

## CHAPTER 427

## SPECIAL TRANSPORTATION AND COMMUNICATIONS SERVICES

## PART I TRANSPORTATION SERVICES (ss. 427.011–427.017)

## PART II TELECOMMUNICATIONS ACCESS SYSTEM (ss. 427.701–427.708)

## PART I

## TRANSPORTATION SERVICES

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**427.011 Definitions.**—For the purposes of ss. 427.011–427.017:

(1) "Transportation disadvantaged" means those persons who because of physical or mental disability, income status, or age are unable to transport themselves or to purchase transportation and are, therefore, dependent upon others to obtain access to health care, employment, education, shopping, social activities, or other life-sustaining activities, or children who are handicapped or high-risk or at-risk as defined in s. 411.202.

(2) "Metropolitan planning organization" means the organization responsible for carrying out transportation planning and programming in accordance with the provisions of 23 U.S.C. s. 134, as provided in 23 U.S.C. s. 104(f)(3).

(3) "Agency" means an official, officer, commission, authority, council, committee, department, division, bureau, board, section, or any other unit or entity of the state or of a city, town, municipality, county, or other local governing body or a private nonprofit transportation service-providing agency.

(4) "Transportation improvement program" means a staged multiyear program of transportation improvements, including an annual element, which is developed by a metropolitan planning organization or designated official planning agency.

(5) "Community transportation coordinator" means a transportation entity recommended by a metropolitan planning organization, or by the appropriate designated

official planning agency as provided for in ss. 427.011–427.017 in an area outside the purview of a metropolitan planning organization, to ensure that coordinated transportation services are provided to the transportation disadvantaged population in a designated service area.

(6) "Transportation operator" means one or more public, private for-profit, or private nonprofit entities engaged by the community transportation coordinator to provide service to transportation disadvantaged persons pursuant to a coordinated system service plan.

(7) "Coordinating board" means an advisory entity in each designated service area composed of representatives appointed by the metropolitan planning organization or designated official planning agency, to provide assistance to the community transportation coordinator relative to the coordination of transportation services.

(8) "Member department" means a department whose head is a member of the commission.

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

(10) "Transportation disadvantaged funds" means any local government, state, or available federal funds that are for the transportation of the transportation disadvantaged. Such funds may include, but are not limited to, funds for planning, Medicaid transportation, administration, operation, procurement, and maintenance of vehicles or equipment and capital investments. Transportation disadvantaged funds do not include funds for the transportation of children to public schools.

(11) "Coordination" means the arrangement for the provision of transportation services to the transportation disadvantaged in a manner that is cost-effective, efficient, and reduces fragmentation and duplication of services.

(12) "Annual budget estimate" means a budget estimate of funding resources available for providing transportation services to the transportation disadvantaged and which is prepared annually to cover a period of 1 state fiscal year.

(13) "Nonsponsored transportation disadvantaged services" means transportation disadvantaged services that are not sponsored or subsidized by any funding source other than the Transportation Disadvantaged Trust Fund.

**History.**—ss. 1, 9, ch. 79-180; s. 4, ch. 80-414; ss. 1, 3, ch. 84-56; ss. 1, 14, ch. 89-376; s. 57, ch. 90-306; s. 5, ch. 91-429; s. 82, ch. 92-152; s. 63, ch. 94-237.

**427.012 The Commission for the Transportation Disadvantaged.**—There is created the Commission for the Transportation Disadvantaged in the Department of Transportation.

(1) The commission shall consist of the following members:

(a) The secretary of the Department of Transportation or the secretary's designee.

(b) The secretary of the Department of Health and Rehabilitative Services or the secretary's designee.

(c) The Commissioner of Education or the commissioner's designee.

(d) The secretary of the Department of Labor and Employment Security or the secretary's designee.

(e) The executive director of the Department of Veterans' Affairs or the executive director's designee.

(f) The secretary of the Department of Elderly Affairs or the secretary's designee.

(g) The director of the Agency for Health Care Administration or the director's designee.

(h) A representative of the Florida Association for Community Action, who shall serve at the pleasure of that association.

(i) A representative of the Florida Transit Association, who shall serve at the pleasure of that association.

(j) A person over the age of 60 who is a member of a recognized statewide organization representing elderly Floridians. Such person shall be appointed by the Governor to represent elderly Floridians and shall be appointed to serve a term of 4 years.

(k) A handicapped person who is a member of a recognized statewide organization representing handicapped Floridians. Such person shall be appointed by the Governor to represent handicapped Floridians and shall be appointed to serve a term of 4 years.

(l) Two citizen advocate representatives who shall be appointed by the Governor for a term of 4 years, one representing rural citizens and one representing urban citizens.

(m) A representative of the community transportation coordinators. Such person shall be appointed by the Governor to represent all community transportation coordinators and shall be appointed to serve a term of 4 years.

(n) One member of the Early Childhood Council. Such person shall be appointed by the Governor to represent maternal and child health care providers and shall be appointed to serve a term of 4 years.

(o) Two representatives of current private for-profit or private not-for-profit transportation operators each of which have a minimum of 5 years of continuous experience operating a broad-based system of ambulatory and wheelchair/stretchers type transportation, utilizing not less than 50 vehicles and including dispatch and scheduling responsibilities. Such persons shall be appointed by the Commissioner of Agriculture to serve a term of 4 years.

(2) The chairperson and vice chairperson of the commission shall be elected annually from the membership of the commission.

(3) Members of the commission shall serve without compensation but shall be allowed per diem and travel expenses, as provided in s. 112.061.

(4) The commission shall meet at least quarterly, or more frequently at the call of the chairperson. Nine members of the commission constitute a quorum, and a majority vote of the members present is necessary for any action taken by the commission.

(5) The Governor may remove any member of the commission for cause.

