



**Hillsborough Area Regional Transit Authority**

1201 E. 7th Avenue • Tampa, Florida 33605

(813) 223-6831 • fax (813) 223-7976 • www.goHART.org



## **HILLSBOROUGH TRANSIT AUTHORITY (HART)**

**RULE CHAPTER TITLE:** Sections 220.02, 220.03, 310.01, 320.01 of HART Board Policies

**PURPOSE AND EFFECT:** The purpose of this rule development is to repeal the mandatory rulemaking requirement and adopt alternate rule and HART Board of Directors policy development provisions

**SUBJECT AREAS TO BE ADDRESSED:**

Advanced Notice of Rulemaking Proceedings; Notice of Rulemaking Proceedings; Public Hearings; General Rulemaking Provisions; Rulemaking Procedures, and Conduct of Meetings

**SPECIFIC AUTHORITY:** Sections 120.52, 120.54, and 163.568, Fla. Stat.

**LAW IMPLEMENTED:** Chapter 163, Part V, Fla. Stat.

**TIME AND DATE:** 9:00 a.m., DECEMBER 19, 2011

**PLACE:** HART ADMINISTRATIVE OFFICES  
1201 E. 7<sup>TH</sup> AVENUE, 3<sup>RD</sup> FLOOR  
FLORIDA CONFERENCE ROOM  
TAMPA, FL 33605

### **Agenda**

1. Call to Order ~ *R Govin; Chair of Finance, Governance and Administration Committee*
2. Introduction of the Subject Areas ~ *Charles "Chip" Fletcher, HART General Counsel*
3. Public Comment
4. Adjournment

## ATTACHMENT I

### ~~200: PUBLIC ACCESS AND INFORMATION~~

### ~~220: NOTICE~~

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#### ~~220.02 ADVANCE NOTICE OF RULEMAKING PROCEEDINGS~~

~~Any person may file a written request with HART to be given advance notice of HART proceedings to adopt, amend, or repeal a rule, as provided in Section 120.54(3)(a)3, F.S. The written request may specify that advance notice be requested of all HART rulemaking proceedings, or of only those HART rulemaking proceedings involving specific subjects. HART will provide advance notice to those persons requesting said notice and to any particular class of persons to whom the intended action is directed as prescribed by rule. Said notice shall be by mail or by any method such as hand delivery, facsimile or e-mail which HART determines to be equivalent or better than mail.~~

~~Specific Authority: 120.52(1)(b); 163.568(2)(f) F.S.~~

~~Law Implemented: 120.53(1)(a); 120.54(3)(a)3. F.S.~~

~~PROPOSED EFFECTIVE DATE: 09/22/08~~

ATTACHMENT I

**200: PUBLIC ACCESS AND INFORMATION**

**220: NOTICE OF RULEMAKING**

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**220.0302 NOTICE OF RULEMAKING PROCEEDINGS; PUBLIC HEARINGS**

~~(1)(6)~~ Whenever HART engages in rulemaking proceedings seeks to draft, amend or repeal a rule as defined in Section 120.52(16), F.S., HART may hold a public hearing for the purpose of providing affected persons and other members of the public a reasonable opportunity to present evidence, arguments, and oral statements, within reasonable conditions and limitations imposed by HART to avoid duplication, irrelevant comments, unnecessary delay, or disruption of the proceeding.

~~(2)(7)~~ The notice of intent to adopt, amend, or repeal a rule may provide that a public hearing will be held.

~~(3)(8)~~ A request for a public hearing, pursuant to Section 120.54(3)(c)1., F.S., shall be in writing and shall specify how the person requesting the public hearing would be affected by the proposed rule. The request shall be submitted to HART within twenty-one (21) days after notice of intent to adopt, amend, or repeal the rule is published as required by law, in accordance with the procedure for submitting requests for public hearing stated in the notice of intent to adopt, amend, or repeal a rule.

~~(4)(9)~~ HART shall conduct a public hearing if the proposed rule:

- (a) does not relate exclusively to practice or procedure; and
- (b) if an affected person timely submits a written request.

~~(5)(10)~~ If the notice of intent to adopt, amend, or repeal a rule did not notice a public hearing and HART determines to hold a public hearing, HART shall publish notice of a public hearing in the same manner as is required for publication of a notice of rulemaking at least seven (7) days

ATTACHMENT I

before the scheduled public hearing. The notice shall specify the date, time, and location of the public hearing, and the name, address, and telephone number of HART contact person who can provide information about the public hearing.

