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**DATE:** January 7, 2002

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
LOCAL GOVERNMENT & VETERANS AFFAIRS  
ANALYSIS**

**BILL #:** HB 573  
**RELATING TO:** Local Govts./Price Control/ Taxicabs  
**SPONSOR(S):** Representative Brutus

**TIED BILL(S):**

**ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:**

- (1) LOCAL GOVERNMENT & VETERANS AFFAIRS (SGC)
- (2) TRANSPORTATION (RIC)
- (3) COUNCIL FOR SMARTER GOVERNMENT
- (4)
- (5)

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I. SUMMARY:

This bill authorizes, but does not require, local governments to regulate the lease prices charged to Chauffeurs for Licenses by License Owners. It amends current law to authorize local governments to establish mechanisms to prospectively address lease prices. This bill has no fiscal impact on the State, or on local governments. Because it authorizes local governments to regulate the lease prices charged to Chauffeurs for Licenses by License Owners, this bill will have a fiscal impact on the private sector. The impact that this bill has on the private sector cannot be determined at this point.

SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- |                                   |                              |  |   |
|-----------------------------------|------------------------------|--|---|
| 1. <u>Less Government</u>         | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/>            |
| 2. <u>Lower Taxes</u>             | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u>      | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/>            |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u>      | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |

This bill authorizes, but does not require, local governments to regulate the lease prices charged to Chauffeurs for Licenses by License Owners.

B. PRESENT SITUATION:

This is a general bill, and therefore its provisions affect local governments throughout the State of Florida. It authorizes, but does not require, local governments to regulate the lease prices charged to Chauffeurs for Licenses by License Owners. Informal surveys conducted of five large Florida counties (Broward; Duval; Hillsborough; Palm Beach; and Pinellas) indicate that these county governments do not oppose this bill.

Miami-Dade County is the primary focus of this bill. The taxicab industry in Miami-Dade County is comprised of four entities: the Consumer Services Department; taxicab chauffeurs; for-hire license owners; and passenger service companies.

**Consumer Services Department (Department)**

The Consumer Services Department (Department) is an administrative agency whose duties include overseeing and regulating the taxicab industry in Miami-Dade County. The Department's responsibilities include processing, investigating, and enforcing all reports, and alleged violations of the Miami-Dade County Code as it relates to the taxicab industry. The Department provides a system to handle and resolve complaints received from any source concerning the industry, as well as coordinating cooperative enforcement activities with municipalities. Additionally, the Department prepares and implements, in coordination and after consultation with the industry, amendments and modifications to administrative orders establishing fees for the industry.

**Taxicab Chauffeurs (Chauffeurs)**

Taxicab chauffeurs (Chauffeurs) are duly licensed drivers registered with, and authorized by the Department to operate a for-hire passenger motor vehicle.

**For-hire License Owners (License Owners)**

There are approximately between 1,800 and 1,900 for-hire licenses (Licenses) outstanding in Miami-Dade County. An individual must obtain a License before being allowed to operate as a Chauffeur. According to information from the Department, approximately 70% - 80% of these Licenses are not owned by Chauffeurs. Thus, to operate as a Chauffeur, an individual must obtain a License either by purchasing or leasing one from a License Owner. After a License is issued, the Department is statutorily prohibited from controlling the price at which it is resold or leased. According to figures recently compiled by the Department, the average resale price of a License is between \$70,000 and \$90,000. Thus, the majority of Chauffeurs cannot afford to purchase a License, and are forced to lease a License from a License Owner.

### **Passenger Service Companies**

Passenger Service Companies (PSCs) function as “middlemen” between License Owners and Chauffeurs. PSCs put License Owners and Chauffeurs who wish to lease Licenses in touch with each other, and effectuate deals between the parties. Each leasing transaction involves three separate contracts; a contract between the License Owner and the Chauffeur; the License Owner and the PSC; and the PSC and the Chauffeur. These contracts generally specify the duration of the agreement; the compensation paid; and which party is responsible for purchasing insurance and paying administrative fees. According to figures recently compiled by the Department, the average lease price of a License is between \$200 and \$500 per week. Chauffeurs are almost always responsible for obtaining and paying for their car insurance, as insurance is almost never included in a lease agreement.