(6) The commission shall appoint an executive director who shall serve under the direction, supervision, and control of the commission. The executive director, with the consent of the commission, shall employ such personnel as may be necessary to perform adequately the functions of the commission within budgetary limitations. All employees of the commission are exempt from the Career Service System.

(7) The commission is assigned to the office of the secretary of the Department of Transportation for administrative and fiscal accountability purposes, but it shall otherwise function independently of the control, supervision, and direction of the department.

(8) The commission shall develop a budget pursuant to chapter 216. The budget is not subject to change by the department staff after it has been approved by the commission, but it shall be transmitted to the Governor, as head of the department, along with the budget of the department.

**History.**—ss. 2, 8, 9, ch. 79-180; s. 5, ch. 80-414; s. 73, ch. 81-167; s. 76, ch. 83-55; ss. 2, 3, ch. 84-56; ss. 2, 14, ch. 89-376; s. 29, ch. 91-282; s. 5, ch. 91-429; s. 83, ch. 92-152; s. 64, ch. 94-237.

**427.013 The Commission for the Transportation Disadvantaged; purpose and responsibilities.**—The

purpose of the commission is to accomplish the coordination of transportation services provided to the transportation disadvantaged. The goal of this coordination shall be to assure the cost-effective provision of transportation by qualified community transportation coordinators or transportation operators for the transportation disadvantaged without any bias or presumption in favor of multioperator systems or not-for-profit transportation operators over single operator systems or for-profit transportation operators. In carrying out this purpose, the commission shall:

(1) Compile all available information on the transportation operations for and needs of the transportation disadvantaged in the state.

(2) Establish statewide objectives for providing transportation services for the transportation disadvantaged.

(3) Develop policies and procedures for the coordination of local government, federal, and state funding for the transportation disadvantaged.

(4) Identify barriers prohibiting the coordination and accessibility of transportation services to the transportation disadvantaged and aggressively pursue the elimination of these barriers.

(5) Serve as a clearinghouse for information about transportation disadvantaged services, training, funding sources, innovations, and coordination efforts.

(6) Assist communities in developing transportation systems designed to serve the transportation disadvantaged.

(7) Assure that all procedures, guidelines, and directives issued by member departments are conducive to the coordination of transportation services.

(8)(a) Assure that member departments purchase all trips within the coordinated system, unless they use a more cost-effective alternative provider.

(b) Provide, by rule, criteria and procedures for member departments to use if they wish to use an alternative provider. Departments must demonstrate either that the proposed alternative provider can provide a trip of acceptable quality for the clients at a lower cost than that provided within the coordinated system, or that the coordinated system cannot accommodate the department's clients.

(9) Develop standards covering coordination, operation, costs, and utilization of transportation disadvantaged services. These standards shall include, but not be limited to:

(a) Inclusion, by rule, of acceptable ranges of trip costs for the various modes and types of transportation services provided.

(b) Minimum performance standards for the delivery of services. These standards should be included in coordinator and operator contracts with clear penalties for repeated or continuing violations.

(10) Develop and monitor rules and procedures to implement the provisions of ss. 427.011–427.017.

(11) Approve the appointment of all community transportation coordinators.

(12) Have the authority to apply for and accept funds, grants, gifts, and services from the Federal Government, state government, local governments, or private funding sources. Applications by the commission for local government funds shall be coordinated through the appropriate coordinating board. Funds acquired or accepted under this subsection shall be administered by the commission and shall be used to carry out the commission's responsibilities.

(13) Make an annual report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 1 of each year.

(14) Consolidate, for each state agency, the annual budget estimates for transportation disadvantaged services, and the amounts of each agency's actual expenditures, together with the annual budget estimates of each official planning agency, local government, and directly federally funded agency and issue a report.

(15) Prepare a statewide 5-year transportation disadvantaged plan which addresses the transportation problems and needs of the transportation disadvantaged, which is fully coordinated with local transit plans, compatible with local government comprehensive plans, and which ensures that the most cost-effective and efficient method of providing transportation to the disadvantaged is programmed for development.

(16) Review and approve memorandums of agreement for the provisions of coordinated transportation services.

(17) Review, monitor, and coordinate all transportation disadvantaged local government, state, and federal fund requests and plans for conformance with commission policy, without delaying the application process. Such funds shall be available only to those entities participating in an approved coordinated transportation system or entities which have received a commission-approved waiver to obtain all or part of their transporta-

tion through another means. This process shall identify procedures for coordinating with the state's intergovernmental coordination and review procedures and s. 216.212(1) and any other appropriate grant review process.

(18) Develop an interagency uniform contracting and billing and accounting system that shall be used by all community transportation coordinators and their transportation operators.

(19) Develop and maintain a transportation disadvantaged manual.

(20) Design and develop transportation disadvantaged training programs.

(21) Coordinate all transportation disadvantaged programs with appropriate state, local, and federal agencies and public transit agencies to ensure compatibility with existing transportation systems.

(22) Designate the official planning agency in areas outside of the purview of a metropolitan planning organization.

(23) Develop need-based criteria that must be used by all community transportation coordinators to prioritize the delivery of nonsponsored transportation disadvantaged services that are purchased with Transportation Disadvantaged Trust Fund moneys.

(24) Establish a review procedure to compare the rates proposed by alternate transportation operators with the rates charged by a community transportation coordinator to determine which rate is more cost-effective.

(25) Conduct a cost-comparison study of single-coordinator, multicoordinator, and brokered community transportation coordinator networks to ensure that the most cost-effective and efficient method of providing transportation to the transportation disadvantaged is programmed for development.

(26) Develop a quality assurance and management review program to monitor, based upon approved commission standards, services contracted for by an agency, and those provided by a community transportation operator pursuant to s. 427.0155. Staff of the quality assurance and management review program shall function independently and be directly responsible to the executive director.