(11) HART will generally follow the Florida Administration Commission model rules for rulemaking as set forth in Chapter 28, Florida Administrative Code.

*Specific Authority:* 120.52(1)(b); 163.568(2)(k) F.S.

*Law Implemented:* 120.54 F.S.

*EFFECTIVE DATE FOR REVISION:* 09/22/08

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## ATTACHMENT I

### ~~300: RULEMAKING PROCEEDINGS~~

### ~~310: GENERAL PROVISIONS~~

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#### ~~310.01 GENERAL RULEMAKING PROVISIONS~~

~~(1)The Hillsborough Transit Authority, an agency of the State of Florida, was established by authorization of Chapter 163, Florida Statutes, for the purpose of planning, financing, acquiring, constructing, operating, and maintaining mass transit facilities, together with such supplementary transportation assistance as may be necessary or advisable to service the mass transit needs of its members and of such areas with which HART may contract for service.~~

~~(2)All powers and duties of HART shall be consistent with the Amendment and Restatement of the Charter of the Hillsborough Transit Authority dated January 21, 1980 and attached to this Chapter 300 as Exhibit A, Part V, Chapter 163, Florida Statutes and other applicable provisions of federal and state law and regulations that either govern or are adopted by HART.~~

~~(3)The establishment and adoption of policy shall be the responsibility of HART's Board of Directors and the execution of that policy shall be the responsibility of the CEO, under the direction of the Board.~~

~~(4)HART will generally follow the provisions of the model rules for rulemaking proceedings as set forth in Chapter 28, Florida Administrative Code and incorporated by reference herein.~~

~~Specific Authority: 120.52(1)(b); 163.568(2)(k) F.S.~~

~~Law Implemented: 120.53(1)(a) F.S. ; Chapter 28, Florida Administrative Code~~

~~EFFECTIVE DATE FOR REVISION: 09/22/08~~

ATTACHMENT I

**300: RULEMAKING PROCEEDINGS BOARD PROCEDURES**

**320310: PROCEDURE CONDUCT OF MEETINGS**

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**320310.01 RULEMAKING PROCEDURE CONDUCT OF MEETINGS**

- (1) All official action of HART shall be by or at the direction of, the Board.
- (2) A vacancy on the Board shall not impair its right to exercise all of its powers or perform all its duties.
- (3) A majority of the directors serving on the Board at the time shall constitute a quorum.
- (4) Official action may only be conducted at meetings of the Board, and official action may only be taken where there is a quorum of directors present at such meeting.
- (5) The Board shall act by motion or resolution.
- (6) All Resolutions shall be in writing prior to the vote taken thereon, except in those circumstances where the Chair determines that a prior written resolution is not practical.
- (7) All motions duly adopted by the Board and recorded upon the minutes of the meeting shall be deemed and taken to have the same force and effect as resolutions, except that a resolution shall be necessary where execution of the following documents is necessary on behalf of HART:
  - (a) Contract;
  - (b) Federal grant application or any document in connection with a federal grant;
  - (c) Approval of a budget;
  - (d) Employment of attorneys, engineers, consultants or other agents to carry out the duties and powers of HART; and
  - (e) Any other matter which shall require a resolution as determined by the Chair.

ATTACHMENT I

- (8) All motions and resolutions shall be confined to one subject matter, and in the case of resolutions, that subject matter shall be briefly expressed in the title.
- (9) The numerical ayes and noes taken upon the passage of all resolutions and motions shall be recorded in the minutes of the proceedings of the Board.
- (10) The roll shall be called by the Secretary upon any question wherever demanded by the Chair or two members of the Board, and the Secretary shall record the vote of each member taken upon such roll call.
- (11) The rules set forth in this section may be amended at any time by a majority vote of the Board members present at any regular or special meeting of the Board.
- (12) Any of the rules in this section may be temporarily suspended for a meeting then in session by a unanimous vote of the Board members present at the meeting.
- (13) Roberts Rules of Order, Newly Revised, shall govern the proceedings of the Board of HART in all cases not specifically addressed herein.

*Specific Authority:* 120.52(1)(b); 163.568(2)(k) F.S.

*Law Implemented:* 163.567; 163.568(2) F.S.

*EFFECTIVE DATE FOR REVISION:* 09/22/08 \_\_\_\_\_

## ATTACHMENT I

### 300: BOARD PROCEDURES

### 320: AMENDMENT OF POLICIES

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#### 320.01 PROCEDURE FOR AMENDMENT OF POLICIES

(1) The Board of Directors may from time to time amend these Policies. The amendment process shall be initiated by an affirmative vote of the Board of Directors. Upon affirmative vote of the Board of Directors, the Clerk shall establish an amendment development, review and adoption schedule based on the following procedural requirements.

