Agenda

LOCAL GOVERNMENT EFFICIENCY TASK FORCE

Meeting 03
February 22, 2021
Zoom Webinar

I.	**Call to order**	Chair
II.	**Roll call**	Administrative Assistant
III.	**Task force member questions on local government efficiency issues and recommended solutions provided to the task force**	Chair, Members Tiffany Henderson, Senior Public Policy Coordinator, Florida Association of Counties Rebecca O'Hara, Deputy General Counsel, Florida League of Cities, Inc. Chris Lyon, Lewis, Longman & Walker, Florida Association of Special Districts
IV.	**Presentation and consideration of potential task force initiatives**	Chair, Members OPPAGA staff
V.	**Task force next steps**	Chair, Members
VI.	**Other business**	Chair and Members
VII.	**Public comment**	Open to public
VIII.	**Closing remarks**	Chair

FLORIDA ASSOCIATION OF COUNTIES
All About Florida

Date: February 11, 2021

To: Chair Whitmore, Vice Chair Caldwell, and Members of the Local Government Efficiency Task Force

From: The Florida Association of Counties

RE: Local Government Efficiency – Recommendations/Solutions

Per the request of the task force we have listed possible recommendations to the efficiency issues we outlined during the task force meeting on Wednesday, January 20, 2021.

Efficiency Issues & Recommendations/Solutions

Issue: Unfunded mandates that require counties to take on additional administrative and policy responsibilities, which change the structure in how counties operate and do business.

Preemptions continue to be an area that plagues the efficiency of local government. The state legislature has passed a complete preemption on the regulation of firearms and ammunition, additional restrictions on smoking, use of plastic bags/styrofoam by retail establishments, tree trimming, beach access, autonomous vehicles, small cell bill and scooters.

Recommendation: *The Florida Association of Counties guiding principles states the association opposes any state or federal unfunded mandates and preemptions that ultimately limit the ability of local elected officials to make fiscal and public policy decisions for the citizens to whom they are accountable. We recommend that these statutes be evaluated.*

The Florida Association of County Attorneys developed a white paper addressing unfunded mandates including:

- Public Records and Open Meetings – Chapters 119 and 286
- Ordinance Adoption – Section 125.66
- Other Notice Certain procurements – Chapter 50
- Ethics - Chapter 112
    - Ethics training - Section 112.3142(2)(a)

FACA Unfunded Mandates Whitepaper, November 2016 (attached)

FACA Unfunded Mandates Quick Reference Guide, November 2016 (attached)

The following list are areas over which the Legislature has preempted counties from acting. Note, in some cases preemption is complete. In other cases, it is partial.

- Regulation of smoking – Section 386.209
- Testing of cigarettes for flammability – Section 633.142(11)
- Cultivation and processing of medical cannabis by dispensing organizations – Section 381.986(8)
- Mobile home park landlord-tenant issues – Section 723.004(2)
- Sanitary standards in mobile home parks and R.V. parks – Section 513.051
- Environmental control definitions – Section 403.7031
- Regulation and certification of electrical power plants – Section 403.510(2)
- Certification of electrical transmission lines – Section 403.536(2)

State Preemption of County Regulatory Authority (attached)
Preemption of County Authority in Florida (attached)

Issue: Local government plays a vital role in economic development and the business community. Businesses should not be forced to navigate the state legislative process for minor matters that are easily addressed at the local level. This is particularly problematic for small businesses, which may lack the resources to pursue matters legislatively. Local governments are the most accessible venue to resolve business concerns because most familiar with their communities.

Recommendation: *We recommend that local governments continue to be the leaders and decision makers in the planning and implementation of economic development initiatives in their communities as well as seeking opportunities through state agencies such as Enterprise Florida and the Department of Economic Opportunity.*

The National Association of Counties (NACo) highlighted Hillsborough County economic development initiatives in the Strong Economies, Resilient Counties: The Role of Counties in Economic Development. Hillsborough County economic development initiatives include:

- Manufacturing Academy and Apprenticeship/Internship Program (MAAIP) a two-year program to promote manufacturing as a career not only for students, but also the current workforce in the county, especially veterans, women, minorities and underserved communities. Funded by Hillsborough County and administered by the County Economic Development Department.
- Competitive Sites Program which aims to provide immediate information on development opportunities, regulatory assistance and strategic public sector investments.

- The Economic Development Innovation Initiative (EDI2) is a comprehensive program to help the growth of technology and innovative start-ups and small businesses within the county.

NACo Strong Economies, Resilient Counties: The Role of Counties in Economic Development Report (Hillsborough County attached)

Issue: Working with other local government entities forming interlocal agreements for shared services that offer efficiencies and potential cost savings. The shared services model will become ever more important as local governments navigate the effects of the Coronavirus pandemic.

Recommendation: *We recommend that the task force strongly encourage interlocal agreements and shared services whenever feasible. Examples of county government shared services include affordable housing, animal control, court services, economic development, infrastructure maintenance and jails.*

A County Manager's Guide to Shared Services in Local Government (attached)

Issue: Reporting required by the state that do not lead to actionable items or changes yet requires staff time and resources to develop and submit.

Recommendation*: We recommend the state implement a sunset review of required reporting. The state should do an inventory of reporting and analyze how it is being utilized and whether or not the reporting is leading to actionable items or changes.*

We surveyed county managers regarding reporting required by the state and the list of reports we received are attached.

If the task force needs specific information, please let us know and we can reach out to the counties that responded to obtain more details. Again, thank you for allowing us to provide information on local government efficiency and we look forward to working with you throughout this process.

MANDATES ON COUNTIES IN FLORIDA

FLORIDA ASSOCIATION OF COUNTIES[i]
AND FLORIDA ASSOCIATION OF COUNTY ATTORNEYS[ii]
NOVEMBER 2016

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I. INTRODUCTION

State and federal mandates are proclamations of law – pursuant to a constitutional or statutory provision, or an administrative regulation – which require a local government to carry out a specified activity, service, or program or otherwise expend money in a dictated way.[1] In a fiscal sense, a mandate is the "difference between what a local government spends on a legally mandated activity and what the government would spend on the same activity [or lack thereof] in the absence of that mandate."[2] In the last quarter of the 20th century, there was an influx of federal mandates placed on state governments in order to maintain social policy control while cutting federal spending. These fiscal responsibilities required by federal law led to states enacting their own cost-shifting legislation onto local governments. Florida is no exception to this trickle-down trend.[3]

In the 1980's alone, Florida's legislature enacted approximately 300 mandates requiring local governments' compliance.[4] Counties and municipalities were forced to spend millions of dollars to comply with these mandates, often addressing problems from which they did not themselves suffer. Moreover, many of these mandates were completely unfunded by the state.[5] In response to the surge of mandates, the Florida Legislature proposed an amendment to the state's constitution which would restrict mandates in 1990.[6] Although this amendment (known as the "Unfunded Mandates" provision) was considered a win amongst many local government officials, there were, many exemptions and exclusions that allow for the continuance of cost-shifting legislation by the state. Even after the Unfunded Mandates provision, counties remain particularly susceptible to mandate legislation, as compared to cities, due to their closer connection to the state.

Florida's counties rely on ad valorem taxes, service charges, state-shared revenue, utility service taxes, and other lesser revenue sources in order to comply with the numerous mandates handed down to them by the state (and somewhat by the federal government) and to fund their own local needs. It can be challenging to accurately measure the costs of these mandates for many reasons. Data on the costs of mandates may not always be reliable. Many officials have different definitions of what qualifies as a mandate, and there are countless indirect costs associated with mandates.[7] This report aims to flesh out the myriad of mandates which require Florida's counties to fund the different responsibilities rendered to them by the state. Only express, specific constitutional or statutory mandates on counties are included in this report

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[1] Joseph F. Zimmerman, *The State Mandate Problem*, 19 STATE & LOCAL GOV. REV. 2, at 78 (1987).

[2] *Id*.

[3] Nancy Perkins Spyke, *Florida's Constitutional Mandate Restrictions*, 18 NOVA L. REV. 1403, 1404 (1994).

[4] *Id*.

[5] J. Edwin Benton, *Fiscal Aid and Mandates the County Experience* (providing that sixty-five percent of state mandates were paid for in whole or partially by counties, while only twenty-seven percent of federal mandates were such).

[6] Fla. Const., art. VII, § 18.

[7] Benton, *supra* note 5.

II. HISTORICAL OVERVIEW OF COUNTY HOME RULE AND THE UNFUNDED MANDATES PROVISION

The 1885 Florida Constitution included a rather glossed over approach to governing counties than the State Constitution of today. Similar to the current constitution, the 1885 version provided the guidelines for local government in Article VIII. However, the provisions mainly focused on the establishment of counties and appointment of commissioners and other county officers, thus speaking relatively little to the authority of counties and other forms of local government. The major revisions of Florida's Constitution took place in 1968, which added a majority of the language seen today.

A. Home Rule Powers

Prior to this 1968 constitutional revision, Florida's counties could only exercise the powers granted by the legislature. However, due to the public's expectations for local governments to resolve the matters particular to their area, a national movement developed favoring the broadening of powers for county and municipal governments.[8] The reallocation of power into counties that occurred with the 1968 Constitution gave counties the ability to enforce rules on matters of local concern and gave local decision-makers the tools to meet the demands of their people.[9] While the State furnished counties with many of the powers it once held exclusively, the counties did not develop complete independence.

Chapter 125 of the Florida Statutes prescribes the general powers of counties. "These powers illustrate the many functions in which counties are involved, including fire protection, health and welfare services, zoning and business regulations, air pollution control, parks and recreation, libraries, museums, waste and sewage regulation and control, and public transportation."[10] A critical focal point to this report involves the concept that Chapter 125 gives the power for counties to act in these many different forms—it does not, however, demand that counties provide such services.

B. The Unfunded Mandates Provision

The 1990 Unfunded Mandates provision was one of the most popular amendments to the Florida Constitution ever adopted. In total, over two million electors voted for the amendment sponsored by the Florida Legislature.[11] The amendment contains five subsections pertaining to mandate restrictions: (a) provides that there must be certain conditions met in order to for counties and municipalities to fund the mandated requirement; (b) prohibits altering the local

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[8] FAC, FLORIDA COUNTY GOVERNMENT GUIDE 25 (2012).

[9] *Id.*

[10] *Id.* at 26.

[11] Laws Affecting Local Governmental Expenditures or Ability to Raise Revenue or Receive State Tax Revenue, Florida Dep't of State Div. of Elections, *available at* http://election.dos.state.fl.us/initiatives/initdetail.asp?account=10&seqnum=57 (recognizing 2,031,557 as voting for the constitutional amendment, as opposed to only 1,140,745 voting against it).

government's revenue power without super majority vote; (c) prohibits minimizing the state tax shared with local governments without super majority vote; (d) provides that laws funding pension benefits, criminal laws, election laws, the general appropriations act, special appropriations act, laws authorizing but not expanding statutory authority, are exempt; and (e) provides a catch-all that if a law has an "insignificant fiscal impact" it is exempt from the mandate restrictions.

III. The Obligations and Uncertainty behind Mandates Delegated to County Governments

The Florida Constitution is the organic source of what is required of counties; however the Florida Statutes, Attorney General Opinions, and case law also provide crucial references in identifying county mandated responsibilities. Chapter 125 of the Florida Statutes provides the powers and duties that county governments have the authority to provide. This comprehensive list does not mean that counties must provide such services, just that they have the ability to do so.

A. County Operations

i. Public Records and Open Meetings

The Florida Constitution entitles every person to access public records and meetings in connection with the official business of any "public body, officer, or employee of the state, or persons acting on their behalf."[12]

The "Government in the Sunshine Law" obligates public boards or commissions (e.g. Board of County Commissioners) to open their meetings to the public, to provide reasonable notice of such meetings, and to provide minutes of such meetings.[13] The notice requirement is somewhat broadly defined as "any procedure that is fair under the circumstances and necessary to protect the public interest."[14] Moreover, a new additional feature to this "open meetings" mandate is the requirement for members of the public to be given the opportunity to be heard before a board or commission.[15]

Public records encompass a wide-ranging amount of materials,[16] but as long as the record is "made or received by an agency in connection with official business,

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[12] Fla. Const. art., I, § 24.

[13] Fla. Stat. § 286.011 (2013) ("All meetings of any board or commission of any state agency or authority . . . are declared to be public meetings open to the public at all times.").

[14] Fla. Stat. § 120.525(3) (2013). Currently, the notice is not required to contain an agenda with every issue that will be discussed, *Grapski v. City of Alachua*, 31 So.3d 193 (2010), but is required to inform the public where and when the meeting will be openly held, *Lyon v. Lake Cnty*., 765 So.2d 785 (2000).

[15] Fla. Stat. § 286.0114 (2013) ("Members of the public shall be given a reasonable opportunity to be heard on a proposition before a board or commission.").

[16] Fla. Stat. § 119.011(12) (2013) ("'Public records' means all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.").

and is used to perpetuate, communicate or formalize knowledge of some type" the public has the right to inspect or copy it.[17]

ii. Ordinance Adoption Requirements

Counties have the power to enact ordinances to the extent authorized by the Florida Constitution.[18] However, these ordinance-making powers are restricted by mandated procedures which require: notice,[19] official copy kept available to the public, a place for the public to view the copy of the ordinance, and opportunity for interested parties to be heard with respect to the proposed enactment or amendment of the ordinance.[20] Ordinance adoption procedures for land use ordinances are spelled out in the statute. Other ordinance requirements: Sec. 125.67 provides requirements for ordinances and ordinance amendments and includes:

> The enacting clause of every ordinance shall read: "*Be it Ordained by the Board of County Commissioners of* _____ *County*"

iii. Other Notice Requirements

Besides enacting or amending county ordinances, there are many other county actions which mandated with notice and advertising procedures. Chapter 50 of the Florida Statutes contains the extensive practice and procedure guidelines which a county must use when notifying the public of certain solicitations for products and services. In general, any statutorily required legal notice, advertisement, or publication must be published in a newspaper: that has been in existence for at least one year,[21] printed and published weekly or more often, contains at least one-quarter of its words in English, and is for sale to the general public.[22]

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[17] Shevin v. Byron, Harless, Schaffer, Reid and Associates, Inc., 379 So 2d 633 (Fla. 1980); Fla. Stat. § 119.01(1) (2013) ("It is the policy of this state that all state, county, and municipal records are open for personal inspection and copying by any person.").

[18] Fla. Const. art. VIII, § 1.

[19] Notice must be published in a newspaper serving said county. *See infra* Part.III.A.iii (discussing the several requirements when posting a notice within a newspaper is necessary).

[20] Fla. Stat. § 126.65(2)(a) (2013) ("The regular enactment procedure shall be as follows: The board of county commissioners at any regular or special meeting may enact or amend any ordinance, . . . A copy of such notice shall be kept available for public inspection during the regular business hours of the office of the clerk of the board of county commissioners. The notice of proposed enactment shall state the date, time, and place of the meeting; the title or titles of proposed ordinances; and the place or places within the county where such proposed ordinances may be inspected by the public. The notice shall also advise that interested parties may appear at the meeting and be heard with respect to the proposed ordinance.").

[21] Fla. Stat. § 50.031 (2013) (requiring publication to be "in a newspaper which at the time of such publication shall have been in existence for 1 year and shall have been entered as periodicals matter at a post office in the county where published").

[22] Fla. Stat. § 50.011 (2013) ("Whenever by statute an official or legal advertisement or a publication, or notice in a newspaper has been or is directed or permitted in the nature of or in lieu of process, or for constructive service, or in initiating, assuming, reviewing, exercising or enforcing jurisdiction or power, or for any purpose, including all legal notices and advertisements of sheriffs and tax collectors, the contemporaneous and continuous intent and meaning of such legislation all and singular, existing or repealed, is and has been and is hereby declared to be and to have been, and the rule of interpretation is and has been, a publication in a

iv. Ethics

Besides the notice and public meeting requirements, county commissioners and constitutional officers are also mandated to complete ethics training annually that addresses the Code of Ethics for Public Officers and Employees and Florida's public records and public meetings laws.[23]

v. Budget System

Counties are required to "prepare, approve, adopt, and execute" a budget every fiscal year.[24] The budget must be approved by the board of county commissioners and must be balanced so that the receipts match the appropriations and reserves.[25] After the constitutional officers have provided proposed budgets to the board of county commissioners and the board then forms a tentative budget, the budget is then subject to notice and hearing requirements.[26] The board of county commissioners is required to prepare a summarized statement of the adopted tentative budgets (with different requirements therein) and advertise the summary through a newspaper in order to allow people to participate in public hearings when adopting final budgets.[27] Amendments to the final adopted budgets are also mandated to comply with their own notice and public hearing requirements.[28]

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newspaper printed and published periodically once a week or oftener, containing at least 25 percent of its words in the English language, entered or qualified to be admitted and entered as periodicals matter at a post office in the county where published, for sale to the public generally, available to the public generally for the publication of official or other notices and customarily containing information of a public character or of interest or of value to the residents or owners of property in the county where published, or of interest or of value to the general public.").

[23] Fla. Stat. § 112.3142(2)(a) (2013) ("All constitutional officers must complete 4 hours of ethics training annually that addresses, at a minimum, s. 8, Art. II of the State Constitution, the Code of Ethics for Public Officers and Employees, and the public records and public meetings laws of this state. This requirement may be satisfied by completion of a continuing legal education class or other continuing professional education class, seminar, or presentation if the required subjects are covered."); Fla. Stat. § 112.3142(1) (2013) (defining "constitutional officer" to include: "the Governor, the Lieutenant Governor, the Attorney General, the Chief Financial Officer, the Commissioner of Agriculture, state attorneys, public defenders, sheriffs, tax collectors, property appraisers, supervisors of elections, clerks of the circuit court, county commissioners, district school board members, and superintendents of schools").

[24] Fla. Stat. § 129.01(1) (2013).

[25] Fla. Stat. § 129.01(2) (2013) ("The budget must be balanced, so that the total of the estimated receipts available from taxation and other sources, including balances brought forward from prior fiscal years, equals the total of appropriations for expenditures and reserves.").

[26] Fla. Stat. § 129.03 (2013) ("The board of county commissioners shall receive and examine the tentative budget for each fund and, subject to the notice and hearing requirements . . .").

[27] Id. ("Upon receipt of the tentative budgets and completion of any revisions, the board shall prepare a statement summarizing all of the adopted tentative budgets. The summary statement must show, for each budget and the total of all budgets, the proposed tax millages, balances, reserves, and the total of each major classification of receipts and expenditures, classified according to the uniform classification of accounts adopted by the appropriate state agency. The board shall cause this summary statement to be advertised one time in a newspaper of general circulation published in the county, or by posting at the courthouse door if there is no such newspaper . . .").