**History.**—ss. 3, 9, ch. 79-180; s. 6, ch. 80-414; s. 274, ch. 81-259; ss. 1, 3, ch. 84-56; ss. 3, 14, ch. 89-376; s. 5, ch. 91-429; s. 84, ch. 92-152; s. 65, ch. 94-237.

**427.0135 Member departments; duties and responsibilities.**—Each member department, in carrying out the policies and procedures of the commission, shall:

(1)(a) Use the coordinated transportation system for provision of services to its clients, unless each department meets the criteria outlined in rule to use an alternative provider.

(b) Subject to the provisions of s. 409.908(18), the Medicaid agency shall purchase transportation services through the community coordinated transportation system unless a more cost-effective method can be demonstrated for Medicaid clients or unless otherwise limited or directed by the General Appropriations Act.

(2) Provide the commission, by September 15 of each year, an accounting of all funds spent as well as how many trips were purchased with agency funds.

(3) Assist communities in developing coordinated transportation systems designed to serve the transportation disadvantaged.

(4) Assure that its rules, procedures, guidelines, and directives are conducive to the coordination of transportation funds and services for the transportation disadvantaged.

(5) Provide technical assistance, as needed, to community transportation coordinators or transportation operators or participating agencies.

**History.**—ss. 4, 14, ch. 89-376; s. 5, ch. 91-429; s. 66, ch. 94-237; s. 4, ch. 95-394.

**427.015 Function of the metropolitan planning organization or designated official planning agency in coordinating transportation for the transportation disadvantaged.—**

(1) In developing the transportation improvement program, each metropolitan planning organization or designated official planning agency in this state shall include a realistic estimate of the cost and revenue that will be derived from transportation disadvantaged services in its area. The transportation improvement program shall also identify transportation improvements that will be advanced with such funds during the program period. Funds required by this subsection to be included in the transportation improvement program shall only be included after consultation with all affected agencies and shall only be expended if such funds are included in the transportation improvement program.

(2) Each metropolitan planning organization or designated official planning agency shall recommend to the commission a single community transportation coordinator. The coordinator may provide all or a portion of needed transportation services for the transportation disadvantaged but shall be responsible for the provision of those coordinated services. Based on approved commission evaluation criteria, the coordinator shall subcontract or broker those services that are more cost-effectively and efficiently provided by subcontracting or brokering. The performance of the coordinator shall be evaluated based on the commission's approved evaluation criteria by the coordinating board at least annually. A copy of the evaluation shall be submitted to the metropolitan planning organization or the designated official planning agency, and the commission. The recommendation or termination of any community transportation coordinator shall be subject to approval by the commission.

(3) Each metropolitan planning organization or designated official planning agency shall request each local government in its jurisdiction to provide an estimate of all local and direct federal funds to be expended for transportation for the disadvantaged. The metropolitan planning organization or designated official planning agency shall consolidate this information into a single report and forward it, by the beginning of each fiscal year, to the commission.

**History.**—ss. 6, 9, ch. 79-180; ss. 1, 3, ch. 84-56; ss. 5, 14, ch. 89-376; s. 5, ch. 91-429; s. 67, ch. 94-237.

**427.0155 Community transportation coordinators; powers and duties.—**Community transportation coordinators shall have the following powers and duties:

(1) Execute uniform contracts for service using a standard contract, which includes performance standards for operators.

(2) Collect annual operating data for submittal to the commission.

(3) Review all transportation operator contracts annually.

(4) Approve and coordinate the utilization of school bus and public transportation services in accordance with the transportation disadvantaged service plan.

(5) In cooperation with a functioning coordinating board, review all applications for local government, federal, and state transportation disadvantaged funds, and develop cost-effective coordination strategies.

(6) In cooperation with, and approved by, the coordinating board, develop, negotiate, implement, and monitor a memorandum of agreement including a service plan, for submittal to the commission.

(7) In cooperation with the coordinating board and pursuant to criteria developed by the Commission for the Transportation Disadvantaged, establish priorities with regard to the recipients of nonsponsored transportation disadvantaged services that are purchased with Transportation Disadvantaged Trust Fund moneys.

(8) Have full responsibility for the delivery of transportation services for the transportation disadvantaged as outlined in s. 427.015(2).

**History.**—ss. 6, 14, ch. 89-376; s. 5, ch. 91-429; s. 85, ch. 92-152; s. 68, ch. 94-237.

**427.0157 Coordinating boards; powers and duties.**

The purpose of each coordinating board is to develop local service needs and to provide information, advice, and direction to the community transportation coordinators on the coordination of services to be provided to the transportation disadvantaged. The commission shall, by rule, establish the membership of coordinating boards. The members of each board shall be appointed by the metropolitan planning organization or designated official planning agency. The appointing authority shall provide each board with sufficient staff support and resources to enable the board to fulfill its responsibilities under this section. Each board shall meet at least quarterly and shall:

(1) Review and approve the coordinated community transportation disadvantaged service plan, including the memorandum of agreement, prior to submittal to the commission;

(2) Evaluate services provided in meeting the approved plan;

(3) In cooperation with the community transportation coordinator, review and provide recommendations to the commission on funding applications affecting the transportation disadvantaged;

(4) Assist the community transportation coordinator in establishing priorities with regard to the recipients of nonsponsored transportation disadvantaged services that are purchased with Transportation Disadvantaged Trust Fund moneys.

(5) Review the coordination strategies of service provision to the transportation disadvantaged in the designated service area; and

(6) Evaluate multicounty or regional transportation opportunities.

**History.**—ss. 7, 14, ch. 89-376; s. 5, ch. 91-429; s. 86, ch. 92-152.

**427.0158 School bus and public transportation.—**

(1) The community transportation coordinator shall maximize the use of public school transportation and public fixed route or fixed schedule transit service for the transportation of the transportation disadvantaged.