In addition, PSCs operate as home bases for the Chauffeurs that they are under contract with. PSCs are responsible for the maintenance and advertising of a telephone number for receiving calls related to for-hire taxi services, and providing two-way radio or cellular telephone dispatch services to Chauffeurs. They are also responsible for handling passenger complaints, and maintaining a passenger lost and found. When an individual “calls a cab”, it is a PSC that answers the phone and routes a taxicab to the desired location.

### **A Change in Direction**

The Department’s goal is to move towards a “driver-operator” system, one in which Chauffeurs own the Licenses that they drive on. The rationale behind this is that if Chauffeurs own their Licenses, and are thus self-employed, they will have an incentive to maintain the quality of their work at a high level. Since 1998 the Department has taken numerous steps to make the taxicab industry more equitable for Chauffeurs. Among the changes that have been implemented, the Department has established a procedure by which new Licenses are issued directly to qualified Chauffeurs via a lottery system. Under this policy, beginning January 1, 2001, 25 new Licenses are issued on an annual basis until June 1, 2003, after which the number of new Licenses issued will be determined on the basis of a for-hire vehicle - to population ratio. However, the number of Licenses outstanding shall not exceed one vehicle per each 1,000 inhabitants of Miami-Dade County as determined by the U.S. census, or annual update by the appropriate agency of Miami-Dade County.

Further, the Miami-Dade County Code governing the taxicab industry was amended to provide that Chauffeur’s contracts could be terminated only upon a showing of good cause, or upon giving 30 days prior notice. Before this amendment, Chauffeur’s contracts could be terminated at any time, and without notice. More recently, on November 6, 2001 an ordinance was passed which amended the Code to provide that a Chauffeur must be allowed to make payment to a License Owner or PSC utilizing a medium other than cash, and requiring that the Chauffeur be provided with a written itemized receipt of the transaction. Prior to the passage of this ordinance many License Owners and PSCs would accept only payments in cash, and provided either an inadequate receipt, or no receipt at all.

### **The Current Problem**

Section 125.0103, Florida Statutes, does not permit the imposition of price controls by a local government upon a lawful business activity unless expressly allowed. The lease prices that are charged by License Owners and PSCs for the operation of a taxicab by a Chauffeur fall within the reach of this prohibition. However, section 125.0103(b), Florida Statutes, exempts certain rates from this prohibition, and the rates that Chauffeurs charge to passengers is excluded from this prohibition. Miami-Dade County regulates these rates. Currently, Chauffeurs are prohibited from charging passengers more than \$1.50 for the first ¼mile or less, .25 cents for each 1/8<sup>th</sup> of a mile or less thereafter, and .30 cents per minute for time spent waiting.

According to a memorandum issued by Mr. Steve Shiver, County Manager of Miami-Dade County, Chauffeurs who are not license holders have expressed serious reservations about the prices that they pay to operate a taxicab. Based on data that the Department has collected, the lease prices range between \$200 and \$500 per week. High lease prices have been a source of concern to the Chauffeurs, and are currently claimed as an impediment to their sustenance. The tragic events of September 11, 2001 have compounded this problem according to individuals from the Department, and the Florida Division Service Employees International Union AFL-CIO-CLC Local 74 (Local 74). The economy of Florida is heavily dependent upon tourism, and the taxicab industry is no exception. The dramatic downturn in tourism experienced by the Miami-Dade area has been felt strongly by the Chauffeurs. According to Sal Alladeen, Assistant to the President of the Local 74, it is not uncommon to speak with Chauffeurs who, despite working over 60 hours per week, are unable to make enough money to cover their lease fee at the end of the week. In order to respond to situations such as this, HB 573 is supported by the Department, the Board of County Commissioners of Miami-Dade County (Board), the County Manager of Miami-Dade County, and the Local 74. On October 23, 2001 the Board voted unanimously (10-0, 3 absent) on Resolution number R-1125-01, urging the State Legislature to amend section 125.0103(b), Florida Statutes, to authorize counties to regulate the lease prices charged for the operation of a taxicab. By amending the provisions of this statute, local governments would be in a position to establish mechanisms to prospectively address lease prices.

C. EFFECT OF PROPOSED CHANGES:

This bill authorizes, but does not require, local governments to regulate the lease prices charged to Chauffeurs for Licenses by License Owners. It allows local governments to establish mechanisms to prospectively address lease prices.

D. SECTION-BY-SECTION ANALYSIS:

**Section 1:** Amends subsection 1(b) of section 125.0103, Florida Statutes, to allow local governments to regulate the lease prices charged for the operation of a taxicab pursuant to a duly issued for-hire taxicab license.