[28] *See* Fla. Stat. § 129.06 (2013) (requiring the different notice and public meeting requirements pertaining to amendments of the county budget, including: advertisements in newspaper and posting to the county's official website).

vi. Contract Procedures and Bidding Requirements

There is no general mandate which requires Florida's counties to competitively bid or award the lowest bidder, however, the "strong public policy of the state requires" that "expenditures of public funds must be made on competitive bids whenever possible."[29] Moreover, there are several statutory provisions that require counties to participate in competitive bidding. When a contract or purchase is subject to competitive bidding, counties must publish a notice soliciting submission of bids and then the county must award the contract to the lowest or "best" bidder.[30] For example, the Consultants' Competitive Negotiation Act (CCNA) requires counties to fulfill a three-step process – including public announcement, competitive selection, and negotiation between multiple parties – in order for the county to contract professional services of an architect, engineer, landscape architect, surveyor, or design-builder.[31]

Further, beyond each county's responsibilities towards the bidders, the "Public Bid Disclosure Act" requires counties and other local governmental entities to disclose all permits or fees (including license, permit, impact, and inspection fees) in the bidding documents.[32]

vii. Florida Retirement System

"Participation in the Florida Retirement System is compulsory for all officers and employees" throughout Florida, including county officers and employees.[33]

B. County Buildings

i. Supervision and Control of County Property

Counties have the primary responsibility for the supervision and control of all county property not delegated to another "custodian."[34] This responsibility is ultimately vested in the board of county commissioners, and the property purchased by the board or by the county officers must comply with the board's instructions.[35]

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[29] 66-9 Fla. Op. Att'y Gen. (1966).

[30] *See* Marriott Corp. v. Metropolitan Dade Cnty., 383 So.2d 662 (1980) (holding that the county was obligated to follow competitive bidding standards requiring award to be made to lowest or best bidder and that the board of county commissioners may not simply approve a local biddee).

[31] See general Fla. Stat. §287.055 (2013).

[32] Fla. Stat. § 218.80 (2013) ("It is the intent of the Legislature that a local governmental entity shall disclose all of the local governmental entity's permits or fees, including, but not limited to, all license fees, permit fees, impact fees, or inspection fees, payable by the contractor to the unit of government that issued the bidding documents or other request for proposal, unless such permits or fees are disclosed in the bidding documents or other request for proposal for the project at the time the project was let for bid. It is further the intent of the Legislature to prohibit local governments from halting construction to collect any undisclosed permits or fees which were not disclosed or included in the bidding documents or other request for proposal for the project at the time the project was let for bid.").

[33] Fla. Stat. § 121.051 (2013)

[34] Fla. Stat. § 274.03 (2013) ("A governmental unit shall be primarily responsible for the supervision and control of its property but may delegate to a custodian its use and immediate control and may require custody receipts.").

[35] 60-18 Fla. Op. Att'y Gen. (1960).

Moreover, counties are given the power to "provide and maintain county buildings" – which although this is just an authority bestowed, seems to suggest that the board of county commissioners is responsible for the maintenance of county-owned property that is not delegated away.[36]

ii. County Courthouse

The county commissioners are explicitly required to "erect" a courthouse and suitable offices for all county officers that are necessary to be at the courthouse.[37] Counties are also required to fund many aspects of the state court system: including facilities for "trial courts, public defenders' offices, state attorney's offices," and clerks' offices of the circuit and county courts.[38] However, the state is responsible to fund the necessary salaries, costs, and expenses for the state court system.[39]

iii. County Jail

While there is an explicit statute for the construction of a county courthouse, there is no such statutory requirement for a county jail. Moreover, the Florida Statutes previously provided that a jail was required to be erected, but that provision was subsequently deleted by the Legislature.[40] However, "read as a whole," the Florida Statutes require the county to be responsible to provide for its prisoners.[41] In addition, the county commissioners are required to designate a chief correctional officer.[42] A majority of a county commission may charge the county sheriff with the duties of chief correctional officer, delegating to the sheriff responsibility for the daily operation and maintenance of county jails[43] Counties

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[36] Fla. Stat. § 125.01 (2013).

[37] Fla. Stat. § 138.09 (2013) ("The county commissioners shall erect a courthouse as soon as possible and provide suitable offices for all the county officers who are required by law to keep their offices at the courthouse at the place so selected as the county seat.").

[38] Fla. Const. art. V, § 14.

[39] *Id*.

[40] 91-25 Fla. Op. Att'y Gen. (1991).

[41] *Id*. ("Accordingly, I am of the opinion that the deletion of the word 'jail' in s. 138.09, F.S., does not remove the responsibility of the county to provide for county prisoners."); Fla. Stat. § 950.01 (county in which offense is committed is to bear the cost of housing inmate if housed in another county).

[42] Fla. Stat. § 951.06 (2015)

[43] Fla. Stat. § 951.061 (2013); Jones ex rel. Albert v. Lamberti (S.D. Fla. 2008) "(The Florida Supreme Court has held that "the internal operation of the sheriff's office … is a function which belongs uniquely to the sheriff as the chief law enforcement officer of the county." (citing Weitzenfeld v. Dierks, 312 So.2d 194, 196 (Fla.1975)). As such, if the County has designated the Sheriff as chief correctional officer, since the County lacks supervisory control over the Sheriff, it then lacks supervisory control over the daily operation of the jail and the supervision of inmates and cannot be held responsible for actions of the Sheriff that gives rise to a claim under 42 U.S. § 1983.); 079-49 Fla. Op. Att'y Gen. (1979) ("A sheriff is responsible under the statute for equipping the county jail and repairing, maintaining, and replacing the equipment necessary for the proper and efficient operation of the jail, and he should include as part of his annual budget the estimated amounts necessary for such operation, equipment, and maintenance during the next fiscal year. Repairs, construction, or capital improvements to the county building in which the jail is located, however, remain the responsibility of the board of county commissioners and are to be paid from general county funds.").

may also be given the custody of any prisoner via the authority of the United States[44] and can be responsible for the medical expenses of their arrestees.[45]

iv. Criminal Laws and the Impact on Jail Capacity

The passage of state laws, such as "Zero Tolerance," in Florida has led to an increase in inmates for county jails, thus an increase in the costs associated with holding and processing such inmates. When counties are required to comply with State laws that can potentially increase the amount of inmates within the county jail system, this is essentially a mandated compliance standard that can impose significant costs to counties across Florida. Criminal laws are specifically excluded from the requirements of Art. VII, § 18, Fla. Const. prohibiting unfunded state mandates.[46] While the increase in costs may be substantial, challenge is not possible under Art. VII, § 18, Fla. Const.

C. Public Safety and Courts

i. Emergency Medical Services

Counties are mandated to comply with the Florida Emergency Communications Number E911 State Plan Act, under which a system for contacting emergency services is required to be created and maintained throughout the state.[47] Boards of county commissioners are required to establish a fund to be used exclusively for receipt and expenditure of 911 fee revenues collected from telephone companies.[48] This money must be appropriated for 911 purposes and incorporated into the annual county budget.[49]

In 2014, the Legislature adopted Chapter 2014-196, Laws of Florida, which added Section 365.172(9), Florida Statutes providing for a prepaid wireless E911 fee. This session law also modified Section 365.173(2), Florida Statutes, such that this new fee is subject to the same requirements as the fee received from telephone companies described above.

Also, the Federal Communications Commission is in the process of issuing proposed rules mandating a "text to 911" system on the states. See Press Release, FCC Proposes Action to Accelerate the Availability of Nationwide Text-to-911 (Dec. 12, 2012) and Text-to-911 Further Notice of Proposed Rulemaking, FCC 12-149

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[44] Fla. Stat. § 950.03 (2015) ("The keeper of the jail in each county within this state shall receive into his or her custody any prisoner who may be committed to the keeper's charge under the authority of the United States and shall safely keep each prisoner").

[45] Fla. Stat. § 901.35 (2015) ("Upon a showing that reimbursement from the sources listed in subsection (1) is not available, the costs of medical care, treatment, hospitalization, and transportation shall be paid . . . [f]rom the general fund of the county in which the person was arrested").

[46] Art. VII, § 18(d), Fla. Const.

[47] Fla. Stat. §§ 365.171-.173 (2013).

[48] Fla. Stat. § 365.173(2)(c) (2013) ("Any county that receives funds . . . shall establish a fund to be used exclusively for the receipt and expenditure of the revenues collected . . . All fees placed in the fund and any interest accrued shall be used solely for costs [related to 911]. The money collected and interest earned in this fund shall be appropriated for these purposes by the county commissioners and incorporated into the annual county budget.").

[49] *Id.*

(Dec. 12, 2012). There is a concern that the State of Florida may turn around and impose this mandate on the counties. Implementation of this capability is likely to involve expensive software updates to 911 systems.

ii. Animal Control

There are statutory mandates regarding animals related to public health, stray livestock, dangerous dogs, domestic animal vaccination and euthanasia, animal control, and cruelty ordinances.

The "fence laws" require owners of livestock to prevent their animals from "running at large or straying upon public roads" or be subject to costs and liability.[50] The law imposes a duty on the sheriff or county animal control center to "take up, confine, hold, and impound" stray livestock.[51] Each county commission shall establish and maintain pounds for the keeping of impounded livestock.[52]

While there is no mandate that counties operate an animal control shelter or establish an "animal control authority," if counties elect to provide local animal control, state law establishes minimum criteria and responsibilities. [53]

Chapter 767, Fla. Stat. (2014) entitled "Damage by Dogs;" establishes statutory liability for owners of dogs who damage livestock or domestic animals.[54] It sets forth "uniform requirements for the owners of dangerous dogs" and establishes procedures governing the investigation, certification, notice and hearing, confinement, and appellate remedies related to dangerous dogs.[55] These procedures govern county animal control authorities. There is a statutory definition of a "dangerous dog," and the law requires that a dog that has been "declared dangerous attacks or bites a person or a domestic animal without provocation" shall be "destroyed in an expeditious and humane manner."[56] In all cases, the law requires that a dog that "causes severe injury or death of any human" shall be euthanized.[57]

A county operating an animal control authority must maintain and make certain data available for inspection on a monthly basis regarding the disposition of dogs and cats.[58] The law mandates procedures that will result in "sterilization of all dogs and cats sold or released for adoption" from any county shelter.[59] The euthanasia of dogs and cats is also regulated.[60] Technicians who perform

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[50] § 588.15, Fla. Stat. (2014).

[51] § 588.16, Fla. Stat. (2014).

[52] § 588.21, Fla. Stat. (2014).

[53] In areas not served by a local animal control authority, the sheriff must carry out the duties of the animal control authority. § 767.11(5), Fla. Stat. (2014); Florida Statute, § 828.27 (2015) (outlines the criteria, responsibilities, and definitions related to animal control should a county enact an ordinance regulating same).

[54] Chapter 767, Fla. Stat. (2014).

[55] § 767.12, Fla. Stat. (2014).

[56] § 767.13(1), Fla. Stat. (2015).

[57] § 767.13(2), (3), Fla. Stat. (2014).

[58] § 823.15. Fla. Stat. (2014), Ch. 2015-18 Laws of Fla.

[59] § 823.15, Fla. Stat. (2014)(3), Ch. 2015-18 Laws of Fla.

[60] § 828.058, Fla. Stat. (2014).

euthanasia must complete a 16-hour course approved by the Board of Veterinary Medicine.[61] There are also minimum educational criteria for county animal control officers.[62] They must report all animal bite or diagnosis of disease that "may indicate the presence of a threat to humans."[63] State criteria governs how animal control officers should respond to "domestic animals which are suffering from an incurable or untreatable condition or are imminently near death from injury or disease" and there is a statutory process governing how animal control officers react to "animals found in distress."[64]

iii. Fire Protection Services

There is no explicit requirement for counties to fund an organized fire department.[65] Only if counties adopt fire safety responsibilities will they be mandated to adopt and enforce the Florida Fire Prevention Code and employ a fire safety inspector.[66] There is no constitutional or statutory provision which stipulates which counties have fire safety responsibilities or how a county adopts such a status. Further, for any county that does not employ a fire safety inspector, the State Fire Marshal shall assume the duties of the county with respect to certain fire safety inspections.[67] Lastly, maintenance and fire protection of forests and wild lands within a county is funded by state and federal funds.[68]

iv. Emergency Management

During the World War II era, Florida enacted legislation to create the State Civil Defense Council in response to the possibility of emergencies resulting from enemy action or natural causes. Under the Florida Civil Defense Act of 1951, counties were required to create "civil defense councils" consisting of county commissioners and other elective county officials.[69] By the early 1980s, Florida completely revised its emergency operations to include county disaster

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[61] § 828.058, Fla. Stat. (2014).

[62] See § 828.27, Fla. Stat. (2014). Biennial continuing education requirements are also established).

[63] § 381.0031, Fla. Stat. (2014).

[64] § 828.05, Fla. Stat. (2014), § 828.073, Fla. Stat. (2014).

[65] *See* Fla. Stat. § 633.112(b) (2013) ("If the fire or explosion occurs in a municipality, county, or special district that *does not have an organized fire department* or designated arson investigations unit within its law enforcement providers, the municipality, county, or special district may request the State Fire Marshal to conduct the initial investigation.") (emphasis added).

[66] Fla. Stat. § 633.208 (2013) ("[E]ach municipality, county, and special district *with firesafety responsibilities* shall enforce the Florida Fire Prevention Code as the minimum firesafety code required") (emphasis added).

[67] Fla. Stat. § 633.104(7) (2013) ("[I]n any county, municipality, or special district that does not employ or appoint a firesafety inspector certified under s. 633.216, the State Fire Marshal shall assume the duties of the local county"). Fla. Stat. §633.112(6)(b) (2013) ("County, municipality, or special district without an organized fire department or arson investigations unit may ask State Fire Marshal to conduct initial investigations of fore or explosion.")

[68] Fla. Stat. § 125.27 (2013) (Total costs of "the establishment and maintenance of countywide fire protection of all forest and wild lands within said county" shall be "funded by state and federal funds.").

[69] *Id.*

preparedness responsibilities and a more inclusive "all hazards" approach to emergency management.[70]

Today, in accordance with the "State Emergency Management Act," counties are mandated to create and maintain an emergency management agency and develop a county emergency management plan consistent with the state's plan – all pursuant the board of county commissioners' direction.[71] This county agency is also required to coordinate with different entities in order to ensure there is suitable public shelter in case of hurricane or disaster.[72] Moreover, it is explicitly stated in the Florida Statutes that counties are responsible, in coordination with their local medical and health departments, for developing and planning for special needs shelters.[73] Because Federal and State grants do not always cover the costs of emergency management, counties may be forced to use their ad valorem funds in order to comply with the program.

In 2014, the Florida Legislature adopted Chapter 2014-163, Laws of Florida, which revised Section 252.355, Florida Statutes concerning the registration of persons with special needs who would need special assistance in an emergency. The new statute provided for the State Division of Emergency Management to create a statewide database of such persons and have local agencies upload patient names and medical data to this state database. However, uploading the medical data involves the transmission of health information protected by the federal Health Insurance Portability and Accountability Act (HIPAA) and is therefore likely a violation of this statute. It is noted that HIPAA has its own federal preemption of state law provision, 42 U.S.C. § 1320d–7 (2015), which, together with HIPAA's serious penalty provisions, 42 U.S.C. § 1320d–6 (2015), would seem to justify non-compliance with this particular provision of state law. A HIPAA implementing regulation, 45 C.F.R. § 164.512 (2015), provides for the use or disclosure of HIPAA protected information under specific circumstances where other law requires this use or disclosure. There are provisions in this regulation for public health and health oversight activities, but it is not clear these provisions cover emergency management. Chapter 2014-163 should have been written to ensure consistency and compliance with HIPAA.

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[70] FAC, FLORIDA COUNTY GOVERNMENT GUIDE 159 (2012). This new approach to a broader emergency management program "was especially productive for Florida, given our high susceptibility to all forms of natural disasters (e.g., hurricanes, floods, wildland fires, tornadoes, etc.)." *Id.*

[71] Fla. Stat. § 252.38 (2013) ("[E]ach county must establish and maintain such an emergency management agency and shall develop a county emergency management plan and program that is coordinated and consistent with the state comprehensive emergency management plan and program.").

[72] Fla. Stat. § 252.385 (2013) ("The local emergency management agency shall coordinate with these entities to ensure that designated [public shelter space] facilities are ready to activate prior to a specific hurricane or disaster.").

[73] Fla. Stat. § 381.0303(2)(b) (2013) ("County health departments shall, in conjunction with the local emergency management agencies, have the lead responsibility for coordination of the recruitment of health care practitioners to staff local special needs shelters. County health departments shall assign their employees to work in special needs shelters when those employees are needed to protect the health and safety of persons with special needs. County governments shall assist the department with nonmedical staffing and the operation of special needs shelters.").

v. Juvenile Detention

Counties are statutorily mandated to contribute financial support to juvenile detention care, including a portion of detention care (respite beds), unless the county is deemed "fiscally constrained."[74] Furthermore, counties are required to fund juveniles' predisposition assessment centers and provide a broad array of intake services.[75] Counties may establish and be responsible for all operational costs associated with a juvenile detention facility, but are not required to create such facilities.[76]

Chapter 985, Fla. Stat. (2014) states that the state and the counties have a "joint obligation . . . to contribute to the financial support of the detention care provided for juveniles."[77] Counties may elect to provide detention care for preadjudicated juveniles at their own expense or under contract with another county.[78] If a county elects to utilize the state system, it must pay the "actual costs" of secure juvenile detention for its residents incurred "prior to final court disposition." [79] The costs for "fiscally constrained counties" are borne by the state.[80] Counties participating in the shared juvenile detention system must include the cost in their annual budget and remit estimated monthly payments to the Department of Juvenile Justice.[81] An annual reconciliation process may generate a credit or an additional charge.

vi. State Courts System

In November, 1998, the Florida electorate approved Revision 7 to Article V of the Florida Constitution. Article V provides for the judicial branch of state government. Revision 7 was designed to allocate state's court system funding mechanism among the state, counties, and users of the courts. Revision 7 was fully implemented by the Legislature in 2004. The Florida Constitution now requires the state to fund the state courts system, state attorneys' offices, public defenders' offices and court-appointed counsel, except as provided in section 14(c) of Article V.