(2) The school boards shall cooperate in the utilization of their vehicles to enhance coordinated disadvantaged transportation by providing the information as required by this section and by allowing the use of their vehicles at actual cost upon request when those vehicles are available for such use and are not transporting students. Semiannually, no later than October 1 and April 30, a designee from the local school board shall provide the community transportation coordinator with copies to the coordinated transportation board, the following information for vehicles not scheduled 100 percent of the time for student transportation use:

(a) The number and type of vehicles by adult capacity, including days and times, that the vehicles are available for coordinated transportation disadvantaged services;

(b) The actual cost per mile by vehicle type available;

(c) The actual driver cost per hour;

(d) Additional actual cost associated with vehicle use outside the established workday or workweek of the entity; and

(e) Notification of lead time required for vehicle use.

(3) The public transit fixed route or fixed schedule system shall cooperate in the utilization of its regular service to enhance coordinated transportation disadvantaged services by providing the information as required by this section. Annually, no later than October 1, a designee from the local public transit fixed route or fixed schedule system shall provide the community transportation coordinator, with copies to the coordinated transportation board, the following information:

(a) A copy of all current schedules, route maps, system map, and fare structure;

(b) A copy of the current charter policy;

(c) A copy of the current charter rates and hour requirements; and

(d) Required notification time to arrange for a charter.

**History.**—ss. 8, 14, ch. 89-376; s. 5, ch. 91-429.

**427.0159 Transportation Disadvantaged Trust Fund.—**

(1) There is established in the State Treasury the Transportation Disadvantaged Trust Fund to be administered by the Commission for the Transportation Disadvantaged. All fees collected for the transportation disadvantaged program under s. 320.03(9) shall be deposited in the trust fund.

(2) Funds deposited in the trust fund shall be appropriated by the Legislature to the commission and shall be used to carry out the responsibilities of the commission and to fund the administrative expenses of the commission.

(3) Funds deposited in the trust fund may be used by the commission to subsidize a portion of a transportation disadvantaged person's transportation costs which is not sponsored by an agency, only if a cash or in-kind

match is required. Funds for nonsponsored transportation disadvantaged services shall be distributed based upon the need of the recipient and according to criteria developed by the Commission for the Transportation Disadvantaged.

**History.**—ss. 9, 14, ch. 89-376; s. 5, ch. 91-429; s. 87, ch. 92-152; s. 69, ch. 94-237.

**427.016 Expenditure of local government, state, and federal funds for the transportation disadvantaged.—**

(1)(a) All transportation disadvantaged funds expended within the state shall be expended to purchase transportation services from community transportation coordinators or public, private, or private nonprofit transportation operators within the coordinated transportation system, except when the rates charged by proposed alternate operators are proven, pursuant to rules generated by the Commission for the Transportation Disadvantaged, to be more cost-effective and are not a risk to the public health, safety, or welfare. However, in areas where transportation suited to the unique needs of a transportation disadvantaged person cannot be purchased through the coordinated system, or where the agency has met the rule criteria for using an alternative provider, the service may be contracted for directly by the appropriate agency.

(b) Nothing in this subsection shall be construed to limit or preclude the Medicaid agency from establishing maximum fee schedules, individualized reimbursement policies by provider type, negotiated fees, competitive bidding, or any other mechanism that the agency considers efficient and effective for the purchase of services on behalf of Medicaid clients. State and local agencies shall not contract for any transportation disadvantaged services, including Medicaid reimbursable transportation services, with any community transportation coordinator or transportation operator that has been determined by the Agency for Health Care Administration, the Department of Legal Affairs Medicaid Fraud Control Unit, or any state or federal agency to have engaged in any abusive or fraudulent billing activities.

(2) Each agency, whether or not it is a member of the Commission for the Transportation Disadvantaged, shall inform the commission in writing, before the beginning of each fiscal year, of the specific amount of any money the agency allocated for transportation disadvantaged services. Additionally, each state agency shall, by September 15 of each year, provide the commission with an accounting of the actual amount of funds expended and the total number of trips purchased.

(3) Each metropolitan planning organization or designated official planning agency shall annually compile a report accounting for all local government and direct federal funds for transportation for the disadvantaged expended in its jurisdiction and forward this report by September 15 to the commission.

**History.**—ss. 5, 9, ch. 79-180; ss. 1, 3, ch. 84-56; ss. 10, 14, ch. 89-376; s. 5, ch. 91-429; s. 88, ch. 92-152; s. 70, ch. 94-237; s. 5, ch. 95-394.

**427.017 Conflicts with federal laws or regulations.**

Upon notification by an agency of the Federal Government that any provision of this act conflicts with federal

laws or regulations, the state or local agencies involved may take any reasonable steps necessary to assure continued federal funding. Further, it is the legislative intent that the conflict shall not affect other provisions or applications of this act that can effectively be implemented without implementation of the provision in question, and to this end, the provisions of this act are declared severable.

**History.**—ss. 7, 9, ch. 79-180; ss. 1, 3, ch. 84-56; s. 14, ch. 89-376; s. 5, ch. 91-429.

## PART II

### TELECOMMUNICATIONS ACCESS SYSTEM

- 427.701 Title.
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- 427.708 Certain public safety and health care providers required to purchase and operate TDD's.