**Section 2:** Provides that this act shall take effect upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

If local governments exercise the authority to regulate the lease prices charged for the operation of a taxicab, Lease Owners will no longer have the unrestricted ability to set the amount of lease prices.

D. FISCAL COMMENTS:

This bill authorizes, but does not require, local governments to regulate the lease prices charged to Chauffeurs for Licenses by License Owners.

III. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

None

B. REDUCTION OF REVENUE RAISING AUTHORITY:

None

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

None

IV. COMMENTS:

A. CONSTITUTIONAL ISSUES:

This bill authorizes, but does not require, local governments to regulate the lease prices charged to Chauffeurs for Licenses by License Owners. It may be argued that this regulation will result in an unconstitutional impairment of contracts between License Holders, PSCs, and Chauffeurs. However, neither the U.S. Constitution, nor the Florida Constitution, prohibits a state from enacting legislation with retroactive effects. Laws that impair the obligations of private contracts may be constitutional if they are reasonable and necessary to serve an important public purpose.

The test of whether there has been an unconstitutional impairment of a contract, in violation of the Florida Constitution, Article 1, § 10, or the Constitution of the United States, Article 1, § 10, cl. 1, is essentially the same. *Yellow Cab Co. Of Dade County v. Dade County*, 412 So.2d 395, 397 (Fla. 3d DCA 1982). As adopted by the Florida Supreme Court in *Pomponio v. Claridge of Pompano Condo., Inc.*, 378 So.2d 774 (Fla. 1980), the test requires a court to balance the nature, and extent of impairment, with the importance of the state's objective.

In *Structural Steel Co. v. Spannaus*, 438 U.S. 234 (1978), the U.S. Supreme Court stated the factors to be considered when applying this balancing test:

(a) Was the law enacted to deal with a broad generalized economic or social problem?

(b) Does the law operate in an area which was already subject to state regulation at the time the parties' contractual obligations were originally undertaken, or does it invade an area never before subject to regulation by this state?

(c) Does the law effect a temporary alteration of the contractual relationship of those within its coverage, or does it work a severe, permanent, and immediate change in those relationships – irrevocably **and retroactively**?

*Applying this test to the taxicab industry in Miami-Dade County:*

(a) High lease prices have been a source of concern to the Chauffeurs, and are currently claimed as an impediment to their sustenance. As noted by the Department, and the Local 74, the events of September 11th have compounded this problem, and Chauffeurs are routinely unable to make enough money to cover their lease fee at the end of the week, despite working over 60 hours per week.

(b) The regulation of taxicabs has been held to be a proper subject for the exercise of police power, and the taxicab industry has been the subject of state regulation for many years. *Yellow Cab Co. Of Dade County, 412 So.2d 395 at 397.*

(c) The vast majority of the contracts created between License Holders, PSCs, and Chauffeurs cover periods of approximately 30 days. The Department has stated that its intention is to apply price control regulations prospectively, and likely implement a "phase-in" period to allow all potentially affected entities an adequate opportunity to make adjustments. Neither the United States Constitution, nor the Florida Constitution, prohibits a state from enacting legislation that has a regulatory impact upon contracts that have not yet been created. Therefore, because the existing contracts between License Holders, PSCs, and Chauffeurs are likely to have terminated by the end of the "phase-in" period, the regulations implemented by the Department are not likely to violate the U.S. Constitution, or the Florida Constitution.

B. RULE-MAKING AUTHORITY:

None

C. OTHER COMMENTS:

This bill authorizes, but does not require, local governments to regulate the lease prices charged to Chauffeurs for Licenses by License Owners. By amending the provisions of section 125.0103(b), Florida Statutes, local governments would be in a position to establish mechanisms to prospectively address lease prices. This bill is supported by the Department, the Board, the County Manager of Miami-Dade County, and the Local 74.

A representative of Palm Beach County has stated that the County does not impose a restriction on the number of taxicabs that it licenses. It currently employs an "open market" system, where supply and demand forces regulate the number of taxicabs in the County. In light of this, Palm Beach County has no need for this legislation. However, because the language of this bill is permissive, and does not require a local government to regulate the lease prices charged for Licenses, Palm Beach County does not oppose this bill.

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None

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VI. SIGNATURES:

COMMITTEE ON LOCAL GOVERNMENT & VETERANS AFFAIRS:

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