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[74] Fla. Stat. § 985.686 (2013) ("It is the policy of this state that the state and the counties have a joint obligation, as provided in this section, to contribute to the financial support of the detention care provided for juveniles...Each county shall pay the costs of providing detention care, exclusive of the costs of any preadjudicatory nonmedical educational or therapeutic services and $2.5 million provided for additional medical and mental health care at the detention centers, for juveniles for the period of time prior to final court disposition.").

[75] Fla. Stat. § 985.135(2) (2013) ("The department shall work cooperatively with substance abuse programs, mental health providers, law enforcement agencies, schools, health service providers, state attorneys, public defenders, and other agencies serving youth to establish juvenile assessment centers. Each current and newly established center shall be developed and modified through the local initiative of community agencies and local governments and shall provide a broad array of youth-related services appropriate to the needs of the community where the center is located.").

[76] Fla. Stat. § 985.688 (2013) ("A county or municipal government may establish and operate a juvenile detention facility in compliance with this section, if such facility is certified by the department.").

[77] § 985.686, Fla. Stat. (2014).

[78] § 985.686(10), Fla. Stat. (2014).

[79] § 985.686(3), (5), Fla. Stat. (2014). See, Okaloosa County etc. v. Department of Juvenile Justice, 131 So. 3d 818 (Fla. 1st DCA 2014).

[80] Id.

[81] Id.

County funding is limited to the cost of communications services, existing radio systems, existing multiagency criminal justice information systems, and the cost of construction or lease, maintenance, utilities, and security of facilities for the circuit and county courts, public defenders' offices, state attorneys' offices, guardian ad litem offices, and the offices of the clerks of the circuit and county courts performing court-related functions.[82] Counties are also statutorily required to pay the reasonable and necessary salaries, costs, and expenses of the state courts system, including associated staff and expenses, to meet "local requirements". Local requirements are those expenses associated with specialized court programs, prosecution needs, defense needs, or resources "required of a local jurisdiction as a result of special factors or circumstances"[83] (1) when imposed pursuant to an express statutory directive; or (2) when circumstances in the local jurisdiction necessitate the implementation of programs impacting the resources of the state courts system. Local requirements specifically include legal aid programs and alternative sanctions coordinators.[84] The expenditures associated with the county funding of the state courts system is required to increase each year by 1.5 percent over the prior county fiscal year.[85]

D. Health and Human Services

i. Medicaid

Around half the states in the nation require counties to share in the cost of the Medicaid program; Florida is one of these states. Today, counties are mandated to supply an annual contribution to the State in order to fund Florida's Medicaid program. This contribution will collectively cost the collective counties as much as $277 million for the 2014-2015 fiscal year.[86] In 2012, Florida began collecting these Medicaid obligations automatically, directly from each county's revenue sharing through the Agency for Health Care Administration and Department of Revenue, leaving a county unable to review its "bill" before it was automatically paid.[87] Moreover, a year later, legislation passed changing the method of calculating county Medicaid contributions altogether. Specifically, beginning in the 2013-14 fiscal year, counties began paying contributions calculated according to statutorily-set percentages, which are based on AHCA's actual historical collections; however, beginning in the 2015-16 fiscal year, these percentages will begin transitioning to a

[82] For purposes of section 29.008(1), Florida Statute, the term "circuit and county courts" includes the offices and staffing of the guardian ad litem programs, and the term "public defenders' offices" includes the offices of criminal conflict and civil regional counsel. The county designated as the headquarters for each appellate district is also required to fund those costs for the appellate division of the public defenders' office in that county.

[83] Fla. Stat. § 29.008(2)(2014) (describing in greater detail what the counties are responsible for in the state courts system pursuant to Article V, Section 14 of the Florida Constitution, with regard to local requirements).

[84] Fla. Stat. § 29.008(3) (2014).

[85] Fla. Stat. § 29.008(4) (2014).

[86] Fla. Stat. § 409.915 (2013) ("Although the state is responsible for the full portion of the state share of the matching funds required for the Medicaid program, the state shall charge the counties an annual contribution in order to acquire a certain portion of these funds.").

[87] HB 5301 (Fla. 2012).

system that will ultimately be based solely on each county's respective percentage share of residents who are enrolled in Medicaid.[88] This Medicaid enrollment formula is estimated to increase Medicaid costs for many counties, although other counties will remain stable or see decreased costs.

ii. Indigent Care

Counties are mandated to reimburse participating hospitals which provide care for indigent patients for their respective citizens.[89]

iii. County Health Units

County health department units are required to be established within counties to provide for environmental health, communicable disease control, and primary care services.[90] These county public health units, can be but not always are, agencies of county government, not state agencies.[91]

iv. Mental Health and Substance Abuse Services

"The Community Substance Abuse and Mental Health Services Act"[92] states that local governments are required to participate in the funding of Florida's mental health and substance abuse system.[93] "Local governing bodies" are required to supply 25% of the community programs' funding, with the state disbursing the other 75%.[94] Counties are not solely responsible to produce these "local matching funds," as there are many other sources – e.g. city commissions and special districts – contributing to local match.[95]

"The Florida Mental Health Act" (also known as "The Baker Act")[96] was enacted to "reduce the occurrence, severity, duration, and disabling aspects of

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[88] HB 5301 (Fla. 2012).

[89] Fla. Stat. § 154.306 (2013) ("Ultimate financial responsibility for treatment received at a participating hospital or a regional referral hospital by a qualified indigent patient . . . is the obligation of the county of which the qualified indigent patient is a resident.").

[90] *See* Fla. Stat. § 154.01 (2013) (providing that "[a] functional system of county health department services shall be established which shall include the following three levels of service and be funded as" environmental health services, communicable disease control services, and primary care services).

[91] 80-28 Fla. Op. Att'y Gen. (1980).

[92] Fla. Stat. § 394.65 (2013).

[93] 77-97 Fla. Op. Att'y Gen. (1977); Fla. Stat. § 394.76(9) (2013) ("State funds for community alcohol and mental health services shall be matched by local matching funds . . . . The governing bodies within a district or subdistrict shall be required to participate in the funding of alcohol and mental health services under the jurisdiction of such governing bodies. The amount of the participation shall be at least that amount which, when added to other available local matching funds, is necessary to match state funds.").

[94] Fla. Stat. § 394.76(3) (2013) ("All other contracted community alcohol and mental health services and programs, except as identified in s. 394.457(3), shall require local participation on a 75-to-25 state-to-local ratio.").

[95] Fla. Stat. § 394.67(13) (2014) (""Local matching funds" means funds received from governing bodies of local government, including city commissions, county commissions, district school boards, special tax districts, private hospital funds, private gifts, both individual and corporate, and bequests and funds received from community drives or any other sources."). However, the mental health agencies do look to the counties to provide those local matching funds, even if they do come from other sources. – regardless of the language of the statutes and applicable rules.

[96] Fla. Stat. § 394.451 (2013).

mental, emotional, and behavioral disorders."[97] Counties are not the primary source of funding for the treatment of Baker Act commitment, but there are different exceptions in which a county could be liable for such medical payments.[98]

v. Unclaimed Bodies

If the anatomical board does not accept an unclaimed body, then the board of county commissioners must dispose of the body of persons who die within the confines of their county.[99] The county is also responsible for making a reasonable effort to identify the body, as well as accepting responsibility to arrange for the body's burial or cremation.[100]

vi. Medical Examiners

The fees, salaries, and expenses associated with the medical examiner must be paid from the funds under the control of the board of county commissioners.[101] These medical examiner expenses, including transportation and laboratory facilities costs, are borne by the county.[102]

vii. Child Protective Services

Counties are mandated to pay for the initial costs of the examination of allegedly abused, abandoned, or neglected children; however, parents or legal custodians are required to reimburse the counties for the costs of such examination.[103]

viii. Veteran Services

Veteran Service Officers (VSOs) may be employed by the board of county commissioners to assist their residents by providing advocacy and counseling to

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[97] Fla. Stat. § 394.453 (2013).

[98] 93-49 Fla. Op. Att'y Gen. (1993) ("[A] a county is not primarily responsible for the payment of hospital costs for the treatment of an involuntary Baker Act commitment. However, a county may be liable for such payments in the event a person in the county is arrested for a felony involving violence against another person, is taken to a receiving facility and specified sources for reimbursement are not available."). A county shall also designate a single law enforcement agency to transport persons held under the Baker Act to treatment facilities. Fla. Stat. § 394.462 (2013).

[99] Fla. Stat. § 406.50(5) (2013) ("If the anatomical board does not accept the unclaimed remains, the board of county commissioners or its designated county department of the county in which the death occurred or the remains were found may authorize and arrange for the burial or cremation of the entire remains.").

[100] 91-87 Fla. Op. Att'y Gen. (1991).

[101] Fla. Stat. § 406.08 (2013) ("Fees, salaries, and expenses may be paid from the general funds or any other funds under the control of the board of county commissioners.").

[102] *Id*. ("When a body is transported to the district medical examiner or his or her associate, transportation costs, if any, shall be borne by the county in which the death occurred. . . . Autopsy and laboratory facilities utilized by the district medical examiner or his or her associates may be provided on a permanent or contractual basis by the counties within the district.").

[103] Fla. Stat. § 39.304(5) (2013) ("The county in which the child is a resident shall bear the initial costs of the examination of the allegedly abused, abandoned, or neglected child; however, the parents or legal custodian of the child shall be required to reimburse the county for the costs of such examination . . .").

veterans and their families.[104] While VSOs are not required to be employed by the counties, currently all sixty-seven counties employ at least one VSO.

ix. Mosquito Control

In an effort to suppress disease-bearing and pestiferous arthropods, "mosquito control districts" were created.[105] Counties are not mandated to create such mosquito control agencies, but if they do – there are many sources of funding (including tax levying and state matching funds).[106] In the event state funds do not fully fund mosquito control budgets, counties will need to fund the difference. "County commissioners' mosquito and arthropod control budgets . . . shall be incorporated into county budgets."[107]

E. Parks, Recreation, and Libraries

Although Chapter 125 of the Florida Statutes authorizes counties to provide parks and recreational areas, there is no specific statute which mandates that counties shall fund such facilities.[108] Moreover, it is the Division of Recreation and Parks of the Department of Environmental Protection that assumes the duties in accordance with "all public parks, including all monuments, memorials, sites of historic interest and value" owned by the state, to which the county is capable of purchasing.[109] However, parks are a required element of a county's mandated comprehensive plan, and therefore must be considered for future development within a county.[110]

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[104] Fla. Stat. § 292.11 (2013) ("Each board of county commissioners may employ a county veteran service officer; provide office space, clerical assistance, and the necessary supplies incidental to providing and maintaining a county service office; and pay said expenses and salaries from the moneys hereinafter provided for.").

[105] Fla. Stat. § 388.021 (2013) ("herefore, any city, town, or county, or any portion or portions thereof, whether such portion or portions include incorporated territory or portions of two or more counties in the state, *may* be created into a special taxing district for the control of arthropods under the provisions of this chapter.") (emphasis added).

[106] See generally Fla. Stat. § 388.261 (2013) ("Every county or district budgeting local funds to be used exclusively for the control of mosquitoes and other arthropods, under a plan submitted by the county or district and approved by the department, is eligible to receive state funds and supplies, services, and equipment on a dollar-for-dollar matching basis to the amount of local funds budgeted.").

[107] Fla. Stat. §388.201 (2013).

[108] Fla. Stat. § 125.01(1)(f) (2013) ("Provide parks, preserves, playgrounds, recreation areas, libraries, museums, historical commissions, and other recreation and cultural facilities and programs.").

[109] Fla. Stat. § 258.004(1) (2013) ("It shall be the duty of the Division of Recreation and Parks of the Department of Environmental Protection to supervise, administer, regulate, and control the operation of all public parks, including all monuments, memorials, sites of historic interest and value, sites of archaeological interest and value owned, or which may be acquired, by the state, or to the operation, development, preservation, and maintenance of which the state may have made or may make contribution or appropriation of public funds.").

[110] *See infra* Part III.F; *see also* Fla. Stat. § 163.3177(6)(e) (2013) ("A recreation and open space element indicating a comprehensive system of public and private sites for recreation, including, but not limited to, natural reservations, parks and playgrounds, parkways, beaches and public access to beaches, open spaces, waterways, and other recreational facilities.").

The state is responsible for a State Library that will be located within Tallahassee and is administered by the Division of Library.[111] However, there is no mandated requirement for a county library.

F. Growth Management

i. Generally

Florida adopted the Local Government Comprehensive Planning and Land Development Regulation Act in 1985, which mandated counties to create local planning agencies to prepare and manage a "comprehensive plan."[112] In 2011, the Act was renamed to the "Community Planning Act," with which all 67 counties, Walt Disney World, and Reedy Creek Improvement District must comply. A comprehensive plan is required to consider many different elements in order to guide future development, including: capital improvements, future land use plan, transportation, conservation, recreation and open space, housing, intergovernmental coordination, sanitary sewer, solid waste, drainage, potable water, and natural groundwater recharge, and waste elements.[113] In addition to these core elements, all coastal counties are required to include a coastal management element in the plan. In 1995, a major revision of the Act required counties to consider joint planning efforts with school districts and interlocal agreements for all such joint planning efforts. "The goals, objectives, policies, standards, findings, and conclusions within the proposed comprehensive plan must be supported by relevant and appropriate data which is gathered in a professionally accepted manner."[114] Also, while a comprehensive plan is required to include affordable housing considerations, counties are not mandated to increase affordable housing.[115] However, despite the permissive language regarding the provision of affordable housing found in Section 125.01055, the Community Planning Act effectively requires a county to address this issue or be found not in compliance with state law. Specifically, Section 163.3177(6)(f) requires the county's housing element to include "standards and strategies" for "[t]he elimination of substandard dwelling conditions" and "[t]he provision of adequate sites for future housing, including affordable workforce housing as defined in Section 380.0651(3)(h), housing for low

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[111] Fla. Stat. § 257.01 (2013) ("There is created and established the State Library which shall be located at the capital. The State Library shall be administered by the Division of Library and Information Services of the Department of State.").

[112] Richard Grosso, *Florida's Growth Management Act: How Far We Have Come, and How Far We Have Yet to Go*, 20 NOVA L. REV. 589, 591 (1996); Fla. Stat. § 163.3174 (2013) ("The governing body of each local government . . . shall designate and by ordinance establish a 'local planning agency' . . . [which] shall prepare the comprehensive plan or plan amendment after hearings to be held after public notice and shall make recommendations to the governing body regarding the adoption or amendment of the plan.").

[113] *See* Fla. Stat. § 163.3177 (2013) (containing the many elements that the comprehensive plan shall provide for the "orderly and balanced future economic, social, physical, environmental, and fiscal development" of the county).

[114] Grosso, *supra* note 112.

[115] Fla. Stat. § 125.01055 (2013) ("[A] county *may* adopt and maintain in effect any law, ordinance, rule, or other measure that is adopted for the purpose of increasing the supply of affordable housing using land use mechanisms such as inclusionary housing ordinances.") (emphasis added).

income, very low income, moderate-income families, mobile homes, and group home facilities and foster care facilities, with supporting infrastructure and public facilities." Accordingly, while there is no specific mandate that a county provide affordable housing, the mandatory compliance provisions of Section 163.3177(6)(f) have the effect of requiring counties to take action and spend resources for this purpose.

The Community Planning Act also has several implementing requirements that cause counties to expend resources. The first of these is concurrency, which is a requirement that certain public facilities be in place and available to serve new development no later than the issuance by the local government of a certificate of occupancy or its functional equivalent.[116] As a cornerstone of the 1985 Act, concurrency has been a controversial provision for both local governments and the development community. In essence, if the required facilities are not in place concurrent with the development, the local government cannot allow the development to proceed, which for some counties has resulted in temporary building moratoria. Under the original law, the county was required to apply concurrency to the following public facilities: sanitary sewer, solid waste, drainage, potable water, recreation and open space, and transportation. However, the 2011 Community Planning Act eliminated the state mandate for transportation concurrency, while allowing communities to retain it by local option. Although the transportation mandate has been lifted[117], state law still requires counties to apply concurrency for water, sewer, drainage, and solid waste. To ensure the adopted levels-of-service for these services are maintained, the county's capital improvements element (CIE) must include a 5-year schedule of projects and their accompanying funding source.

The second implementing requirement of the comprehensive plan is for each county to develop, adopt, and maintain a set of land development regulations that ensures the goals, objective, and policies of the plan are carried out in a consistent manner. Given the breadth and extent of the comprehensive plan and all of its requirements, the scope of the land development regulations often match or exceed the size of the plan and, as such, have comparable local cost requirements.

The procedure to amend a county's comprehensive plan has historically been a long, arduous process full of mandated drafts, public hearings, comment periods, and state review.[118] This process (usually exceeding six months) was then revised for an "expedited state review process" in 2011; and now most amendments can be proposed and decided within a shorter amount of time and with fewer mandated processes.[119]

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[116] See *Fla. Stat. §163.3180(2)*

[117] However, a local government chooses to retain transportation concurrency pursuant to Sec. 163.3180 and an applicant in good faith offers to enter into a binding agreement to pay for or construct its proportionate share of required improvements, the local government may not require payment or construction of transportation facilities whose costs would be greater than a development's proportionate share of the improvements necessary to mitigate the development's impacts. This is an unfunded mandate.

[118] *See generally* Fla. Stat. § 163.3184 (2013).

[119] *See* Fla. Stat. § 163.3184(3) (2013). The expedited state review process applies to all future plan amendments "except those that are small scale amendments, in areas of critical state concern, propose a rural

ii. Development Permits

Sec. 125.022 contains several mandates as follows:

> (2) When a county denies an application for a development permit, the county shall give written notice to the applicant. The notice must include a citation to the applicable portions of an ordinance, rule, statute, or other legal authority for the denial of the permit.
> (4) For any development permit application filed with the county after July 1, 2012, a county may not require as a condition of processing or issuing a development permit that an applicant obtain a permit or approval from any state or federal agency unless the agency has issued a final agency action that denies the federal or state permit before the county action on the local development permit.
> (5) Issuance of a development permit buy a county does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the county for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. A county shall attach such a disclaimer to the issuance of a development permit and shall include a permit condition that all other applicable state or federal permits be obtained before commencement of the development.