**427.701 Title.**—This part may be cited as the "Telecommunications Access System Act of 1991."

**History.**—s. 1, ch. 91-111.

**427.702 Findings, purpose, and legislative intent.**

- (1) The Legislature finds and declares that:
  - (a) Telecommunications services provide a rapid and essential communications link among the general public and with essential offices and organizations such as police, fire, and medical facilities.
  - (b) All persons should have basic telecommunications services available to them at reasonable and affordable costs.
  - (c) A significant portion of Florida's hearing impaired and speech impaired populations has profound disabilities, including dual sensory impairments, which render normal telephone equipment useless without additional specialized telecommunications devices, many of which cost several hundred dollars.
  - (d) The telecommunications system is intended to provide access to a basic communications network between all persons, and that many persons who have a hearing impairment or speech impairment currently have no access to the basic telecommunications system.
  - (e) Persons who do not have a hearing impairment or speech impairment are generally excluded from access to the basic telecommunications system to communicate with persons who have a hearing impairment or speech impairment without the use of specialized telecommunications devices.
  - (f) There exists a need for a telecommunications relay system whereby the cost for access to basic telecommunications services for persons who have a hearing impairment or speech impairment is no greater than the amount paid by other telecommunications customers.

(g) The Federal Government, in order to carry out the purposes established by Title II of the Communications Act of 1934, as amended, by the enactment of the Americans with Disabilities Act, endeavored to ensure that interstate and intrastate telecommunications relay services are available, to the extent possible and in the most efficient manner, to hearing impaired and speech impaired persons in the United States.

(h) Title IV of the Americans with Disabilities Act mandates that the telecommunications companies providing telephone services within the state shall provide telecommunications relay services on or before July 25, 1993, to persons who are hearing impaired or speech impaired within their certificated territories in a manner that meets or exceeds the requirements of regulations to be prescribed by the Federal Communications Commission.

(2) It is the declared purpose of this part to establish a system whereby the citizens of Florida who are hearing impaired, speech impaired, or dual sensory impaired have access to basic telecommunications services at a cost no greater than that paid by other telecommunications services customers, and whereby the cost of specialized telecommunications equipment necessary to ensure that citizens who are hearing impaired, speech impaired, or dual sensory impaired have access to basic telecommunications services and the provision of telecommunications relay service is borne by all the telecommunications customers of the state.

(3) It is the intent of the Legislature:

- (a) That a telecommunications access system be established to provide equitable basic access to the telecommunications network for persons who are hearing impaired, speech impaired, or dual sensory impaired.
- (b) That the telecommunications access system includes a telecommunications relay service system that meets or exceeds the certification requirements of the Federal Communications Commission.
- (c) That the telecommunications access system includes the distribution of telecommunications devices for the deaf that are compatible with the telecommunications relay service system and has the capability of incorporating new technologies as they develop.
- (d) That the telecommunications access system includes the distribution of specialized telecommunications devices necessary for hearing impaired, speech impaired, or dual sensory impaired persons to access basic telecommunications services.
- (e) That the telecommunications access system ensures that users of the telecommunications relay service system pay rates no greater than the rates paid for functionally equivalent voice communications services.
- (f) That the telecommunications access system be as cost efficient as possible without diminishing the effectiveness or the quality of the system.
- (g) That the telecommunications access system uses state-of-the-art technology for specialized telecommunications devices and the telecommunications relay service and encourages the incorporation of new developments in technology, to the extent that it has demonstrated benefits consistent with the intent of this act and is in the best interest of the citizens of this state.

(h) That the value of the involvement of persons who have hearing or speech impairments, and organizations representing or serving those persons, be recognized and such persons and organizations be involved throughout the development, establishment, and implementation of the telecommunications access system through participation on the advisory committee as provided in s. 427.706.

(i) That the total cost of providing telecommunications relay services and distributing specialized telecommunications devices be spread equitably among and collected from customers of all local exchange telecommunications companies.

**History.**—s. 1, ch. 91-111.

**427.703 Definitions.**—As used in this part:

(1) "Administrator" means a corporation not for profit incorporated pursuant to the provisions of chapter 617 and designated by the Florida Public Service Commission to administer the telecommunications relay service system and the distribution of specialized telecommunications devices pursuant to the provisions of this act and rules and regulations established by the commission.

(2) "Commission" means the Florida Public Service Commission.

(3) "Deaf" means having a permanent hearing impairment and being unable to discriminate speech sounds in verbal communication, with or without the assistance of amplification devices.

(4) "Dual sensory impaired" means having both a permanent hearing impairment and a permanent visual impairment and includes deaf/blindness.

(5) "Hard of hearing" means having a permanent hearing impairment which is severe enough to necessitate the use of amplification devices to discriminate speech sounds in verbal communication.

(6) "Hearing impaired" or "having a hearing impairment" means deaf or hard of hearing and, for purposes of this part, includes being dual sensory impaired.

(7) "Local exchange telecommunications company" means a telecommunications company certificated by the commission to provide telecommunications services within a specific geographic area.

(8) "Operating fund" means the fund established, invested, managed, and maintained by the administrator for the exclusive purpose of implementing and administering the provisions of this act pursuant to commission rules and regulations.

(9) "Ring signaling device" means a mechanism, such as a flashing light, which visually indicates that a communication is being received through a telephone line. This term also means a mechanism such as an adjustable volume ringer and buzzer which audibly and loudly indicates an incoming telephone communication.

(10) "Speech impaired" or "having a speech impairment" means having a permanent loss of verbal communication ability which prohibits normal usage of a standard telephone handset.

(11) "Specialized telecommunications device" means a TDD, a volume control handset, a ring signaling device, or any other customer premises telecommunications equipment specifically designed or used to pro-

vide basic access to telecommunications services for a hearing impaired, speech impaired, or dual sensory impaired person.

(12) "Surcharge" means an additional charge which is to be paid by local exchange telecommunications company subscribers pursuant to the cost recovery mechanism established under s. 427.704(4) in order to implement the system described herein.

(13) "Telecommunications company" includes every corporation, partnership, and person and their lessees, trustees, or receivers appointed by any court whatsoever, and every political subdivision of the state, offering two-way telecommunications service to the public for hire within this state by the use of a telecommunications facility. The term "telecommunications company" does not include an entity which provides a telecommunications facility exclusively to a certificated telecommunications company, or a specialized mobile radio service operator, a private radio carrier, a radio common carrier, a cellular radio telecommunications carrier, or a cable television company providing cable service as defined in 47 U.S.C. 522.