(2) Written proposed amendment(s) of the Board Policy shall be placed on the agenda for the next regular board meeting, or such other meeting of the Board as the Board deems appropriate. The Board may elect to assign development and review of the proposed policy amendment(s) to one or more standing or ad hoc committees.

(3) After consideration of the written proposed amendment(s) by the Board, the Board may set the proposed amendment(s) for final adoption at the next regular board meeting, or such other meeting of the Board as the Board deems appropriate. The Board may also direct revisions to the proposed amendment or additional committee review of the proposed amendment(s) prior to the final adoption Board meeting.

(4) If it is determined that the proposed policy amendment(s) is a rule as defined in Section 120.52, Florida Statutes, the rule adoption procedure in Policy 220.03 shall be followed. Notice shall be made as provided in Policy 220.03 as soon a practical after the amendment process is initiated pursuant to paragraph (1) herein. The public hearing referenced in Policy 220.03 shall

ATTACHMENT I

be the Board meeting where the proposed policy amendment(s) is considered by the Board for final adoption.

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## HART BOARD OF DIRECTORS

### Interim Whistleblower Complaint Review Procedures

1. The Board of Directors has established the following procedures to receive, retain, investigate and act on complaints, reports, and disclosure of employees and others regarding material violations of law, improper use of governmental funds, and any other abuse or gross neglect on the part of HART, its public officers or its employees as defined by the Florida Whistleblower Act (Florida Statutes Sections 112.3187 – 112.31895), as provided in Board Policy Section 410.06 (“Whistleblower Policy”).

#### Receiving Reports:

2. The Board Secretary shall receive any and all complaints and reports of violations involving the CEO or Board Members, and complaints or reports involving any employee where a conflict exists with the CEO or CEO’s designee. If the Secretary is a subject of the allegations or otherwise has a conflict, then the Chair shall receive the report and assume all duties of the Secretary.

#### Reporting Information:

3. Reports can be made in writing to the Secretary of the Board via email to the address on the HART website. The Secretary shall designate a confidential email address and contact number on the HART website at all times. The Secretary shall provide a copy of any and all reports to the Board Chair. If the Chair is a subject of the allegations or otherwise has a conflict then a copy of the report shall be provided to the Vice Chair.

#### Notice of Complaint:

4. The Secretary shall notify the Board Members that a complaint was received and whether the report implicates a Board member, CEO, or other HART employees.

#### Initial Determination and Review:

5. The General Counsel shall determine if it complaint or report is legally sufficient to proceed with an investigation by the Board under the Whistleblower Policy.
6. If it is determined that the complaint or report is not legally sufficient or can be appropriately handled pursuant to the whistleblower policy by HART staff, the Secretary shall transmit the complaint or report to the CEO. No further action by the Secretary or the Board is necessary or appropriate.
7. If it is determined that the complaint or report is legally sufficient and may require investigation or other action of the HART Board, the Secretary shall request the HART Clerk and Board Chair

to set a Special meeting of the Board. The Special Board Meeting shall review the complaint and consider whether the employee or officer shall be placed administrative on leave pending the investigation. In addition, the Board may consider approval of an interim CEO or other action as appropriate and necessary.

**Retention of Independent Firm:**

8. If it is determined that the complaint or report is legally sufficient and may require action of the HART Board, the Secretary is authorized to retain an independent qualified firm to investigate the complaint on behalf of the Board. The Secretary, upon advice of the General Counsel, shall obtain quotes from three qualified firms and interview those firms consistent with the Board policies. The Secretary shall select, with concurrence by the General Counsel, a qualified firm for recommendation to the Board. The firm contract shall be approved by the Board. The Secretary shall coordinate directly with HART's finance/procurement Department to assist with contracting services of the firm and payment.
9. The Secretary shall instruct the firm to promptly investigate the complaint or report of wrongdoing and to provide a written report and/or recommendation to the Secretary. The Secretary shall provide a copy to the Chair. The Secretary shall provide the firm's conclusion and recommendation to the Board of Directors or summary where necessary.

**Presentation and Report to Board.**

10. The Secretary shall request the clerk to set a Special Board meeting to review the report, present a presentation and allow questions of the investigating firm.

**Board Action Required:**

11. The Board shall make a determination of the appropriate action, if any, to take on the complaint or report.