G. Environmental Protection

In general, the mandates considering environmental interests are handed down at the federal level – e.g. the Clean Water Act – costing both the state and local governments billions of dollars per year to conform to the standards and requirements provided by these environmental protection-focused acts. Florida's Department of Environmental Protection (DEP) has wide-ranging responsibilities for the state's air, land, and water qualities; however, DEP is mandated to work closely with local governments to collect adequate data and enforce regulations for several aspects of environmental protection.[120]

Counties are not mandated to establish or administer any form of local air and water pollution control program; however, they may do so and enforce stricter

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land stewardship area, propose a sector plan, are EAR based amendments, or are new plans." FLORIDA COUNTY GOVERNMENT GUIDE, Florida Association of Counties (2012).

[120] *See generally* Fla. Stat. §§ 373 & 403 (2013).

ordinances as long as such a program complies with the state's "Florida Air and Water Pollution Control Act."[121]

i. Solid Waste Disposal Facilities

A key responsibility of counties is to provide for the creation and operation of solid waste disposal facilities which can reasonably meet the needs of their respective incorporated and unincorporated areas.[122]

ii. Recycling

Counties are also mandated to implement a recycling program with goals of recycling certain percentages of recyclable materials annually – e.g. 75% by 2020 – and ensure that its municipalities participate.[123]

iii. Beach Renourishment

Counties have accrued several responsibilities with respect to environmental protection pursuant to the Community Planning Act.[124] Counties are responsible for partial funding of the restoration and nourishment of beach erosion along with the state.[125] Counties, along with DEP and water management districts, are also responsible for the development of stormwater management.[126]

iv. Water Quality

The federal Clean Water Act (CWA) "establishes the basic structure for regulating discharges of pollutants into the waters of the United States and regulating quality standards for surface waters."[127] The Total Maximum Daily Load (TMDL) program was enacted to establish a calculation for the maximum amount of a particular pollutant that water bodies can receive in order to maintain the water quality standards for that water body's designated use.[128] Counties must comply with the requirements from programs like the CWA and TMDL in order to regulate water quality, a task that can be quite costly.

In practice, many counties impose a stormwater assessment or fee to maintain stormwater flow and treatment facilities. However, a bonda fide farm

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[121] Fla. Stat. § 403.182 (2013) ("Each county and municipality or any combination thereof may establish and administer a local pollution control program if it complies with this act.").

[122] Fla. Stat. § 403.706(1) (2013) ("The governing body of a county has the responsibility and power to provide for the operation of solid waste disposal facilities to meet the needs of all incorporated and unincorporated areas of the county.").

[123] Fla. Stat. § 403.706(2)(a) (2013) ("Each county shall implement a recyclable materials recycling program that shall have a goal of recycling recyclable solid waste").

[124] *See supra* Part.III.F.

[125] Fla. Stat. § 161.101 (2013) ("The local government in which the beach is located shall be responsible for the balance of such [beach management and erosion control] costs.").

[126] Fla. Stat. § 403.0891 (2013) ("The department, the water management districts, and local governments shall have the responsibility for the development of mutually compatible stormwater management programs.").

[127] *Summary of the Clean Water Act*, ENVIRONMENTAL PROTECTION AGENCY (last visited Apr. 17, 2014), http://www2.epa.gov/laws-regulations/summary-clean-water-act.

[128] *Total Maximum Daily Loads*, NATIONAL AGRICULTURAL LIBRARY (last visited Apr. 17, 2014), http://wqic.nal.usda.gov/social-and-legal-issues/total-maximum-daily-loads.

operation on land classified as agricultural is exempt from such an assessment or fee if the farm operation implements best management practices as adopted by the Department of Environmental Protection, the Department of Agriculture and Consumer Services, or water management district.[129] Despite the statutory presumption, a farm operation that is implementing best management practices and deemed exempt from a stormwater assessment or fee may still be contributing to the poor water quality within a county. This exemption amounts to an unfunded mandate by the legislature because a county is required to restore and maintain water quality but cannot impose an assessment or fee on major contributors – agricultural lands and concentrated animal feeding operations – or, in many cases, confirm that a farm is actually utilizing best management practices.

H. Transportation

i. County Roads

County commissioners assume the control and are fully responsible for the establishment and maintenance of all county roads, bridges, tunnels, bicycle paths, sidewalks, and other structures.[130]

ii. Ports

The governing body must decide that it is in the best interests of their respective county to exercise the powers to operate a port facility.[131]

I. Constitutional Officers

i. Salaries

Chapter 145 of the Florida Statutes lays out the compensation requirements for county officials set by the legislature.[132] Each member of the board of county commissioners receives a salary "based on the population of his or her county."[133] Moreover, the legislature has also designed a system based on population to assign salaries to the other constitutional officer, which each officer's respective county is required to fund.[134]

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[129] §163.3162(3)(c), F.S. (2014)

[130] Fla. Stat. § 336.02(1)(a) (2013) ("The commissioners are invested with the general superintendence and control of the county roads and structures within their respective counties, and they may establish new roads, change and discontinue old roads, and keep the roads in good repair in the manner herein provided. They are responsible for establishing the width and grade of such roads and structures in their respective counties.").

[131] Fla. Stat. § 315.04 (2013).

[132] Fla. Stat. § 145.012 (2013) ("This chapter applies to all officials herein designated in all counties of the state, except those officials whose salaries are not subject to being set by the Legislature because of the provisions of a county home rule charter and except officials . . . of counties which have a chartered consolidated form of government").

[133] Fla. Stat. § 145.031 (2013).

[134] *See* Fla. Stat. § 145.051 (2013) (laying out the salary requirements for the clerk of court); *see also* Fla. Stat. § 145.071 (2013) (laying out the salary requirements for the sheriff); *see also* Fla. Stat. § 145.09 (2013) (laying out the salary requirements for the supervisor of elections); *see also* Fla. Stat. § 145.10 (2013) (laying out

ii. Budgets

Counties are required to establish a budget that must be "prepared, summarized, and approved by the board of county commissioners of each county."[135] Each constitutional officer is required to submit their respective budget to the board of county commissioners by certain dates in order for the board, and also a county budget officer, to prepare the tentative budget.[136] After completing a summary of the adopted budgets, the board of county commissioners is mandated to advertise the summary statement and hold public hearings in order to hear requests or complaints.[137]

iii. Clerks

The division or separation of the clerk's duties as clerk of court from the clerk's functions as auditor and custodian of all county funds is established in two articles of the Florida Constitution. One provides that "the duties of the clerk of the circuit court may be divided by special or general law between two officers, one serving as clerk of court and one serving as ex officio clerk of the board of county commissioners, auditor, recorder, and custodian of all county funds," and another, which states that, "the clerk of the circuit court shall be … auditor, recorder and custodian of all county funds."[138] Based on these two constitutional provisions, absent alternative designation under county charter or special law approved by a vote of the electors, the clerk of court is the clerk of the board as a result of his or her office, and its auditor and the custodian of all county funds.

There are several implementing statutory provisions that give shape to the role of the clerk in this capacity as clerk of the board and to the numerous and diverse powers and duties of the clerk concerning fiscal matters of the board. For example, the clerk is required to act as the board's accountant and keep its accounts,[139] checks or warrants drawn on county accounts must be "attested by the clerk,"[140] and all "county accounts of each and every depository… shall at all times be subject to the inspection and examination by the county auditor[.]"[141] To emphasize the significance of the clerk as county auditor, the Legislature imposes personal liability for the payments of any claim or bill against county funds in excess of the amount permitted by law, or any illegal charge against the county, or

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the salary requirements for the property appraiser); *see also* Fla. Stat. § 145.11 (2013) (laying out the salary requirements for the tax collector).

[135] Fla. Stat. § 129.01 (2013).

[136] Fla. Stat. § 129.03 (2013) ("On or before June 1 of each year, the sheriff, the clerk of the circuit court and county comptroller, the tax collector . . . and the supervisor of elections shall each submit to the board of county commissioners a tentative budget for their respective offices for the ensuing fiscal year.").

[137] Fla. Stat. § 129.03 (2013) ("Upon receipt of the tentative budgets and completion of any revisions, the board shall prepare a statement summarizing all of the adopted tentative budgets. . . . The board shall cause this summary statement to be advertised one time in a newspaper of general circulation published in the county . . . The board shall hold public hearings to adopt tentative and final budgets").

[138] Art.V, § 16, Fla. Const.; Art. VIII, § 1(d), Fla. Const.

[139] Fla. Stat. §§ 28.12, 125.17 (2014).

[140] Id., § 136.06(1).

[141] Fla. Stat. § 136.08 (2014).

any claim not authorized by law and subjects the clerk to criminal penalties if improper payment is made willfully and knowingly.[142]

iv. Sheriffs

Sheriffs are given a wide variety of powers and duties which they may execute within their respective county. Chapter 30 of the Florida Statutes lays out the core duties of the sheriff, the most recognizable aspect being his or her duty towards law enforcement within their county.[143] Other responsibilities include assessing legal process documents (writs, warrants, subpoena, etc.),[144] providing court security,[145] and, at the election of the county commission, keeping the county jail.[146] Sheriffs cooperate with the board of county commissioners by being required to submit their proposed budget for all expenditures related to the operation of the office.[147]

v. Tax Collector

The tax collector has the "authority and obligation to collect all taxes as shown on the tax roll by the date of delinquency or to collect delinquent taxes, interest, and costs, by sale of tax certificates on real property and by seizure and sale of personal property."[148] Recently, county tax collectors have taken over the driver's license duties of the state-funded Department of Motor Vehicles, which adds hundreds of thousands in expenses per year.[149]

vi. Property Appraisers

Property appraisers are responsible for identifying, locating, and fairly valuing all property, both real and personal, within the county for tax purposes. Property appraisers must send Truth in Millage (TRIM) notices to all property owners within their county.

vii. Supervisor of Elections

The Supervisor of Elections is compensated by the board of county commissioners and is in charge of "update[ing] voter registration information, enter[ing] new voter registrations into the statewide voter registration system, and act[ing] as the official custodian of documents received by the supervisor related to the registration of electors and changes in voter registration status of electors of the

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[142] Fla. Stat. § 129.09 (2014).

[143] *See* Fla. Stat. § 30.15(1)(e) (2015) (generally stating that sheriffs are the "conservators of the peace in their counties").

[144] Fla. Stat. § 30.15(1)(a)-(b) (2015).

[145] Fla. Stat. § 30.15(1)(c) (2015).

[146] Fla. Stat. § 951.061

[147] Fla. Stat. § 30.49(2)(a) (2015).

[148] Fla. Stat. § 197.332 (2013).

[149] Pallavi Agarwal, *DMV Office Closing Feb. 28*, HIGHLANDS TODAY (March 12, 2013), http://highlandstoday.com/hi/local-news/dmv-office-closing-feb--620599.

supervisor's county."[150] The Supervisor is also the custodian of the voting system and appoints necessary deputies to prepare the voting system.[151]

After the 2000 presidential election, the Help America Vote Act (HAVA) established several federal mandates in which the states (which therefore had the trickle-down effect to the counties) were required to update many aspects of their election procedures – e.g. voting machines, registration, and poll worker training.[152]

IV. EXAMPLE OF COUNTY EXPENDITURES

2012 Leon County Expenditures[153]

	General	Special Revenue	Capital Projects	Enterprise	Internal Service	Account Total
General Government Services (Not Court-Related)	**$29,973,239**	**$2,167,997**	**$2,736,372**	**$-**	**$5,480,684**	**$40,358,292**
Legislative	$1,279,969	$-	$-	$-	$-	$1,279,969
Executive	$1,122,298	$-	$-	$-	$-	$1,122,298
Financial and Administrative	$16,121,122	$10,872	$17,553	$-	$201,205	$16,350,752
Legal Counsel	$1,594,371	$-	$-	$-	$-	$1,594,371
Comprehensive Planning	$881,792	$-	$-	$-	$-	$881,792
Non-Court Information Systems	$4,267,971	$128,022	$-	$-	$-	$4,395,993
Other General Government Services	$4,705,716	$2,029,103	$2,718,819	$-	$5,279,479	$14,733,117
Public Safety	**$58,101,981**	**$32,431,512**	**$8,180,156**	**$-**	**$-**	**$98,713,649**
Law Enforcement	$28,415,589	$2,014,069	$-	$-	$-	$30,429,658
Fire Control	$-	$8,120,168	$-	$-	$-	$8,120,168
Detention and/or Correction	$29,153,996	$3,610,105	$24,957	$-	$-	$32,789,058
Protective Inspections	$-	$1,211,791	$-	$-	$-	$1,211,791
Emergency and Disaster Relief Services	$-	$1,771,174	$4,093,202	$-	$-	$5,864,376
Ambulance and Rescue Services	$-	$15,478,033	$4,061,997	$-	$-	$19,540,030
Medical Examiners	$532,396	$-	$-	$-	$-	$532,396
Other Public Safety	$-	$226,172	$-	$-	$-	$226,172
Physical Environment	**$2,289,029**	**$12,521,641**	**$3,971,665**	**$11,028,089**	**$-**	**$29,810,424**
Garbage / Solid Waste Control Services	$-	$-	$-	$11,028,089	$-	$11,028,089
Sewer / Wastewater Services	$-	$228,535	$4,174	$-	$-	$232,709

[150] Fla. Stat. § 98.015 (2013).

[151] Fla. Stat. § 101.34 (2013).

[152] Fla. Stat. § 98.015(10) (2013) ("Each supervisor shall ensure that all voter registration and list maintenance procedures conducted by such supervisor are in compliance with any applicable requirements prescribed by rule of the department through the statewide voter registration system or prescribed by the Voting Rights Act of 1965, the National Voter Registration Act of 1993, or the Help America Vote Act of 2002.").

[153] *Expenditures and Revenues Reported by Florida's County Governments*, Office of Economic & Demographic Research (last visited on April 18, 2014), http://edr.state.fl.us/Content/local-government/data/revenues-expenditures/cntyfiscal.cfm.

	General	Special Revenue	Capital Projects	Enterprise	Internal Service	Account Total
Conservation and Resource Management	$481,348	$3,604,514	$-	$-	$-	$4,085,862
Flood Control / Stormwater Management	$-	$8,683,208	$3,419,124	$-	$-	$12,102,332
Other Physical Environment	$1,807,681	$5,384	$548,367	$-	$-	$2,361,432
Transportation	**$270,853**	**$10,132,259**	**$9,772,328**	**$-**	**$-**	**$20,175,440**
Road and Street Facilities	$270,853	$10,132,259	$9,772,328	$-	$-	$20,175,440
Economic Environment	**$2,014,864**	**$4,720,456**	**$-**	**$-**	**$-**	**$6,735,320**
Employment Opportunity and Development	$64,307	$-	$-	$-	$-	$64,307
Industry Development	$199,500	$3,502,767	$-	$-	$-	$3,702,267
Veteran's Services	$179,741	$-	$-	$-	$-	$179,741
Housing and Urban Development	$-	$1,217,689	$-	$-	$-	$1,217,689
Other Economic Environment	$1,571,316	$-	$-	$-	$-	$1,571,316
Human Services	**$7,275,023**	**$1,838,962**	**$177,255**	**$-**	**$-**	**$9,291,240**
Health Services	$2,100,311	$1,562,090	$177,255	$-	$-	$3,839,656
Mental Health Services	$638,156	$-	$-	$-	$-	$638,156
Public Assistance Services	$2,376,316	$-	$-	$-	$-	$2,376,316
Other Human Services	$2,160,240	$276,872	$-	$-	$-	$2,437,112
Culture / Recreation	**$6,318,922**	**$4,411,176**	**$4,094,828**	**$-**	**$-**	**$14,824,926**
Libraries	$6,145,922	$568,570	$3,091,730	$-	$-	$9,806,222
Parks and Recreation	$500	$3,842,606	$1,003,098	$-	$-	$4,846,204
Cultural Services	$150,000	$-	$-	$-	$-	$150,000
Special Events	$22,500	$-	$-	$-	$-	$22,500
Other Uses and Non-Operating	**$23,508,518**	**$90,831,583**	**$21,700**	**$29,632**	**$5,494,505**	**$119,885,938**
Inter-Fund Group Transfers Out	$23,508,518	$90,742,192	$21,700	$29,632	$5,494,505	$119,796,547
Clerk of Court Excess Remittance	$-	$89,391	$-	$-	$-	$89,391
Court-Related Expenditures	**$5,637,235**	**$9,002,552**	**$245,953**	**$-**	**$38,387**	**$14,924,127**

This table hints at what counties are spending millions of dollars on per year that may or may not be actually mandated by the state and federal governments for each county to fund.

[i] On behalf of Florida Association of Counties, the primary research and writing was conducted by Mr. David Heedy, at the time a law clerk for the Florida Association of Counties.

[ii] On behalf of Florida Association of County Attorneys, the primary research and writing was conducted by the Growth Management & Environmental, the General Governmental, and the Public Safety Committees.

Revised 11/15/2016

UNFUNDED MANDATES ON COUNTIES IN FLORIDA

County Operations

Public Records and Open Meetings – Chapters 119 and 286

Ordinance Adoption – Section 125.66

Other Notice
- Certain procurements – Chapter 50

Ethics - Chapter 112
- Ethics training - Section 112.3142(2)(a)

Annual Budget Development & Adoption Process – Chapter 129

Determination of Millage – Chapter 200

Contract Procedures & Bids
- CCNA – Section 287.055
- Notice of fees – Section 218.30

Florida Retirement System – Section 121.051

Intergovernmental Disputes – Chapter 164

County Buildings

Generally – Section 125.01(1)(c)

County Courthouse – Section 138.09

County Jail – No express statutory section

Public Safety & Courts

Emergency Medical Services
- E911 State Plan – Sections 365.171-.173

Animal Control
- Fence Laws – Section 588.15
- Animal Control: Sheriff – Section 767.11(5)
- Animal Control Minimums – Section 828.27
- Animal Control Procedure – Sections 767.12-.13; 823.058; 828.05
- Animal Control Officers Education – Section 828.27
- Animal Control Reporting – Section 381.0031

Public Safety & Courts, cont.

Fire Protection – No express statutory section

Emergency Management – Section 252.38
Special Needs Shelters – Section 252.385, 381.0303(2)(b)

Juvenile Detention Costs – Section 985.686
Intake centers – Section 985.135(2)

State Courts System – ArtV, sec14, Fla.Const; Ch. 29, Fla.Stat.