(14) "Telecommunications device for the deaf" or "TDD" means a mechanism which is connected to a standard telephone line, operated by means of a keyboard, and used to transmit or receive signals through telephone lines.

(15) "Telecommunications facility" includes real estate, easements, apparatus, property, and routes used and operated to provide two-way telecommunications service to the public for hire within this state.

(16) "Telecommunications relay service" means any telecommunications transmission service that allows a person who is hearing impaired or speech impaired to communicate by wire or radio in a manner that is functionally equivalent to the ability of a person who is not hearing impaired or speech impaired. Such term includes any service that enables two-way communication between a person who uses a telecommunications device or other nonvoice terminal device and a person who does not use such a device.

(17) "Volume control handset" means a telephone which has an adjustable control for increasing the volume of the sound being produced by the telephone receiving unit or by the telephone transmitting unit.

**History.**—s. 1, ch. 91-111.

**427.704 Powers and duties of the commission.**—

(1) The commission shall establish, implement, promote, and oversee the administration of a statewide telecommunications access system to provide access to telecommunications relay services by persons who are hearing impaired or speech impaired, or others who communicate with them. The telecommunications access system shall provide for the purchase and distribution of specialized telecommunications devices and the establishment of statewide single provider telecommunications relay service system which operates continuously. To provide telecommunications relay services and distribute specialized telecommunication devices to persons who are hearing impaired or speech impaired, at a reasonable cost the commission shall:

(a) Investigate, conduct public hearings, and solicit the advice and counsel of the advisory committee established pursuant to s. 427.706 to determine the most cost-effective method for providing telecommunications relay service and distributing specialized telecommunications devices.

(b) Ensure that users of the telecommunications relay service system pay rates no greater than the rates paid for functionally equivalent voice communication services with respect to such factors as duration of the call, time of day, and distance from the point of origination to the point of termination.

(c) Ensure that the telecommunications access system protects the privacy of persons to whom services are provided and that all operators maintain the confidentiality of all relay service messages.

(d) Ensure that the telecommunications relay service system complies with regulations adopted by the Federal Communications Commission to implement Title IV of the Americans with Disabilities Act.

(2) By July 1, 1991, the commission shall designate as the administrator of the telecommunications access system a corporation not for profit organized for such purposes and incorporated pursuant to chapter 617. For the purposes of this part, the commission may order telecommunications companies to form such a corporation not for profit.

(3)(a) The commission shall select the provider of the telecommunications relay service pursuant to procedures established by the commission. In selecting the service provider, the commission shall take into consideration the cost of providing the relay service and the interests of the hearing impaired and speech impaired community in having access to a high-quality and technologically advanced telecommunications system. The commission shall award the contract to the bidder whose proposal is the most advantageous to the state, taking into consideration the following:

1. The appropriateness and accessibility of the proposed telecommunications relay service for the citizens of the state, including persons who are hearing impaired or speech impaired.

2. The overall quality of the proposed telecommunications relay service.

3. The charges for the proposed telecommunications relay service system.

4. The ability and qualifications of the bidder to provide the proposed telecommunications relay service as outlined in the request for proposals.

5. Any proposed service enhancements and technological enhancements which improve service without significantly increasing cost.

6. Any proposed inclusion of provision of assistance to deaf persons with special needs to access the basic telecommunications system.

7. The ability to meet the proposed commencement date for the telecommunications relay service.

8. All other factors listed in the request for proposals.

(b) The commission shall consider the advice and counsel of the advisory committee in the development of the request for proposals. The request for proposals shall include, but not be limited to:

1. A description of the scope and general requirements of the telecommunications relay service, including the required compliance with regulations adopted by the Federal Communications Commission to implement Title IV of the Americans with Disabilities Act, the required service provisions and service limitations, system design, service provider qualifications, and service description, type of calls to be provided, and charges to the users.

2. A description of the telecommunications relay service system standards.

3. A description of information to be provided by the bidder, including service provider qualifications, cost information, including cost per call and startup costs, a description of the system design, including network access and facilities to be provided, and relay operator standards.

4. A description of service provider reporting requirements.

(c) The commission shall establish a request for a proposals review committee, which shall include commission staff and designated members of the advisory committee, to review the proposals received by the commission and recommend a telecommunications relay service provider to the commission for final selection. By agreeing to serve on the review committee, each member of the review committee shall agree that he or she currently does not have and will not have any interest or employment, either directly or indirectly, with potential bidders that would conflict in any manner or degree with his or her performance on the committee.

(d) To the extent a bidder desires any portion of its proposal to be considered proprietary, confidential business information, the bidder shall make such request concurrent with filing its proposal and justify its request as provided in s. 364.183.

(4)(a) The commission shall establish a mechanism to recover the costs of implementing and maintaining the services required pursuant to this part which shall be applied to each basic telecommunications access line. In establishing the recovery mechanism, the commission shall:

1. Require all local exchange telecommunications companies to impose a monthly surcharge on all local exchange telecommunications company subscribers on an individual access line basis, except that such surcharge shall not be imposed upon more than 25 basic telecommunications access lines per account bill rendered.

2. Require all local exchange telecommunications companies to include the surcharge as a part of the local service charge that appears on the customer's bill, except that the local exchange telecommunications company shall specify the surcharge on the initial bill to the subscriber and itemize it at least once annually.

3. Allow the local exchange telecommunications company to deduct and retain 1 percent of the total surcharge amount collected each month to recover the billing, collecting, remitting, and administrative costs attributed to the surcharge.

