditing requirements and the attempts to obtain audits from the State auditing agencies. As explained above, the funds for extraordinary expenses will not be an issue if the budgeting issues are resolved with the County as expected.

Page 4, Current Public Transportation Issues: “From a regulatory perspective, the commission has been criticized for its handling of a recent application to provide ambulance services in the County.” The lawsuit against the commission was dismissed with prejudice on October 1, 1999 (the order is not yet final, subject to appeal). The criticism of the process and the PTC was inflamed by newspaper accounts of this particular application and the charges levied against a former Commission member and a City of Tampa lawyer. An examination of the history of handling applications will reflect that no applicant for a Certificate of Public Convenience and Necessity has been denied by the PTC. The applicant in question was given an opportunity to reapply and refused. Regardless, these were issues which faced a former Commission and the former Director. There is a new team on board these days.

Page 5, Governance Issues: “The Public Transportation Commission is an independent special district. It is unique in that it is the only special district in Florida that regulates for-hire vehicles.” It is true that this is the only designated independent special district that regulates vehicles for hire in Florida, but a couple other comments should be included. First, this County is unique in that there are three municipalities which without the independent special district status, would each have to sort out their various regulations and enforcement of vehicles for hire, along with the County itself. Secondly, it should be mentioned that nearly every County and municipality in Florida has some designated office or organization that regulates vehicles for hire, performing much of the same function that the PTC performs for Hillsborough County.

Page 6, Governance Structure: The report indicates that from 1983 to late 1993, the PTC was considered by the commission and Hillsborough County to be an “independent regulatory agency.” Please clarify whether you utilize the term “independent regulatory agency” synonymously with “independent special district.” If you mean them to be different, it is not clear what the distinction is between them.

## Appendix D

Response Comments to OPPAGA review of Hillsborough County Public Transportation Commission.

Page 8, Budget Approval Process: "...However, the Public Transportation Commission's budget is embedded in the budget of Hillsborough County. Therefore, the commission's budget is not adopted until the county's budget is approved. The commission must also submit budget amendments to the county for approval." The Public Transportation Commission utilizes the County's budget process simply for economies of scale purposes. This is the same reason the PTC utilizes the Civil Service process and the County fleet maintenance program. Because the PTC uses the County's budget process, the practice is to use the amendment process, procurement process, purchase order process, etc. The BOCC approves the budget for the County, but does not have any legal authority to approve the PTC budget, only to review. It is a slightly awkward arrangement, but it has worked well. The PTC and the County Administrator's Office are currently making arrangements to separate the budgets to the extent that an auditor could easily see the distinctions.

Page 9, County Subsidy of the Commission: "Although Chapter 189, F.S., does not require independent special districts to be self-sufficient, an independent entity's reliance on subsidies from other governments raises questions about its independent status." As discussed earlier, the actual amounts of revenues provided by the County to fund the PTC is in question. The statute requirement for the County to fund certain items to support the PTC has not been complied with in total which has required the PTC to provide the funding. It is unclear in whose mind this issue raises questions about the independent status. To date, the Commission, the County, the affected municipalities, and the PTC staff remain very clear on this issue.

Page 10, "The Public Transportation Commission in not meeting special district accountability requirements." This is a true statement. The OPPAGA review fails to adequately report the attempts to receive support from the State Audit Agency to conduct such an audit and their subsequent refusal. The review also doesn't address the issue that the revenue base does not support funding these audits while the County isn't funding for those items required in 83-423. Once those funding issues are resolved (hopefully in the very near future), there will be funds available to hire the necessary auditors. Additionally, funds would also be available to cover other extraordinary costs which might arise.

Page 14, Disadvantages. The comments in this paragraph are greatly understated. If 83-423 was repealed, the regulatory and enforcement requirements would have to be placed in some new or existing agency. The law enforcement agencies in the County and municipalities would have to increase their respective staffs to handle the workload currently handled by the PTC. The problems faced in other locals in Florida that have separate county and city ordinances regulating vehicles for hire and wreckers would be more severe in Hillsborough County. The existing opinions of the current County Commissioners, administrative staff, Officials from Tampa, Temple Terrace and Plant City regarding the necessity of the PTC exemplifies what would happen if the Special Act were repealed. Agreements on regulation and enforcement, if reached at all, would be compromises which could affect the overall impact of the program and potentially, the safety of the general public.

Page 18, Public safety regulation is necessary: "Stakeholders did indicate that the public could benefit from safety regulation of other types of vehicles." This comment should be expanded and brought to the Legislative Delegation's attention. The Special Act specifies which vehicles can currently be regulated by the PTC. Other vehicles for hire should be included in the Special Act to protect the public, such as: courtesy vans, day care delivery vans and private non-consensual wrecker operations. The public would be better served if the role of the PTC were expanded.

Page 20, Current Issues: "The Public Transportation Commission has been criticized for its handling of a recent application to provide ambulance services in the county. In 1996, the commission denied an application by a local businessman to operate a basic life support ambulance service..." As addressed earlier, this issue was resolved in Federal Court when the lawsuit against the PTC was dismissed with prejudice. The judge acknowledged that the applicant was provided the opportunity to reapply to show that the deficiencies found in his application had been corrected. The applicant chose not to reapply. The original denial was based on correct revelations of deficiencies. On several occasions, the commission has rightfully denied a Certificate until deficiencies are corrected. The actions of a

Response Comments to OPPAGA review of Hillsborough County Public Transportation Commission.

**former Commissioner and Tampa City attorney are not relevant to the review of the functions of the PTC today. The still undecided allegations against these individuals are individual actions which cannot be remedied by changing 83-423.**

Page 20, Current Issues: ....“the cross examination portion of the public hearing process, has also been a concern.” **The rules regarding the Special Master process and the cross examinations by the intervenors are being revised by the PTC. The intent is to eliminate the cross examination and to streamline the process but not reduce the effectiveness.**