Health & Human Services

Medicaid – Section 409.915
Indigent Hospital Care – Section 154.306
County Health Units – Section 154.01
Mental Health Funding – Section 394.76(3)
Unclaimed Bodies – Section 406.50(5)
Medical Examiners – Section 406.08
Child Protective Services – Section 39.304(5)
Mosquito Control – No express statutory section

Growth Management

Local Planning Agencies – Section 163.3174
Comp Plans – Section 163.3177
Concurrency – Section 163.3180(2)
Development Permits – Section 125.022

Environmental Protection[1]

Solid Waste Disposal Facilities – Section 403.706(1)
Recycling – Section 403.706(2)(a)
Beach Renourishment – Section 161.101
Stormwater – Section 403.0891

Transportation

County Roads – Section 336.02(1)(a)

[1] For federal mandates in this area, be sure to check the Clean Water Act, 33 U.S.C. §§1251-1387.

Constitutional Officers

Salaries – Chapter 145
Budgets – Section 129.03
Clerks – Chapter 28
Sheriffs – Chapter 30
Tax Collector – Chapter 197
Property Appraiser – Chapters 192-200
Supervisor of Elections – Section 98.015[2]

[2] For federal funding mandates, need to check the Help America Vote Act (HAVA), 42 USC Ch.146.

PREEMPTION OF COUNTY AUTHORITY IN FLORIDA

FLORIDA ASSOCIATION OF COUNTIES[i] AND
FLORIDA ASSOCIATION OF COUNTY ATTORNEYS[ii]

NOVEMBER 2016

TABLE OF CONTENTS

I. INTRODUCTION

The state is able to restrict the home rule powers of counties and municipalities through preemption. State preemption precludes a city or county from exercising authority in a particular area. The Florida courts have recognized two types of preemption: express and implied.[1] Express preemption "requires that the statute contain specific language of preemption directed to the particular subject at issue;" while, "[i]mplied preemption occurs if a legislative scheme is so pervasive that it occupies the entire field, creating a danger of conflict between local and state laws."[2]

Although preemption is typically associated with an express state legislative declaration of preemption—i.e. a statute will prescribe that a local government "shall not adopt" an ordinance altering the language of the statute—home rule power can also be preempted by the legislature if the local government action is found to be (1) conflicting with state law, (2) inconsistent with a pervasive regulatory scheme, or (3) attempting to exercise control over an area in which the Legislature has assigned contrary responsibility among governmental units.

This whitepaper will focus on express statutory preemption and implied preemptions that have been identified by the courts in Florida.

II. HISTORY OF COUNTY AND MUNICIPAL HOME RULE AUTHORITY

"Home rule" is the ability of a county or municipality to act without legislative authorization. Prior to the 1968 Florida Constitution, the majority of counties and municipalities had only those powers granted by the Legislature. Home rule authority was first adopted and given equal access to all counties and cities as one of the major constitutional revisions ratified in the 1968 Florida Constitutional Amendment.[3]

A. Counties.

The Florida Constitution of 1885 provided Dade County (Miami-Dade) the "power to adopt, revise, and amend from time to time a home rule charter of government for Dade County, Florida, under which the Board of County Commissioners of Dade County shall be the governing body."[4]

The 1968 revision created two forms of county government structures: charter counties and counties not operating under a charter. Currently, "non-charter counties" are provided:

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[1] Santa Rosa County v. Gulf Power Co., 635 So. 2d 96, 101 (Fla. 1st DCA 1994).
[2] *Id.*; *see also* Tallahassee Memorial Regional Medical Center, Inc. v. Tallahassee Medical Center, Inc., 681 So. 2d 826, 831 (Fla. 1st DCA 1996).
[3] *See generally* FLA. CONST. art. VIII.
[4] Fla. Const. art. VIII, § 6(e), n. 3 (originally in Section 11 of Article VIII of the 1885 Florida Constitution).

> [The] power of self-government as is provided by general or special law. The board of county commissioners of a county not operating under a charter may enact, in a manner prescribed by general law, county ordinances not inconsistent with general or special law, but an ordinance in conflict with a municipal ordinance shall not be effective within the municipality to the extent of such conflict.[5]

"Charter counties" are provided:

> [A]ll powers of local self-government not inconsistent with general law, or with special law approved by vote of the electors. The governing body of a county operating under a charter may enact county ordinances not inconsistent with general law. The charter shall provide which shall prevail in the event of conflict between county and municipal ordinances.[6]

A county may adopt a home-rule charter, which is a local constitution and can modify the structure of county government and can also deal with specific issues. The county charter prevails in the event of a conflict between a county and a municipal ordinance. In non-charter counties, a municipality may void a county ordinance within its boundaries simply by passing its own ordinance that conflicts with the county ordinance.

The constitutional home rule powers were subsequently statutorily recognized for charter counties and implemented for non-charter counties in Section 125.01 of the Fla. Stat.[7]

B. Municipalities.

Currently, Article VIII of the Florida Constitution gives municipalities the "governmental, corporate and proprietary powers . . . to conduct municipal government."[8] This considerably broad power sharply contrasts the limited powers

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[5] FLA. CONST. art. VIII, § 1(f).
[6] FLA. CONST. art. VIII, § 1(g).
[7] Fla. Stat. § 125.01 (3)(a)-(b) (2014) ("The enumeration of powers herein may not be deemed exclusive or restrictive, but is deemed to incorporate all implied powers necessary or incident to carrying out such powers enumerated, including, specifically, authority to employ personnel, expend funds, enter into contractual obligations, and purchase or lease and sell or exchange real or personal property. . . . The provisions of this section shall be liberally construed in order to effectively carry out the purpose of this section and to secure for the counties the broad exercise of home rule powers authorized by the State Constitution.").
[8] *Id.*

expressed in the 1885 Florida Constitution, which stated that "[t]he Legislature shall have the power to establish, . . . municipalities . . . to prescribe their jurisdiction and powers, and to alter or amend the same at any time."[9]

The 1968 revision's home rule powers were first tested in 1972, when the Florida Supreme Court ruled that the City of Miami had no power to enact a rent control ordinance, absent a legislative enactment authorizing the exercise of such power by a municipality.[10] The narrow construct of the *Fleetwood Hotel* decision led the legislature to enact the Municipal Home Rules Powers Act (MHRPA) the next year. With practically the same language found in the Constitution, the MHRPA guarantees municipalities the power to conduct government. The MHRPA specifically states that local governments should be able to act unless otherwise provided by law. The Florida courts have interpreted this to mean that local government action should only be prohibited if the action is either preempted by state law or in conflict with state law.

III. PREEMPTIVE AREAS OF LAW

A. Budgeting Processes.

The Florida Legislature established a budget system for the finances of every county's board of county commissioners, as well as the exclusive method for county budget amendments.[11] Moreover, chapter 200 of the Florida Statutes prescribes the procedures for the adoption of a millage rate for the levy of taxes by the county, which each county commission must follow.[12] The courts of Florida have continuously struck down attempts by the county to impose modifications inconsistent with the general laws providing for the establishment of a county budget and imposition of ad valorem taxes.[13]

In *Ellis v. Burk*, the Fifth District Court of Appeal decided whether a tax cap provision by Brevard County was inconsistent with Chapters 129 and 200, Florida Statutes.[14] The appellate court first opined that "[u]nder our state constitution and statutory scheme, the power to limit a county commission's ability to raise revenue

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[9] FLA. CONST. of 1885, art. VIII, § 8.
[10] *See* City of Miami Beach v. Fleetwood Hotel, 261 So. 2d 801, 803 (Fla. 1972).
[11] Chapter 129, Florida Statutes; 2001-04, Fla. Op. Att'y Gen. (2001) ("[T]he courts of this state have previously struck down attempts by a county to impose a tax cap as inconsistent with the general laws providing for the establishment of a county budget and imposition of ad valorem taxes contained in Chapters 129 and 200, Florida Statutes.").
[12] Chapter 200, Florida Statutes, 2001-04, Fla. Op. Att'y Gen. (2001)
[13] *See, e.g.*, Board of County Comm'rs of Marion County v. McKeever, 436 So. 2d 299 (Fla. 5th DCA 1983), *pet. for rev. den.*, 446 So. 2d 99 (Fla. 1984) (concluding "that a county ordinance imposing a millage cap on ad valorem taxes for a period of up to ten years unconstitutionally conflicted with the statutory scheme set forth in Chapters 129 and 200, Florida Statutes"); Board of County Comm'rs of Dade County v. Wilson, 386 So. 2d 556 (Fla. 1980) (holding that the Florida Supreme Court has held that Chapters 129 and 200, FLA. STAT., are the exclusive manner by which countywide millage rates are to be set).
[14] 866 So. 2d 1236 (Fla. 5th DCA 2004).

for the county's operating needs by way of ad valorem taxation is effectively and exclusively lodged in the legislature."[15] Thus, although Brevard County argued that its home rule charter authorized its ad valorem revenue cap, the court held that the tax cap conflicted with the statutory schemes of Chapters 129 and 200, Florida Statutes, and then noted that requiring a referendum to override the tax cap violated the referendum provision of Chapter 125.01(1)(r), Fla. Stat.[16]

B. Contracting, Purchasing and Sale of County Property.

The state has established several bidding procedures that counties are required to follow, including: voting machines and equipment purchases,[17] sale of any real property,[18] drainage projects,[19] community development projects,[20] and public construction works.[21]

The Consultants' Competitive Negotiation Act requires an agency, including counties and municipalities, to follow certain procedures and requirements for procuring and contracting certain professional services, such as: architects, professional engineers, landscape architects, registered land surveyors, and design-builders.[22]

Although a county may purchase or sell a water, sewer, or wastewater reuse utility for service to the public and compensation, it must first hold a public hearing considering several different factors and prepare a statement including a summary of the purchase.[23]

Licensing and regulation of real estate salesmen and brokers is preempted to the state by chapter 475, Fla. Stat.; counties and municipalities, therefore, are

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[15] *Id*. at 1237.

[16] Fla. Stat. § 125.01(1)(r) (2014) ("There shall be no referendum required for the levy by a county of ad valorem taxes, both for county purposes and for the providing of municipal services within any municipal service taxing unit.").

[17] Fla. Stat. § 101.293(2) (2014) ("The Division of Elections of the Department of State shall establish bidding procedures for carrying out the provisions and the intent of ss. 101.292-101.295, and each governing body shall follow the procedures so established.");

[18] Fla. Stat. § 125.35(1)(c) (2014) ("No sale of any real property shall be made unless notice thereof is published once a week for at least 2 weeks in some newspaper of general circulation published in the county, calling for bids for the purchase of the real estate so advertised to be sold.").

[19] Fla. Stat. § 157.03 (2014) ("[T]he board of county commissioners shall advertise once a week for 3 weeks, in a newspaper published in the said county, for bids for the construction of said ditch, drain or canal, and the same shall be given to the lowest responsible bidder.").

[20] Fla. Stat. § 190.033 (2014) ("Any board seeking to construct or improve a public building, structure, or other public works shall comply with the bidding procedures of s. 255.20 and other applicable general law.").

[21] Fla. Stat. § 255.20(1) (2014) ("A county, . . . seeking to construct or improve a public building, structure, or other public construction works must competitively award to an appropriately licensed contractor each project that is estimated in accordance with generally accepted cost-accounting principles to cost more than $300,000.").

[22] Fla. Stat. § 287.055 (2014); AGO 86-57, June 19, 1986, http://www.myfloridalegal.com/ago.nsf/Opinions/A13B3A5F8862B7888525657500661F5E.

[23] Fla. Stat. § 125.3401 (2014).

precluded by this section from licensing and regulation of the real property activities or services of persons already licensed as real estate salesmen and brokers by the state.[24]

Chapter 274 governs tangible personal property owned by local governments. Surplus property is prescribed a method by which a local government is allowed to sell, and the county or city shall accept the highest bid and pay for the transferring of property.[25]

Section 723.004(2), Fla. Stat., stipulates that all regulations, control, and matters related to the landlord-tenant relationship of mobile home lots are expressly preempted to the state.

C. Emergency Medical.

"A county may not impose a fee or seek reimbursement for any costs or expenses that may be incurred for services provided by a first responder, including costs or expenses related to personnel, supplies, motor vehicles, or equipment in response to a motor vehicle accident, <u>except for</u> costs to contain or clean up hazardous materials in quantities reportable to the Florida State Warning Point at the Division of Emergency Management <u>and costs for transportation and treatment provided by ambulance services licensed</u> pursuant to Sec. 401.23(4) and (5)"[26]

D. Eminent Domain.

The counties are delegated the power of eminent domain through Chapter 127 of the Florida Statutes for any county purpose. This power excludes state and federal property, and is limited to within its own County boundaries for parks, playgrounds, recreational centers or other recreational purposes.[27]

E. Environmental Management.

Chapter 403 of the Florida Statutes prescribes how the Florida Legislature plans to ensure the beauty and quality of the state's environment, including environmental management. Under section 403.7031, Fla. Stat., "[a] county or a municipality *shall* not adopt by ordinance any definition that is inconsistent with the definitions in s. 403.703." Sec. 403.703, Fla. Stat., defines forty-three (43) different terms dealing with environmental control.

Under section 403.510(2), Fla. Stat, "[t]he state hereby preempts the regulation and certification of electrical power plant sites and electrical power plants as defined in this act."

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[24] Fla. Op. Atty. Gen., 081-5 (1981).
[25] Fla. Stat. § 274.05 (2014).
[26] Fla. Stat. § 125.01045(1) (2014) (emphasis added).
[27] Fla. Stat. §127.01(1)(a) and 127.01(2) (2014).

Under section 405.536(2), Fla. Stat., "[t]he state hereby preempts the certification of transmission lines and transmission line corridors."

Under section 403.942(2), Fla. Stat., "[t]he state preempts the certification and regulation of natural gas transmission pipelines and natural gas transmission pipeline corridors."

The Florida Water Resources Act of 1972 declared that all waters in the state are subject to regulation under the provisions of Chapter 373, Fla. Stat., unless specifically exempted by general or special law. "No state or local government agency may enforce, except with respect to water quality, any special act, rule, regulation, or order affecting the waters in the state controlled under the provisions of this act."[28]

Under the Mangrove Trimming and Preservation Act, the state preempts the regulation and licensing of mangrove trimming, unless the local government is delegated the department's authority under the Act.[29]

The Right to Farm Act and the Agricultural Land Use and Practices Act both preempt regulation of bona fide farming activities on property classified as agricultural under Florida Statute 193.461, where the farming activity is regulated through implemented best management practices, interim measures, or regulations adopted under Florida Statutes, Chapter 120, by the Department of Environmental Protection, the Department of Agriculture and Consumer Services, or a water management district as part of a statewide, or regional program, or if the activity is expressly regulated by the U.S. Department of Agriculture, the U.S. Army Corps of Engineers, or the U.S. Environmental Protection Agency.

Nonresidential farm buildings, farm fences, and farm signs are exempt from the Florida Building Code, and any county or municipal code or fee, except for floodplain management regulations.[30] However, a farm sign that is located on a public road may not be erected, used, operated, or maintained in a manner that violates any of the following standards of Florida Statutes 479.11:

> (4) which limits signs within 100 feet of a church, school, cemetery, public park, reservation, playground, or a state or national forest;
> (5)(a) which limits signs that display intermittent lights not embodied in the sign or any rotating or flashing lights within 100 feet of a rightway for certain highways, or which causes glare that impairs the vision of or distracts motorists;
> (6) which limits signs using the word stop or danger;
> (7) which limits signs that obstructs the view of approaching vehicles; and (8) which limits signs on certain highways.[31]

[28] Fla. Stat. § 373.023(1)-(2) (2014).
[29] Fla. Stat. §403.9321-403.9334 (2014).
[30] Fla. Stat. §604.50 (2014).
[31] Fla. Stat. §604.50(1) (2014).

Regulation of waters in the state are controlled under Chapter 373 (except with respect to water quality) – § 373.023(2), Fla. Stat.

F. Voting Regulations, Ethics, Public Records, Meetings and Procedure.

"All matters set forth in chapters 97-105 [covering elections, voting methods, candidates] are preempted to the state, except as otherwise specifically authorized by state or federal law."[32] There are, however, certain responsibilities and powers delegated to local authorities, including choice of voting systems—as local governments are in the best position to make such decisions.[33]

The Legislature has provided a code of ethics which covers the official conduct of all public officials and employees in Florida.[34] While there is no express preemption of this area to the state which would preclude legislation by a county consistent with the Code of Ethics[35], Florida's Attorney General has stipulated that "the county commission of a charter county has the authority to enact a code of ethics for county officers and employees, a county ethics code may not conflict with the provisions of Chapter 112, Fla. Stat."[36]

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[32] Fla. Stat. § 97.0115 (2014). *See* Fla. Op. Atty. Gen. 074-263 (1974) (finding campaign financing applying to candidates for elective municipal office is preempted by section 106.08, Florida Statutes); *see also* Fla. Op. Atty. Ge. 077-109 (1077) (finding that legislature has preempted the field of voter registration). "However, municipal elections may be altered if there is an applicable special act, charter, or ordinance." *See id.* § 100.3605

[33] *See* Sarasota Alliance for Fair Elections, Inc. v. Browning, 28 So. 3d 880 (2010). In a proposed amendment to Sarasota's county charter sponsored by political action committee (PAC) setting forth detailed election requirements was not expressly preempted by election code, as there was no specific language in the code expressly setting forth preemption, however because the amendment conflicted with election code—it was found to be unconstitutional. Browning v. Sarasota Alliance for Fair Elections, Inc., 968 So.2d 637 (Fla. 2d DCA 2007), *decision approved in part, quashed in part* 28 So.3d 880.

[34] *See* Fla. Stat. §112.311(5) (2014) ("[N]o officer or employee of a state agency or of a county, city, or other political subdivision of the state . . . shall have any interest, financial or otherwise, direct or indirect; engage in any business transaction or professional activity; or incur any obligation of any nature which is in substantial conflict with the proper discharge of his duties in the public interest. To implement this policy and strengthen the faith and confidence of the people of the state in their government, there is enacted a code of ethics setting forth standards of conduct required of state, county, and city officers and employees . . . in the performance of their official duties. It is the intent of the Legislature that this code shall serve not only as a guide for the official conduct of public servants in this state, but also as a basis for discipline of those who violate the provisions of this part.").

[35] Fla. Stat. §112.326 states: "Additional requirements by political subdivisions and agencies not prohibited. – Nothing in this act shall prohibit the governing body of any political subdivisions, by ordinance, or agency, by rule, from imposing upon its own officers and employees additional or more stringent standards of conduct and disclosure requirements than those standards of conduct and disclosure requirements do not otherwise conflict with the provisions of this part."