(b) The commission shall determine the amount of the surcharge based upon the amount of funding necessary to accomplish the purposes of this act and provide



the services on an ongoing basis; however, in no case shall the amount exceed 25 cents per line per month.

(c) All moneys received by the local exchange telecommunications company, less the amount retained as authorized by subparagraph (4)(a)3., shall be remitted to the administrator for deposit in appropriate financial institutions regulated under state or federal law and used exclusively to fund the telecommunications access system provided for herein.

(d) The surcharge collected by the local exchange telecommunications companies is not subject to any sales, use, franchise, income, municipal utility, gross receipts, or any other tax, fee, or assessment, nor shall it be considered revenue of the local exchange telecommunications companies for any purpose.

(e) From the date of implementing the surcharge, the commission shall review the amount of the surcharge at least annually and shall order changes in the amount of the surcharge as necessary to assure available funds for the provision of the telecommunications access system established herein. Where the review of the surcharge determines that excess funds are available, the commission may order the suspension of the surcharge for a period which the commission deems appropriate.

(5) The commission shall require each local exchange telecommunications company to begin assessing and collecting the surcharge in the amount of 5 cents per access line per month on bills rendered on or after July 1, 1991, for remission to the administrator for deposit in the operational fund. Each local exchange telecommunications company shall remit moneys collected to the administrator. On August 15, 1991, each local exchange telecommunications company shall begin remitting the moneys collected to the administrator on a monthly basis and in a manner as prescribed by the commission. The administrator shall use such moneys to cover costs incurred during the development of the telecommunications relay services and to establish and administer the specialized telecommunications devices system.

(6) The commission shall establish a schedule for completion of specific stages of the telecommunications relay service development and implementation except that the statewide telecommunications relay service shall commence on or before June 1, 1992.

(7) The commission shall require the administrator to submit financial statements for the distribution of specialized telecommunications devices and the telecommunications relay service to the commission quarterly, in the manner prescribed by the commission.

(8) The commission shall adopt rules and may take any other action necessary to implement the provisions of this act.

(9) The commission shall provide to the President of the Senate and to the Speaker of the House of Representatives an annual report on the operation of the telecommunications access system. The first report shall be provided no later than January 1, 1992, and successive reports shall be provided by January 1 of each year thereafter. Reports shall be prepared in consultation with the administrator and the advisory committee. The reports shall, at a minimum, briefly outline the status of

developments of the telecommunications access system, the number of persons served, the call volume, revenues and expenditures, the allocation of the revenues and expenditures between provision of specialized telecommunications devices to individuals and operation of statewide relay service, other major policy or operational issues, and proposals for improvements or changes to the telecommunications access system.

**History.**—s. 1, ch. 91-111.

#### **427.705 Administration of the telecommunications access system.—**

(1) Consistent with the provisions of this act and rules and regulations established by the commission, the administrator shall:

(a) Purchase, store, distribute, and maintain specialized telecommunications devices, either directly or through contract with third parties, or a combination thereof.

(b) Administer advertising and outreach services as required by the commission, either directly or through contract with third parties, or a combination thereof.

(c) Administer training services for recipients of specialized telecommunications devices and for telecommunications relay service users as directed by the commission through contract with third parties.

(d) Establish and maintain an operational fund with appropriate financial institutions regulated under state or federal law, and receive moneys from the local exchange telecommunications companies and deposit such moneys in the operational fund.

(e) Develop, test, and implement an accounting system and internal controls and procedures to receive, safeguard, and disperse moneys in the operational fund as directed by the commission.

(f) Develop and implement procedures for an independent audit and for compliance with commission reporting requirements, as directed by the commission.

(g) Administer and control the award of money to all parties incurring costs in implementing and maintaining the telecommunications access system, equipment, and technical support services in accordance with the provisions of this act.

(2) The administrator shall be audited annually by an independent auditing firm to assure proper management of any revenues it receives and disburses. The administrator's books and records shall be open to the commission and to the Auditor General for review upon request. The commission shall have the authority to establish fiscal and operational requirements for the administrator to follow in order to ensure that the administrative costs of the system are reasonable.

(3) The administrator may apply to the commission for an adjustment in the amount of the monthly surcharge that a local exchange telecommunications company must impose on its customers. Prior to applying to the commission for such an adjustment, the commission may require the administrator to employ an independent accounting firm to perform an audit of the accounts of the administrator and the service providers relevant to the surcharge and file a report with the commission.

(4) In contracting for the provision of distribution of specialized telecommunications devices, outreach ser-

VICES, and training of recipients, the administrator shall consider contracting with organizations that provide services to persons who are hearing impaired or speech impaired.

(5) The administrator shall provide for the distribution of specialized telecommunications devices to persons qualified to receive such equipment in accordance with the provisions of this act. The administrator shall establish procedures for the distribution of specialized telecommunications devices and shall solicit the advice and counsel and consider the recommendations of the advisory committee in establishing such procedures. The procedures shall:

(a) Provide for certification of persons as hearing impaired, speech impaired, or dual sensory impaired. Such certification process shall include a statement attesting to such impairment by a licensed physician, audiologist, speech-language pathologist, hearing aid specialist, or deaf service center director; by a state-certified teacher of the hearing impaired; by a state-certified teacher of the visually impaired; or by an appropriate state or federal agency. The licensed physician, audiologist, speech-language pathologist, hearing aid specialist, state-certified teacher of the hearing impaired, or state-certified teacher of the visually impaired providing statements which attest to such impairments shall work within their individual scopes of practice according to their education and training. The deaf service center directors and appropriate state and federal agencies shall attest to such impairments as provided for in the procedures developed by the administrator.

(b) Establish characteristics and performance standards for specialized telecommunications devices determined to be necessary, and for the selection of equipment to be purchased for distribution to qualified recipients. The characteristics and standards shall be modified as advances in equipment technology render such standards inapplicable.