[36] Fla. Op. Atty. Gen. 91-89 (1991). However, in CEO 75-20, wherein the Florida Commission on Ethics recognizes that a municipality may enact a municipal code of ethics more stringent than, or with provisions differing from, Part III, Ch. 112, FLA. STAT., as long as it does not conflict with the state statute.

Chapter 119 of the Florida Statutes, relating to records management, constitutes a state preemption of the field of public records and, therefore, such field is not a proper or valid subject of attempted local regulation or legislation.[37] "The requirements of Chapter 119 have been made mandatory by the Legislature at the local as well as the state level and hence do not vest in any local agency any discretion whatsoever to change, alter or condition the provisions of the chapter."[38] Moreover, Florida courts have also recognized that Legislature has made the Chapter 119 requirements mandatory at the local level.[39]

G. Growth Management and Zoning.[40]

The local government comprehensive plan is a document that is prepared and adopted pursuant to Chapter 163, Florida Statutes, which is intended to be a guide for making land use decisions for future development and redevelopment within the locality.[41] In section 163.3194, Fla. Stat., the Legislature mandated that once a comprehensive plan has been adopted in conformity with the Community Planning Act, there may be no variance from the plan granted to development activities adopted afterward.[42]

In the 1985 Local Government Comprehensive Planning and Land Development Regulation Act, local government plans and plan amendments were required to be reviewed and approved by the state—a process that was formerly under the local government's authority.[43]

Zoning of family day care homes is restricted. "The operation of a residence as a family day care home, as defined by law, registered or licensed with the Department of Children and Families shall constitute a valid residential use for purposes of any local zoning regulations, and no such regulation shall require the owner or operator of such family day care home to obtain any special exemption or

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[37] Section 24 of Article 1 of the Florida Constitution grants to the public the right of access to public records and to public meetings of collegial bodies, and authorizes the Legislature to enact general laws, passed by a 2/3 vote of each house, establishing exemptions to these rights. Each such law must state the public necessity for the exemption and be no broader than necessary to accomplish the law's stated purpose. The Legislature is also directed to enact laws governing the enforcement of these provisions.

[38] 1985 Fla. Op. Atty. Gen. 45 (Fla.A.G.), Fla. AGO 85-19, 1985

[39] Tribune Company v. Cannella, 438 So.2d 516 (Fla. 2nd DCA 1983), quashed, 458 So.2d 1075 (Fla.1984).

[40] See also, preemptions identified in Section III, E, "Environmental Management"

[41] Florida County Government Guide, Page 126

[42] Fla. Stat. § 163.3194(1)(a) (2014) ("After a comprehensive plan, or element or portion thereof, has been adopted in conformity with this act, all development undertaken by, and all actions taken in regard to development orders by, governmental agencies in regard to land covered by such plan or element shall be consistent with such plan or element as adopted.").

[43] 1985 Fla. Op. Atty. Gen. 158 (Fla.A.G.), Fla. AGO 85-56, 1985 ("[I]t is my opinion that all land development regulations and actions including permits for the construction and use of property issued by a municipality must be in accordance with the local government's comprehensive plan.").

use permit or waiver, or to pay any special fee in excess of $50, to operate in an area zoned for residential use."[44]

Zoning of community residential homing is restricted. "State law on community residential homes controls over local ordinances, but nothing in this section prohibits a local government from adopting more liberal standards for siting such homes."[45]

"A local law, ordinance, or regulation may not prohibit vacation rentals or regulate the duration or frequency of rental of vacation rentals."[46]

Section 552.30 of the Florida Statutes expressly states that the State Fire Marshall has sole and exclusive authority to promulgate standards, rules and regulations regarding the use of explosives in conjunction with construction material mining activities.

H. Health and Human Services.

Part III of Chapter 401, Florida Statutes (§§ 401.2101-401.465), the "Raymond H. Alexander M.D. Emergency Medical Transportation Services Act," establishes a statewide regulatory scheme for emergency and nonemergency medical transportation services. Counties and municipalities may not enact any local ordinance that may prohibit or contradicts any law provided by the state.[47]

I. Public Safety and Animal Control.

"No county may adopt any ordinance relating to the possession or sale of ammunition."[48]

"PREEMPTION.—Except as expressly provided by the State Constitution or general law, the Legislature hereby declares that it is occupying the whole field of regulation of firearms and ammunition, including the purchase, sale, transfer, taxation, manufacture, ownership, possession, storage, and transportation thereof, to the exclusion of all existing and future county, city, town, or municipal ordinances or any administrative regulations or rules adopted by local or state government relating thereto. Any such existing ordinances, rules, or regulations are hereby declared null and void."[49]

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[44] Fla. Stat. § 166.0445 (2014).
[45] Fla. Stat. § 419.001 (2014).
[46] Fla. Stat. § 509.032(7)(b) (2014).
[47] Rinzler v. Carson, 262 So.2d 661, 668 (Fla. 1972).
[48] Fla. Stat. § 125.0107 (2014).
[49] Fla. Stat. § 790.33(1) (2014). The statute goes on to stipulate that if a county or municipality is found to be "knowing and willful" of its violation of the firearm and ammunition preemption, "the court shall assess a civil fine of up to $5,000 against the elected or appointed local government official or officials or administrative agency head under whose jurisdiction the violation occurred." *Id.* § 790.33(3)(c).

Section 791.001, Fla. Stat. expressly states that Chapter 791, which concerns the sale of fireworks, "shall be applied uniformly throughout the state."[50]

"No local government or political subdivision of the state may enact or enforce an ordinance that regulates pest control," with a few exceptions.[51]

Art. IV, §9, Fla. Const. specifically preempts the regulation of wild animal life and fresh water aquatic life to the state. §379.2412, Fla. Stat. (2014), preempts the regulation of "the taking or possession of saltwater fish" to the state.

The "fence law" contained in Chapter 588, Fla. Stat. (2014), governing the impoundment of stray livestock is intended to be uniform throughout the state. Regulation of dangerous dogs is set forth in Chapter 767, Florida Statutes.[52] Chapter 767, Fla. Stat. (2014), establishes minimum procedures governing the investigation, certification, notice and hearing, confinement, and appellate remedies related to dangerous dogs.[53] There is a statutory definition of a "dangerous dog." The law requires that a dog that has been "declared dangerous attacks or bites a person or a domestic animal without provocation" shall be "destroyed in an expeditious and humane manner."[54] In all cases, the law requires that a dog that "causes severe injury or death of any human" shall be euthanized.[55] No local government may adopt dangerous dog regulations "specific to breed."[56]

In Hoesch v. Broward County, 53 So. 3d 1177 (Fla. 4th DCA 2011), the court invalidated a county ordinance that required euthanasia of dogs that kill or cause the death of a domestic animal on only one occasion finding it conflicted with Chapter 767 that required at least two such incidents.

If counties elect to provide local animal control, state law establishes minimum criteria and responsibilities.[57] There are minimum criteria governing the civil citation process for local ordinances "relating to animal control or cruelty."[58] While the law states "no county or municipal ordinance relating to animal control or cruelty shall conflict with the provisions of this chapter or any other state law", it also proclaims that it is still "an additional, supplemental, and alternative means of

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[50] Counties' can regulate more stringently. "This does not mean that the county cannot legislate concerning fireworks to the extent such does not conflict with the provisions of chapter 791. See, Phantom of Brevard, Inc. v. Brevard County, 3 So. 3d 309 (Fla. 2008); *see also* Florida Statute Section 791.012; "Any state, county, or municipal law, rule, or ordinance may provide for more stringent regulations for the outdoor display of fireworks, but in no event may any such law, rule, or ordinance provide for less stringent regulations for the outdoor display of firework."

[51] Fla. Stat. § 482.242(1) (2014).

[52] See Fla. Stat. § 767.10-.15 (2014) ("Nothing in this act shall limit any local government from placing further restrictions or additional requirements on owners of dangerous dogs or developing procedures and criteria for the implementation of this act, provided that no such regulation is specific to breed and that the provisions of this act are not lessened by such additional regulations or requirements.").

[53] § 767.12, Fla. Stat. (2014).

[54] § 767.13(1), Fla. Stat. (2014).

[55] § 767.13(2), (3), Fla. Stat. (2014).

[56] §767.14, Fla. Stat. (2014).

[57] In areas not served by an animal control authority, the sheriff shall carry out the duties of the animal control authority. § 767.11(5), Fla. Stat. (2014).

[58] § 828.27, Fla. Stat. (2014).

enforcing county or municipal codes or ordinances."[59] Local governments may not "mandate revaccination of currently vaccinated animals except in instances involving postexposure treatment for rabies."[60]

Municipalities and counties have no home rule powers in the area of examining into or certifying the competency of fire protection systems contractors; such regulation is preempted to the state.[61]

Regulation, compensation and operation of the National Guard has been preempted to the state, and is primarily a state, and not a municipal, purpose.[62]

State law does not expressly preempt the subject of juvenile detention. Chapter 985, Fla. Stat. (2014), establishes procedures to ensure due process governing the control, discipline, punishment, and treatment of children alleged to have committed a violation of law. Counties may operate their own secure juvenile detention centers or share the costs of state-run facilities.[63]

J. Sanitation and Food.

Florida Statutes § 381.00315(6) provides that rules adopted by the state department of health pursuant to Fla. Stat. Ch. 381 supersede municipal regulations and ordinances and public health rules of other state departments.[64]

The regulation and permitting of food manufacturing, processing, packing, transporting and preparing, or selling at retail is preempted to the state.[65]

The provisions of Fla. Stat. Ch. 502 and state rules preempt all municipal regulations relating to milk or milk products, or frozen desserts for wholesale.[66]

The regulation, identification, and packaging of meat, poultry, and fish are preempted to the state.[67]

K. Taxes and Other Revenue Sources.

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[59] § 828.27(7)(8), Fla. Stat. (2014).
[60] § 828.30(7), Fla. Stat. (2014).
[61] Fla. Op. Atty. Gen. 080-46 (1980).
[62] Fla. Op. Atty. Gen. 078-81 (1978).
[63] § 958.686(10), Fla. Stat. (2014)
[64] Fla. Stat. § 381.00315(6) (2014) ("The rules adopted under this section and actions taken by the department pursuant to a declared public health emergency or quarantine shall supersede all rules enacted by other state departments, boards or commissions, and ordinances and regulations enacted by political subdivisions of the state.").
[65] Fla. Stat. § 500.12(5) (2014) ("Regulatory and permitting authority over any food establishment is preempted to the department.").
[66] Fla. Stat. § 502.232 (2014) ("All special or local acts, general laws of limited application, county ordinances or resolutions, municipal ordinances or resolutions, and municipal charter provisions that authorize the regulation of milk or milk products, or frozen desserts for wholesale, are superseded by this chapter and the rules adopted pursuant to this chapter.").
[67] Fla. Stat. § 500.60 (2014) ("Notwithstanding any other law or local ordinance to the contrary and to ensure uniform health and safety standards, the regulation, identification, and packaging of meat, poultry, and fish is preempted to the state and the Department of Agriculture and Consumer Services.").

"The authority of a public body to require taxes, fees, charges, or other impositions from dealers of communications services for occupying its roads and rights-of-way is specifically preempted by the state because of unique circumstances applicable to communications services dealers."[68]

Regulatory fees imposed to regulate competing uses of public rights-of-way are characterized as franchise fees. Utilities have historically bargained for and entered into franchise agreements with counties and municipalities. The holding in Santa Rosa County v. Gulf Power Co., that the authority to grant a franchise and impose a fee on telephone utilities was preempted was based upon the provisions of sections 364.32 through 364.37, Florida Statutes, which granted the Florida Public Service Commission the exclusive jurisdiction to grant certificates to telephone companies.[69]

Besides the local government's ability to levy ad valorem taxes, "[a]ll other forms of taxation shall be preempted to the state except as provided by general law."[70]

No tax on the manufacture, distribution, exportation, transportation, importation, or sale of alcoholic beverages may be imposed by way of license, excise, or otherwise by any municipality.[71]

No municipality or county may levy or collect any excise tax on cigarettes.[72]

Cases in which the courts have found express state preemption are rare. Taxation is one of the areas in which there has been an explicit finding of express preemption. See City of Tampa v. Birdsong Motors, Inc., 261 So. 2d 1 (Fla. 1972).

"All matters relating to the operation of the state lottery are preempted to the state, and no county, municipality, or other political subdivision of the state shall enact any ordinance relating to the operation of the lottery."[73]

L. Transportation.

Chapter 316 covers the State Uniform Traffic Control which is used to make uniform traffic laws apply throughout the state. "[N]o local authority shall enact or enforce any ordinance on a matter covered by [Chapter 316] unless expressly authorized."[74] For example, city ordinances allowing use of cameras to monitor and enforce red light infractions were expressly preempted by state law,[75] city

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[68] Fla. Stat. § 202.24(1) (2014).
[69] 635 So. 2d 96 (Fla. 1st DCA 1994), review denied, 645 So. 2d 457 (Fla. 1994).
[70] Fla. Const. art. VII, § 1.
[71] Fla. Stat. § 561.342 (2014) ("No tax on the manufacture, distribution, exportation, transportation, importation, or sale of such beverages shall be imposed by way of license, excise, or otherwise by any municipality, anything in any municipal charter or special or general law to the contrary notwithstanding.").
[72] Fla. Stat. § 210.03 (2014) ("No municipality shall, after July 1, 1972, levy or collect any excise tax on cigarettes.").
[73] Fla. Stat. § 24.122(3) (2014).
[74] Fla. Stat. § 316.007 (2014).
[75] Fla. Stat. § 316.0076 (2014); *see also* Masone v. City of Aventura, 147 So. 3d 492 (Fla. 2014).

ordinances that allowed city to use automated cameras to catch and fine drivers who ran red lights was expressly preempted by the Florida Uniform Traffic Control Law,[76] city ordinance regulating motor-propelled bicycles are preempted to the state,[77] regulation of skateboards on streets within the city's jurisdiction is preempted to the state,[78] regulation of commercial mobile radio services within a motor vehicle is expressly preempted to the state,[79] and child or truck bed restraint are preempted to the Legislature's Uniform Traffic Control Law.[80]

Any matter covered by Chapter 316 (Florida Uniform Traffic Control Law) – § 316.007, Fla. Stat.

Establishment of State roads and bridges – *Department of Transportation v. Lopez-Torres*, 526 So.2d 674 (Fla. 1988)

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[i] On behalf of Florida Association of Counties, the primary research and writing was conducted by Mr. David Heedy, at the time a law clerk for the Florida Association of Counties.

[ii] On behalf of Florida Association of County Attorneys, the primary research and writing was conducted by the Growth Management & Environmental, the General Governmental, and the Public Safety Committees.

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[76] City of Orlando v. Udowychenko, 98 So. 3d 589 (Fla. 5th DCA 2012).

[77] Fla. Op. Atty. Gen. 077-84 (1997).

[78] Fla. Op. Atty. Gen. 98-15 (1998); *but see* Fla. Op. Atty. Gen. 94-5 (1994) (finding a city is not preempted from regulating safety equipment for bicycles, specifically the requirement to wear a helmet).

[79] Fla. Stat. § 316.0075 (2014).

[80] *See* Fla. Stat. § 316.613 (2014); *see also* Fla. Op. Atty. Gen. 2008-11 (2008).

Revised 10/10/16

STATE PREEMPTION OF COUNTY REGULATORY AUTHORITY

Areas over which the Legislature has preempted counties from acting. Note, in some cases preemption is complete. In other cases, it is partial. The particular statute should be evaluated.

1. Regulation of smoking – Section 386.209
2. Testing of cigarettes for flammability – Section 633.142(11)
3. Cultivation and processing of medical cannabis by dispensing organizations – Section 381.986(8)
4. Mobile home park landlord-tenant issues – Section 723.004(2)
5. Sanitary standards in mobile home parks and R.V. parks – Section 513.051
6. Environmental control definitions – Section 403.7031
7. Regulation and certification of electrical power plants – Section 403.510(2)
8. Certification of electrical transmission lines – Section 403.536(2)
9. Maintenance of vegetation within electrical transmission and distribution rights-of-way – Section 163.3209
10. Certification and regulation of natural gas transmission pipelines – Section 403.942(2)
11. Biomedical waste generators – Section 381.0098(8)
12. Underground petroleum storage tanks – Section 376.317
13. Regulation of waters in the state controlled under Chapter 373 (except with respect to water quality) – Section 373.023(2)
14. Regulation of the consumptive use of water – Section 373.217(4)
15. Mangrove trimming – Section 403.9324
16. Use of explosives in construction materials mining activities – Section 552.30

17. All matters set forth in Chapters 97-105 (relating to elections) – Section 97.0115

18. Movers of household goods and moving brokers – Section 507.13

19. Vacation rentals – Section 509.032(7)(b)

20. Zoning of family day care homes – Section 125.0109

21. Retail refunds – Section 501.142(1)

22. Secondary metals recyclers – Section 538.21(4)

23. Regulated metals property – Section 538.28

24. Pawnbroking – Section 539.001(20)

25. Evidentiary standards and defenses regarding price gouging during a declared state of emergency – Section 501.160(6)

26. Possession or sale of ammunition – Section 125.0107

27. Firearms and ammunition – Section 790.33(1)

28. Firearms and ammunition use at shooting ranges – Section 790.333(8)

29. Impairment in public places – Section 397.701 (but some regulation allowed under Section 397.702)

30. Pest control – Section 482.242(1)

31. Pesticides – Section 487.051(2)

32. Wild animal life, fresh water aquatic life and marine life – Article IV, Section 9

33. Taking or possession of saltwater fish – Section 125.01(4)

34. Livestock at large – Chapter 588

35. Animal control and cruelty – Section 828.27(7)

36. Public health emergencies and quarantines – Section 381.00315(6)

37. Public lodging establishments and public food service establishments (except for compliance with Fla. Building Code and Fla. Fire Prevention Code) – Section 509.032(7)(a)

38. Ranking of food service establishments – Section 509.039

39. Manufacturing, processing, packing, holding or preparing food or selling food at wholesale or retail – Section 500.12(5)

40. Bottled water plants, water vending machines and packaged ice plants – Section 500.511(3)

41. Milk or milk products, or frozen desserts for wholesale – Section 502.232

42. Meat, poultry and fish – Section 500.60

43. Standards and fines in the following subject areas – Section 570.07(16):
a. Fruit and vegetable inspection and grading
b. Pesticide spray, residue inspection, and removal
c. Commercial stock feeds and commercial fertilizers
d. Poultry and eggs
e. Registration, inspection and analysis of gasoline and oils
f. Registration, labeling, inspection and analysis of pesticides
g. Seeds
h. Weights, measures and standards
i. Foods as set forth in the Food Safety Act
j. Honey
k. Sale of liquid fuels
l. Licensing of dealers in agricultural products
m. Administration and enforcement of all regulatory legislation applying to milk and milk products, ice cream and frozen desserts
n. Marks and brands of livestock

44. Fertilizer – Section 576.181(5)

45. Commercial feed and feedstuff – Section 580.0365

46. Beekeeping – Sections 586.10(1) & 586.055

47. Farm operations – Sections 823.14(6) & 163.3162(3)

48. Nonresidential farm buildings, farm fences and farm signs – Section 604.50

49. Hoisting equipment used in construction – Section 489.113(11)

50. Taxes or fees on dealers of communications services for occupying rights-of-way – Section 202.24(1)

51. Telecommunications companies – Section 364.01(2)

52. Rates and service of public electric and gas utilities – Section 366.04(1)

53. The authority, service and rates of water and wastewater utilities – Section 367.011

54. Other than ad valorem taxes, all other forms of taxation – Article VII, Section 1

55. Operation of the State lottery – Section 24.122(3)

56. Motor vehicle warranties – Section 681.116

57. Any matter covered by Chapter 316 (Florida Uniform Traffic Control Law) – Section 316.007

58. Use of cameras for enforcing Ch. 316 – Section 316.0076

59. Motor vehicle noise – Section 403.415

60. Commercial mobile radio services within a motor vehicle – Section 316.0075

61. Additional fees and fines on civil traffic penalties assessed under Ch. 318 – Section 318.121

62. Real estate brokers and salesmen – AGO 81-50

63. Insurers and agents – Section 624.401(3)

64. Taxes and fees on insurers – Section 624.520

65. Workers' compensation – Barragan v. City of Miami, 545 So.2d 252 (Fla. 1989)

66. Sellers of travel – Section 559.939

67. Standards for security cameras in businesses – Section 163.31802

68. Security standards for convenience stores – Section 812.1725

69. Customer safety standards at ATMs – Section 655.965

70. Handicapped accessibility standards – Section 553.513

71. Establishment of State roads and bridges – Department of Transportation v. Lopez-Torres, 526 So.2d 674 (Fla. 1988)

72. Access to or use of public facilities for collection of blood from volunteer donors based on whether the blood establishment is for-profit or not-for-profit – Section 381.06014(5)

73. Obscene movies and shows – Sections 847.09 & 847.013(5)

Areas over which the Legislature has dictated to counties how they are to operate on certain subjects

1. Eminent domain – Chapter 127

2. County budgets – Chapter 129

3. Adoption of millage – Chapter 200

4. Public records – Chapter 119

5. Public meetings – Section 286.011

6. Adoption of ordinances – Section 125.66

7. Purchase of voting equipment – Section 101.293

8. Public construction projects – Section 255.20

9. Procurement of certain professional services – Section 287.055

10. Contracting with companies on the Scrutinized Companies that Boycott Israel List, Scrutinized Companies with Activities in Sudan List, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged in business operations in Cuba or Syria – Section 287.135(7)

11. Purchase or sale of a water, sewer or wastewater reuse utility – Section 125.3401

12. Charges for first responder services – Section 125.01045(1)

13. Compliance with comprehensive plan – Section 163.3194(1)(a)

14. Zoning of community residential homes – Section 419.001

15. Sanitary sewer, solid waste, drainage and potable water concurrency – Section 163.3180(1)

16. Processing of comprehensive plan amendment applications for agricultural enclaves – Section 163.3162(4)

17. Dangerous dogs – Section 767.14

18. Payment of bonuses and severance pay to employees – Section 215.425

STRONG ECONOMIES, RESILIENT COUNTIES

The Role of Counties in Economic Development

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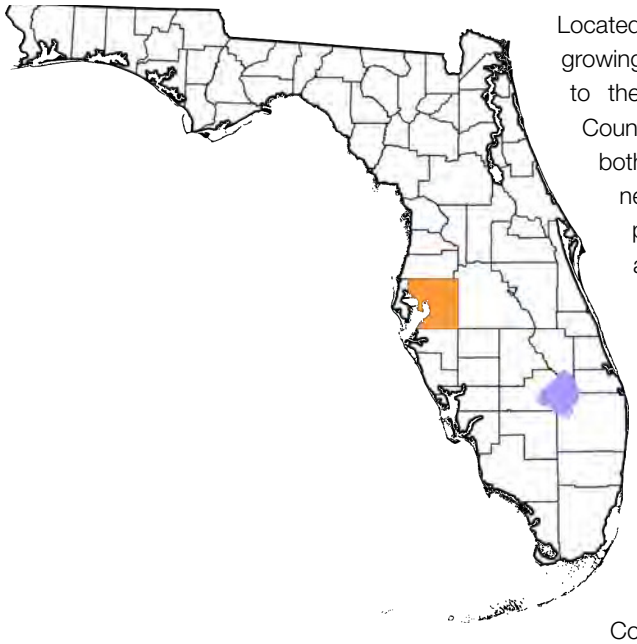
HILLSBOROUGH COUNTY, FLORIDA

Creating New Opportunities through Innovative, Effective Leadership



Located in the center of Florida's west coast, Hillsborough County, Fla., is a fast growing county with an educated labor force. One of the large counties central to the Tampa-St. Petersburg-Clearwater metropolitan area, Hillsborough County added almost 300,000 residents since 2000, at a faster pace than both Florida and the nation. The county workforce is well-educated, with nearly 30 percent of Hillsborough County residents age 25 and older possessing a Bachelor's degree or higher, more than the Florida average. As of April 2014, Hillsborough County enjoyed an unemployment rate (5.6 percent) lower than the overall Florida rate.

The county government focuses on economic diversification, building upon the substantial existing resources of the community to develop and deliver new opportunities for employment and business growth. This case study offers some of the latest examples in county leadership in economic development, including the Economic Development Innovation Initiative (EDI2), Manufacturing Academy and Apprenticeship and Internship Program, the Economic Development Innovation Initiative (EDI2) and the Competitive Sites efforts. While the Hillsborough County Economic Development Department leads these initiatives, the county also leverages the expertise and resources of other county agencies, departments and other organizations.

- Population, 2013: 1.3 million
- County Board size: 7
- County Administrator

Hillsborough County's economic development strategy hinges on strong local, regional and statewide relationships. At the county level, seven elected County Commissioners and an appointed County Administrator govern the county government, with the Administrator acting as the chief executive officer. The County Administrator implements the policies adopted by the Board of County Commissioners and is responsible for a multitude of services, ranging from preparing the county's annual operating budget to overseeing the 4,000 county employees. The County Economic Development Department leads the effort on specific initiatives, as determined by the Board of County Commissioners. With 28 employees and an operating budget of $2.9 million, the department covers a wide

range of economic activities from corporate business development, minority business enterprise, small business development, tourism development, agribusiness development to technology and innovation initiatives, business intelligence, compliance and competitive sites.

When efficient and appropriate, the county collaborates with specialized public-private partners. Based on their primary economic development activities, the county partners range from the Tampa-Hillsborough Economic Development Corporation for business recruitment and retention, Tampa Bay WaVE and USF CONNECT for entrepreneurship support, CareerSource Tampa Bay for workforce development and the Tampa Bay Partnership for regional marketing/ branding to Visit Tampa Bay for tourism development and Tampa Bay Trade and Protocol Council for international economic development.

In the past two years, county leaders empowered staff to develop and implement programs that deviate substantially from historic "business as usual" methods.

Manufacturing Academy and Apprenticeship/Internship Program (MAAIP)

In response to research examining a perceived regional manufacturing workforce skills gap, Hillsborough County is leading an effort to promote manufacturing as a career not only for students, but also the current workforce in the county, especially veterans, women, minorities and underserved communities. The MAAIP provides more relevant curriculum at early ages through a Manufacturing Academy, connects students with meaningful work-learn experiences and actively engages the private sector partners, students and their families in these training programs. The Manufacturing Academy will provide training for middle and high school students and military veterans. Students who complete the program will be credentialed through the Manufacturing Skills Standard Council's Certified Production Technician (CPT) certification. Through the Apprenticeship/Internship program, the county plans to create an ongoing commitment from the manufacturing community to engage Manufacturing Academy students in meaningful on-the-job-training opportunities in the form of apprenticeships and internships. The county collaborates with the CareerSource Tampa Bay for finding and enrolling manufacturers to participate in the program. Funded by a $1-million allocation from Hillsborough County, the two-year program will be administered by the County Economic Development Department for the Hillsborough County Board of County Commissioners.

Competitive Sites

In a fast-paced business world, the Hillsborough County's Competitive Sites program aims to provide immediate information on development opportunities, regulatory assistance and strategic public sector investments. In this

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way, the county is prepared for large-scale business expansions and relocations. The Competitive Sites program, led by the County Economic Development Department, identified, inventoried and analyzed the sites throughout the county with the capacity to support targeted industry development. As of June 2014, the initiative is in the process of crafting policies and programs to guide public sector engagement and investment.

Hillsborough County secures its economic future through planning, leadership and – where appropriate – partnerships. The county government plays multiple roles in economic development in the county, as a thought leader, convener and funder. While the county entrusts partner organizations throughout the county, region and state with the implementation of certain initiatives, it maintains fiscal oversight and assumes ultimate responsibility for the outcomes. Thoughtful decisions on partnerships increase the likelihood of a prosperous outcome for Hillsborough County's residents and businesses.

Local technology businesses nurtured at FirstWaVE accelerator, funded in part by Hillsborough County's Economic Development Innovation Initiative (EDI2).

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The Economic Development Innovation Initiative (EDI2)

The Economic Development Innovation Initiative (EDI2) is a comprehensive program to help the growth of technology and innovative start-ups and small businesses within the county. The goals of the initiative include the increased recognition of the existing assets for the growth of technology companies, the enhancement of the local system of assistance for technology businesses (resources, mentors and accelerators and incubators) and acting as a clearinghouse for organizations and resources that could assist these entrepreneurs. The county plans to sponsor events that would increase awareness of this segment of the local economy and attract talent and businesses to this sector, to align its current resources to be supportive of this industry and to assist non-profits that help the innovation ecosystem. The County Economic Development Department administers the two-year program for the Hillsborough County Board of County Commissioners and received a $2-million allocation from Hillsborough County. As of June 2014, 56 ecosystem-building projects received nearly $600,000 of this amount and leveraged a similar amount of private funds.

Citizens participate in the Hillsborough County Hackathon, using open data to improve communitires and governments.

IBM Center for
The Business of Government

Collaborating Across
Boundaries Series

A County Manager's Guide to Shared Services in Local Government

Eric Zeemering
University of Maryland,
Baltimore County

Daryl Delabbio
Kent County, Michigan

Collaborating Across Boundaries Series 2013

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IBM Center for
The Business of Government

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Foreword

On behalf of the IBM Center for The Business of Government, we are pleased to present this report, *A County Manager's Guide to Shared Services in Local Government,* by Eric Zeemering, University of Maryland, Baltimore County; and Daryl Delabbio, Kent County, Michigan.

Daniel J. Chenok

The report brings together the knowledge and experience of Professor Zeemering, an academic, and Daryl Delabbio, a practitioner. Together, they present findings—based on both research and experience—on how local governments, specifically county governments, are today implementing a variety of shared services. The authors discuss the growing interest in shared services, which is driven partly by economic concerns (i.e., budget savings and new revenue streams), as well as non-economic concerns such as the need to improve the quality of local services and improve working relationships with neighboring jurisdictions.

Ed Nadworny

Zeemering and Delabbio present a discussion of the three preconditions for successful shared service implementations. These include leadership; trust, reciprocity, and transparency; and clear goals and measurable results. After describing how county governments now use shared services, including three short case studies, the authors set forth five recommendations on planning and implementing a shared service. For example, regarding the need for flexibility, Zeemering and Delabbio write, "When working with other governments, counties must be prepared to revisit the design of existing cooperative relationships to meet changing needs and budgetary constraints."

This report builds on the IBM Center's long interest in the topic of shared services. In 2008, the IBM Center published *Success Factors in Implementing Shared Services in Government,* by Timothy Burns and Kathryn Yeaton. In addition to a series of examples of shared services in government, that report sets forth five key success factors in implementing shared services at any level of government.

We trust that this report will be helpful and informative to all government executives either considering shared services or already implementing such programs.

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Executive Summary

Budget stress in the wake of the recent recession has been an incentive for many U.S. local officials to explore new cooperative relationships with neighboring jurisdictions. County governments are in a strategic position to develop shared service projects and interlocal agreements for service delivery.

Interlocal agreements are agreements or contracts between two or more local units of governments to provide services to their citizens. Interlocal agreements between local government units are growing in popularity, and over half the U.S. county officials surveyed for this report point to increased discussions about shared service in the last year. Counties explore shared service delivery to:

- Stimulate innovation in their local communities
- Improve government decision-making
- Increase levels or quality of service
- Improve working relationships with other local governments

This report provides shared service delivery examples from county governments throughout the United States, and presents recommendations from experienced county officials about how county governments can make shared service projects successful. Based on this research, three key preconditions were found to mark the success of a shared service delivery venture:

- **Leadership:** Support from top administrators and elected officials is necessary to advance dialogue and ensure the success of shared services and interlocal agreements. Teams or task forces of participants from multiple governments may identify opportunities for cooperation and maintain momentum.
- **Trust and reciprocity:** Counties that develop a track record of cooperation with their neighbors develop trust, an asset for building new shared service efforts.
- **Clear goals and measurable results:** Specific goals for shared service projects can ensure success while confirming that the effort is worthwhile. Officials should regularly assess the services delivered through cooperation, as well as the quality of the working relationship.

Based on research and interviews with practitioners in the field, this report gives five recommendations to help county leaders form and maintain successful shared service relationships.

Planning a Shared Service

Recommendation One: Create a shared services assessment team. Bring the right participants together to discuss shared services in a transparent manner. Maintain communication with partners over time, resisting the urge to set relationships on autopilot.

Recommendation Two: Identify strengths in participating governments. Counties should carefully identify their areas of strength in determining where they could provide service to others, while also assessing other governments' areas of strength. Be open to innovative service delivery models, including service swapping or exchange.

Recommendation Three: Consider pilot projects. Small successes through pilot projects can build relationships, trust, and a track record to expand cooperation in the future.

Implementing a Shared Service

Recommendation Four: Discuss and document responsibilities with partners. Almost all of the county officials interviewed for this report stress the importance of guiding cooperation with clear, documented terms written in a way that current and future county leaders will understand. Managers and policy-makers should regularly review and discuss shared service agreements.

Recommendation Five: Make appropriate changes as needed. Public needs and budgets change over time. Relationships that are beneficial now may not be in the future. Therefore, cooperative projects must be crafted with flexibility.

Examples and brief case studies from county governments illustrate how shared service initiatives can help counties improve working relationships with other governments while improving public service delivery. Successful shared service projects require patience and careful maintenance over time, but through cooperation, many county governments are finding innovative ways to make quality services available to the public.

County Government: A Strategic Hub for Shared Services

The recent recession forced local government managers to rethink the scale and organization of public services. Collaborative relationships can be part of the solution to continue meeting public expectations. Collaborative partnerships, shared service projects, and interlocal agreements may create cost savings through realizing economies of scale or by employing more efficient staffing models. More often, interlocal agreements help governments maintain quality or avoid reductions in the level of service delivered (Chen and Thurmaier 2009). Interlocal agreement are agreements or contracts between two or more local units of governments to provide services to their citizens.

Whether the justification is cost savings, efficiency, or quality, cooperative arrangements require good management and thoughtful implementation to be successful. County managers and elected officials must know that shared service initiatives require careful attention from initial discussion through project evaluation.

This report brings together views on shared services from county government officials across the United States. Government managers seeking to improve their working relationships with other government agencies or nongovernmental partners do not lack for advice. Books like Russell Linden's *Working Across Boundaries: Making Collaboration Work in Government and Nonprofit Organizations* (2002) or Stephen Goldsmith and William D. Eggers' *Governing by Network: The New Shape of the Public Sector* (2004) have become mainstays on government office bookshelves. Reports on collaboration from the IBM Center for The Business of Government have advanced discussions about public sector collaboration, providing clear and specific advice to government professionals working on problems ranging from service integration (Roy and Langford 2008) to specific fields like public safety (Fedorowicz and Sawyer 2012), social service delivery (Thoennes and Pearson 2008), and watershed management (Imperial 2004). In light of the heightened interest in local government shared service delivery, this report offers recommendations for officials in county governments. County governments have unique strengths as shared service partners, and more county government officials are developing innovative relationships with their neighboring local governments.

What are Shared Service Projects?

County governments can contract with other local governments to buy or sell services. Counties can also make services available to other governments on a fee-for-service basis, or provide other governments with access to a service at no cost. Counties may also develop agreements to jointly produce or consolidate a service with a neighboring government. Shared services may be formalized in contracts or interlocal agreements, or they may simply involve an informal understanding about ongoing cooperation.

Recent studies suggest county government officials are supportive of shared service projects (Abernathy 2012; Zeemering 2009). In a survey conducted for this report, 31 percent of

Common Shared Services in County Government	
Affordable Housing	Lawn and Grounds Maintenance
Agriculture Support Services	Medical Examiner
Animal Control	Parks and Recreation Services
Appraisal and Equalization	Planning and Zoning Administration
Building Inspections	Police Services
Court Services	Purchasing
Economic Development	Recycling
Emergency Communications and Dispatch	Restaurant Inspections
Facility Sharing Agreements	Senior Services
Fleet Maintenance	Social Services
Geographic Information Systems (GIS)	Solid Waste Management
Grant Writing	Tax Billing and Collection
Human Resources	Transportation
Information / Technology Services	Wastewater Treatment
Infrastructure Maintenance	Water Treatment and Delivery
Jails	Website Design and Maintenance
Landfills	Youth Services

county officials report that sharing or contracting services is very common for their county, and over 50 percent indicate that within the last year, local governments in their area have been discussing shared services more than they have in the past. Additional findings from this survey can be found in Appendix I.

Some counties are already exemplars of shared service delivery, and many others are developing experience with these projects. Managers in these counties can provide their peers with strategies to successfully sell or buy services and maintain productive service delivery relationships with neighboring local governments.

Why Counties are Considering Shared Service Delivery

Counties and other units of local government may be giving more thought to shared service proposals due to budget constraints associated with the recent recession.

Economic reasons for pursuing shared services. Some counties find that working with neighbors can help save money or add new revenue.