(c) Provide for the administrator to apply for, contract for, receive, and expend for the purposes of this part any appropriation, grant, gift, or donation from the Federal Government or any other public or private source.

(d) Require the administrator to purchase the equipment required by this part on a competitively bid basis, so that the best value per unit may be obtained on the equipment selected for purchase, unless the equipment is available from only one source, or the total amount of the subject transaction does not exceed \$5,000.

(6) All names, addresses, and telephone numbers provided to the Florida Public Service Commission or administrator by applicants for specialized telecommunications devices are confidential and exempt from the provisions of s. 119.07(1). The information shall be released to contractors only to the extent necessary for assignment and shipment of equipment, for provision of training in the use of equipment, and for inventory reconciliation purposes. Neither the administrator or any contractor shall release this information nor use it for any other purpose. This exemption is subject to the Open Government Sunset Review Act in accordance with 1's. 119.14.

(7) By September 1, 1991, the administrator shall assume responsibility for distribution of specialized telecommunications devices.

(8) The administrator shall submit financial statements to the commission quarterly, in the manner prescribed by the commission.

(9) The administrator shall prepare a report for presentation to the commission no later than November 1, 1991, which shall include a status on the distribution of specialized telecommunications devices and an accounting of any money received and disbursed. Beginning in 1992, the administrator shall prepare a report for presentation to the commission by November 1 of each year through the year 1997. Each report shall describe any services provided and account for any money received and disbursed and shall include predicted future operation until the final report. The final report shall describe telecommunications access system operation and make recommendations for the funding and service level for necessary ongoing services. The commission shall take into consideration the recommendations made by the administrator in preparation of the commission's annual report to the Legislature, and may include in its report recommended changes in the operation or funding of the telecommunications access system to provide for future operation and maintenance of services.

**History.**—s. 1, ch. 91-111; s. 1, ch. 92-2.

**Note.**—

A. Repealed by s. 1, ch. 95-217.

B. Section 4, ch. 95-217, provides that "[n]otwithstanding any provision of law to the contrary, exemptions from chapter 119, Florida Statutes, or chapter 286, Florida Statutes, which are prescribed by law and are specifically made subject to the Open Government Sunset Review Act in accordance with section 119.14, Florida Statutes, are not subject to review under that act, and are not abrogated by the operation of that act, after October 1, 1995."

#### **427.706 Advisory committee.—**

(1) The commission shall appoint an advisory committee to assist the commission with the implementation of the provisions of this part. The committee shall be composed of no more than 10 persons and shall include, to the extent practicable, the following:

(a) Two deaf persons recommended by the Florida Association of the Deaf.

(b) One hearing impaired person recommended by Self-Help for the Hard of Hearing.

(c) One deaf and blind person recommended by the Coalition for Persons with Dual Sensory Disabilities.

(d) One speech impaired person recommended by the Florida Language Speech and Hearing Association.

(e) Two representatives of telecommunications companies, one representing a local exchange telecommunications company and one representing an interexchange telecommunications company, recommended by the Florida Telephone Association.

(f) One person with experience in providing relay services recommended by the Deaf Service Center Association.

(g) One person recommended by the Advocacy Center for Persons with Disabilities, Inc.

(h) One person recommended by the Florida League of Seniors.

(2) The advisory committee shall provide the expertise, experience, and perspective of persons who are hearing impaired or speech impaired to the commission

and to the administrator during all phases of the development and operation of the telecommunications access system. The advisory committee shall advise the commission and the administrator on any matter relating to the quality and cost-effectiveness of the telecommunications relay service and the specialized telecommunications devices distribution system. The advisory committee may submit material for inclusion in the annual report to the President of the Senate and the Speaker of the House of Representatives.

(3) Members of the committee shall not be compensated for their services but shall be entitled to per diem and travel expenses as provided in s. 112.061. The commission shall use funds from the Florida Public Service Regulatory Trust Fund to cover the costs incurred by members of the advisory committee.

**History.**—s. 1, ch. 91-111; s. 45, ch. 94-324; s. 18, ch. 95-327.

**427.707 Exemption from liability.**—Neither the commission, the administrator, the provider of the telecommunications relay service, nor any agent, employee, representative, or officer of the foregoing shall be liable for any claims, actions, damages, or causes of action arising out of or resulting from the establishment, participation in, or operation of the telecommunications relay service, except where there is malicious purpose or wanton and willful disregard of human rights, safety, or property in the establishment, participation in, or operation of the telecommunications relay service.

**History.**—s. 1, ch. 91-111.

**427.708 Certain public safety and health care providers required to purchase and operate TDD's.**—

(1) The central communications office of each county sheriff's department shall purchase and continually operate at least one TDD.

(2)(a) The central communications office of each police department and each firefighting agency in a municipality with a population of 25,000 to 250,000 shall purchase and continually operate at least one TDD.

(b) The central communications office of each police department and each firefighting agency in a municipality with a population exceeding 250,000 persons shall purchase and continually operate at least two TDD's.

(3) Each hospital as defined in s. 395.002 shall purchase and continually operate at least one TDD.

(4) Each emergency telephone number "911" system, as provided in s. 365.171, and each agency receiving automatically routed calls through such a system shall purchase and continually operate at least one TDD.

(5) Each public safety office, health care provider, and emergency telephone number "911" system required to obtain a TDD pursuant to this section shall continuously operate and staff such equipment on a 24-hour basis.

(6) Each office or organization required to purchase TDD's pursuant to this section shall buy such equipment which meets the same specifications as those selected by the commission.

(7) Each office or organization required to operate TDD's pursuant to this section shall utilize equipment in accordance with standards established by the commission.

**History.**—s. 1, ch. 91-111; s. 80, ch. 92-289; s. 46, ch. 94-324; s. 19, ch. 95-327.