- **Budget savings**: Budget savings may come about when partnering with other governments creates economies of scale, or when buying a service from another government is less expensive than producing the service alone. Some counties find that sharing service reduces administrative overhead.
- **New revenue streams.** Counties with extra service capacity find that selling a service to another government results in a revenue stream to help offset the cost of a service or prevent possible reductions in that service area.

Additional reasons for pursuing shared services. Many local governments will weather the current economic stress with limited or no change to service delivery (Ammons, Smith, and Stenberg 2012). While budgets may be a prime reason for counties to consider shared services, county leaders should consider six other rationales that make attractive the possibility of working with other local governments.

- **Stimulating innovation.** Conversations among county governments about service delivery may highlight opportunities for innovation. Discussing shared service delivery requires counties to make explicit how services are currently delivered. By comparing service

delivery approaches with other governments, shared service discussions force county leaders to consider inefficiencies in current delivery methods. Focusing on the public service to be delivered, rather than the existing system for delivering the service, may lead to the identification of more efficient methods for providing the service.

- **Improved decision-making**. Shared service delivery requires participating governments to reach a careful consensus on how service will be delivered and on standards or performance expectations for service delivery. County officials who have crafted these arrangements report time-intensive negotiations to reach agreement. Investing in the process of careful analysis and negotiation may result in better decisions about service delivery. Decisions reached through negotiation among governments may also result in durable models for service delivery because managers have carefully considered the details of working together to make successful service changes.
- **Building on complementary strengths**. Counties may benefit from assessing complementary strengths with other local governments in their region. Sharing staff expertise or specialized equipment may result in better services for those participating in a shared service arrangement. So too, counties may consider swapping or exchanging service by providing a service in which the county has strength or excess capacity in exchange for a different service in which the county has weaknesses or needs.
- **Transferring knowledge and skills**. Sharing services with another local government may allow counties to share staff with specialized knowledge or skills, boosting the capacity of other local governments to serve the public. County managers explain that cross-governmental work groups among department or service-level staff often result in a helpful exchange of ideas about how work can be approached in new ways. Counties may also contract for the specialized expertise of staff from other local governments without hiring new employees of their own.
- **Increased levels or quality of service.** Purchasing service from another government, or producing a service together with another government, may result in a higher level or quality of service than a county might be able to provide alone. Counties seeking improved services rarely report saving money on shared service delivery, but they report satisfaction with partnerships that provide residents with better services.
- **Improved working relationships.** Shared service delivery helps counties form regular patterns of dialogue with other local governments in their region. While a county's elected leaders and top administrators may communicate across government borders on a regular basis, lower level managers and staff may not have working relationships with their counterparts in other organizations. Developing and improving working relationships across government borders can lead to improved informal coordination and new ideas about shared service delivery.

The recent recession may have spurred more counties to begin discussions about shared service delivery, but counties also consider working with other governments for a wide range of non-budgetary reasons. As suggested in the next section, county governments must enter discussions about shared services with a clear sense of goals and with patience for dialogue and relationship-building. Shared service delivery is not the right answer for every county service, but county managers around the country can benefit from thoughtful discussions with their neighboring local governments about the areas in which partnerships might be mutually beneficial.

What Shared Services Are Not

This report is not about consolidating units of government. While the consolidation of city and county governments is occasionally debated in public, government consolidations are rare in

practice, and in many instances the outcomes of consolidation do not match the promises made by proponents (Carr and Feiock 2004; Leland and Thurmaier 2004, 2010). Scholars have hotly debated the public's preferences for services delivered by smaller versus larger units of government (e.g., Ostrom, Tiebout, and Warren 1961; Lyons, Lowery, and DeHoog 1992), but the consolidation debate is set aside here.

While consolidations are rare, contracting among local governments is becoming much more common (Warner and Hefetz 2009). Collaboration and shared services are regularly discussed at professional meetings and conferences for city and county government managers. Local communities around the country are working out practical arrangements to share and contract local services in order to create efficiencies, cost savings, or better services for the public. Public managers and elected officials understand that their governments can identify opportunities to work with neighboring jurisdictions to improve local service delivery. This report emphasizes the lessons that come from the practical problem-solving associated with county government shared services and contracting. These lessons can benefit county governments throughout the United States.

The advice given here is based on recommendations from county government officials. Examples of successful and unsuccessful shared service efforts were collected in telephone interviews; the names and counties of the respondents who provided examples for this research are listed in Appendix II.

The following sections present reasons for county governments to consider shared service delivery. The recent recession might have prompted additional interest in working with neighboring governments on service delivery, but county officials should consider other non-budgetary rationales for shared services. The next section presents preconditions for successful shared service relationships. That section describes specific shared service initiatives that county governments have undertaken as buyers or sellers of services. Throughout the report, short case study examples are used to illustrate how county government officials have established and maintained successful relationships with their partners.

Five recommendations for productive shared service delivery emerge from our interviews with county officials around the country. Based on our interviews with experienced county officials, we believe more counties will find that shared service delivery provides opportunities for innovation in their communities.

Case One: County Sheriffs as Contract Service Managers

County sheriffs are among the most active county officials who develop and manage shared and contract service relationships. At the time of incorporation, some cities seek contract services rather than establishing new police departments. Other city governments are facing fiscal stress and consider contracting out police services to a county sheriff's department. Sheriffs who negotiate new contract relationships provide detailed information about the cost of services, often presenting cities with a menu of ancillary services beyond a standard service level. Police contract relationships can help cities access services that they might not otherwise be able to provide on their own, such as specialized investigation, SWAT services, helicopters, or school and community liaison officers. Sheriffs also benefit from contract relationships because the contract brings higher levels of revenue for department operations, more diverse assignment options and promotion routes for officers, and more integrated law enforcement across the county. For some sheriff's departments, contract relationships are critical to survival, as the expansion of incorporated cities reduces territorial responsibilities for road patrol services.

In California, county sheriff's departments have been major contract providers since the 1954 incorporation of the city of Lakewood in Los Angeles County. Seeking to escape the higher property taxes that come with annexation to an existing city, Lakewood residents decided to receive many municipal services, including police service, through contracting with the county government (Miller 1981). Following Lakewood's lead, newly incorporated jurisdictions followed the "Lakewood Plan" to contract for local policing, rather than establishing new and independent police departments. Many other cities around the country have reconsidered their service delivery model, ending their own local administration of police services and contracting with sheriff's departments in order to save money or expand the scope of policing services available to their residents. While cities may identify cost savings as the main justification for contracting with a county sheriff, benefits for contract cities also include reduced response time and not having to assume responsibility for personnel and liability management.

In 2012, the Los Angeles County Sheriff's Department provided contract services to 42 cities. The Contract Law Enforcement Bureau is an office within the sheriff's department responsible for managing contract relationships. Lt. Rick Mouwen explains, "We consider ourselves a support unit because we are not the actual service provider. We're providing support to all of our sheriff's stations and other bureaus that are providing the service to our contract clientele. There's a lot of cost development, development of the rates, modifications and developments of contracts, and things that go on behind the scenes that we're responsible for to ensure that the contracts are running smoothly."

While most counties will not manage contract relationships on the scale of the Los Angeles County Sheriff's Department, all counties that contract out services should think about how to foster and maintain relationships with their contract customers. For policing, Lt. Mouwen explains, "It has to be beneficial for both parties to enter into the agreement. That involves cost-effective service … in which both parties feel that they are in control of the relationship." Among the practices used by the Contract Law Enforcement Bureau is an annual conference with the city managers of contract cities, in which the contract customers set an agenda for the discussion of common concerns. Lt. Mouwen explains, "We are developing trust in each other so that the relationship feels stable." Stable relationships require communication and attention to the routine details of service delivery. "Contracts have to be nurtured every day. You have to address all the small issues … the deputy personnel are dealing with in a city. Nothing is too small to become a problem down the road."

Since the early 1990s, King County, Washington has also been a major provider of police services through contract. Sue Rahr served as King County sheriff, with responsibility for managing relationships with contract cities. Earlier in her career, she served as police chief to a contract city, with reporting responsibility to both the sheriff and city manager. Rahr emphasizes two conditions for successful contract relationships. "First and foremost, you've got to have a trust relationship. At the end of the day, if the city thinks that the county is trying to take advantage of them financially, or is trying to usurp their power and authority, the relationship falls apart. So, from the beginning of contract negotiations, you can never lose sight of the trust of that relationship." The King County sheriff's office worked with city finance directors in order to be transparent in the process of developing costs for services, and the sheriff provides cities with detailed regular reports on service costs.

Second, Rahr emphasizes local control and identity. King County, like many successful contract counties, allows contract cities to retain identity by controlling paint schemes on police cars and the design of uniforms. "We agreed that the cities get to call the shots on what services they want, how they want the services prioritized, and basically what their cops look like, because the most visible evidence of a local government is their police force." Rahr argues that cities must be genuine participants in decision-making over the delivery of police services. "Give as much control as possible to the cities because at the end of the day, they will ask you for your advice and you can influence their decisions, but, you have to let the cities make those critical decisions."

Police service contracting provides important general lessons for county governments interested in maintaining healthy contract relationships including:

- Contract service recipients must believe they have control over the service they receive, and that the service provider understands the unique and specific needs of each customer community.
- Contracts require active management in which details about cost and service delivery are discussed regularly.
- Regular communication and accommodation will help both contract service providers and recipients develop trust, the foundation for successful shared service relationships.

Pictured above is a police cruiser from the San Mateo County, CA Sheriff's Office. San Mateo County recently contracted to provide police service to the city of San Carlos. Both the city's name and that of the county sheriff's office are represented on the vehicle's paint scheme, a common arrangement for cities obtaining police service through contract.

The Preconditions for Successful Shared Services

County governments should enter into shared service agreements only after careful thought, analysis, and deliberation. Washoe County, Nevada Manager Katy Simon suggests counties carefully explore the business case for sharing services and develop "shared guiding principles." Exploring a shared service project requires county governments to understand:

- How a service is financed
- How it is delivered and managed on a day–to-day basis
- How service delivery would change by contracting, merging, or redesigning the service

All participants need to understand their roles in the new service delivery model. Participants must also agree to standards of good service delivery for their communities. These conversations can be difficult, but the county officials we interviewed for this project suggest the dialogue can be made easier if the participating governments have developed a foundation for cooperation. How can a county develop a strong foundation for cooperation? Three factors deserve special emphasis—leadership; trust, reciprocity, and transparency; and clear goals and measurable results.

Leadership

Shared service delivery requires leadership from the top elected and administrative officials in a county, and from implementation teams working on each individual shared service project. For every successful example of shared service delivery, there is another project that has been considered, but has not yet been the focus of serious action. Shared service projects require time and attention to move from concept to implementation. Busy public managers and elected boards have competing priorities. In many communities, shared service proposals are seen as potentially advantageous, but not as immediate priorities. While the recession has caused some governments to give shared services more attention, cutbacks have also reduced staff time available to explore new initiatives. To move shared service proposals forward, county governments must identify those who can provide the leadership to assess the potential advantages of shared services and move select projects from concept to success.

Leadership from the top: the need for champions. Top leaders must communicate to others in county government the intent to explore shared service opportunities and to make them work when feasible. Russell Linden uses the label champion to describe those who provide leadership for collaborative projects. "Someone with real passion for the issue must articulate the goal and demonstrate its importance," writes Linden (1999). In Linden's description, the champion does not need to be a government employee, or even someone directly involved with the day-to-day workings of the collaborative project. The champion is someone who will raise the salience and importance of achieving cooperation on a specific goal.

In the words of County Mayor Rogers Anderson from Williamson County, Tennessee, "You've got to have buy-in. You've got to be the coach and the athletic director to convince, and show, and demonstrate that there is something better." The county's elected officials can lead by identifying projects and by preparing the public for shared service discussions. In communications with constituents, elected officials can dispel myths about shared service proposals and explain the goals of working with other governments.

Our review of shared service projects in county government suggests that most often the leader of a cooperative project is the county executive, county manager or administrator, or an elected county commissioner. Having a professional appointed manager or chief administrative officer who is responsible for the day-to-day operations of a county government may be an asset when considering a shared service project. Research suggests professional managers may be more likely to advance cooperative projects with neighboring governments, perhaps because they maintain regular communication with their counterparts in other local governments (LeRoux, Brandenburger, and Pandey 2010). These leaders or champions may delegate responsibility to key staff in order to move a shared service initiative forward, but often the most visible administrative and political leaders must lend their endorsement to move shared service projects forward.

Leadership from implementation teams. While a professional manager may be an asset, shared service proposals require leadership on multiple levels. County staff, from department heads to street-level employees, are instrumental for successful shared service. When specific shared service ideas are identified, budget and legal staff ensure the county is crafting a cooperative agreement beneficial to the county's interests. Employees working in the field know how specific services are delivered, and will be instrumental in developing strategies and work rules to engage with other governments. Sometimes, employees are concerned about job loss or restructuring as a result of shared services. If employees and labor groups are engaged early and understand the goals of a shared service project, they can become strong allies and advocates in moving projects through implementation.

County leaders benefit from bringing together focused teams to move shared service initiatives forward. A team may include staff or elected leaders from all of the participating units of government. For example, Kershaw County, South Carolina, established a "synergy committee" with staff from the county government, the Camden city government, the school district, and the local hospital to identify areas in which working together might be logical. The committee's work has already led to joint purchasing of office paper, and the committee is now considering other projects including fleet maintenance. Joint purchasing can be defined as two or more local units of government collaborating or working together to purchase goods and services.

Not all units of local government within a region might be interested in collaboration, but the development of a multi-government team puts positive pressure on the participants to think creatively about shared service delivery. Whether the leadership for shared services comes from a multi-government team, a charismatic politician, street-level staff, a chief administrator, or a mix of the above, leadership must be taken seriously for shared service projects to be successful.

Trust, Reciprocity, and Transparency

Many county officials describe trust as an important precondition for successful shared service delivery. County Manager Katy Simon of Washoe County, Nevada, explains, "Relationships are the currency of how we get everything done in government. You have to build those relationships and have trust relationships in place. If people don't trust each other, shared services

are not going to work." Trust is developed through communication and ongoing cooperation. Catawba County, North Carolina, has worked with municipal governments in the past, and has recently used that foundation of cooperation to develop new efforts in economic development for targeted business park development. They have designed a cost and revenue sharing plan so that jurisdictions can mutually benefit from new industry recruitment. "There's got to be a level of trust and pretty strong working relationships," explains County Manager Tom Lundy.

Trust and communication are critical for cooperation in the typically competitive field of economic development. In counties without a history of shared services, managers and elected officials must identify areas of common ground and help participants understand how shared challenges and experiences provide a foundation for new cooperative efforts. San Miguel County, New Mexico, for example, has been working with other governments in the region on planning for economic development and sustainability. Recent cooperative efforts build on the participating governments' experience working together through the region's metropolitan planning organization. Existing forums like metropolitan planning organizations and councils of governments can be used as forums to start dialogue about interlocal agreements and shared service delivery. Communication established in these organizations, and trust developed through cooperation on existing projects, provide a helpful foundation for new initiatives. As governments move forward on cooperative projects, County Manager Les Montoya encourages transparency. "There has to be open discussion, and everything needs to be placed on the table," Montoya explains. Counties can develop productive and transparent working relationships with their neighbors if they build on the foundation of cooperation and interaction that already exists within the community.

At the same time, the absence of trust and good working relationships should not be used as an excuse for a lack of action. Cooperation can occur without trust, but it is more difficult (Cook, Hardin, and Levi 2005). Governments with a foundation of trust may be more likely to set general frameworks for cooperation and work out problems and details when the need arises. But governments working without an existing foundation of trust may need to spend more time developing formalized contracts and agreements to ensure that all concerns and contingencies are addressed in writing. County government officials who do not have regular dialogue and existing working relationships with neighboring local governments should give careful attention to establishing an assessment team and evaluating the strengths of local governments. Beginning better dialogue and developing small cooperative efforts can establish a base for more extensive shared services in the future.

All county government officials should keep reciprocity in mind. People like to be treated fairly. When working together, people also like to know that everyone is fairly benefiting from collective efforts (Wagner and Muller 2009). County government officials must keep this in mind when crafting cooperative agreements. Shared service partnerships and interlocal agreements will erode if one of the parties feels that the costs and benefits of working together do not align.

In contract relationships, service providers must make the costs of service transparent so that service purchasers know the price is fair. In shared service arrangements, governments should agree on responsibilities, contributions, and intended outcomes. If governments feel comfortable with the process of working with their partners, then cooperative relationships will be strengthened. In this way, trust and reciprocity work in concert (Ostrom and Walker 2003). County officials who want to develop a strong foundation for shared services will give just as much attention to maintaining relationships as they do to the technical details of service delivery.

Clear Goals and Measurable Results

While dialogue is important, so are results. At the end of the day, the public expects to see results from government officials' efforts to cooperate. Before engaging in new shared service initiatives, county officials should take the time to tell the public about the benefits of existing cooperation. Some county governments keep an inventory list of services provided through cooperation or contract with other units of government. Managers should consider incorporating performance information into these lists, including estimates of financial savings or service quality improvements. An inventory and performance estimate for existing intergovernmental programs can help the public understand the value of investing time and effort in new methods of service delivery. Such a document could provide policy-makers with clear justification for exploring new shared service opportunities. These lists can also help government leaders better understand interdependence with other governments, and may be the source of ideas for additional cooperation.

As new cooperative relationships are explored, county officials should outline goals and values to guide the delivery of specific services and the negotiation process with potential partners. Counties must make explicit the values on which they will not compromise during shared service discussions. For example, a county might be unwilling to sacrifice geographic equity in service access to gain efficiency or save money. Another county might hold as a value the protection of jobs for public employees. Counties transparent about the values that will guide their decision-making will find their discussions about shared service to be more satisfying. Making explicit the values that guide decisions can also help officials avoid lengthy discussions about shared services in areas that are clearly not compatible.

County governments should set clear and attainable goals for shared service delivery efforts and interlocal agreements. Whether the goals relate to cost savings or service quality improvements, the participating governments should put a system in place in advance to collect the information necessary to determine if the project has been a success. Too often, governments rely on anecdotal evidence to support the success of a shared service project. If local governments do not already collect service performance data, then performance data and benchmarks should be considered at the start of a shared service project. Participants should also agree on a timeframe for formally reviewing the performance of the project.

Explicit discussion about expectations will help governments give the public a clear understanding about why service delivery models are being changed. Pasquotank County and Elizabeth City, North Carolina, have a track record of cooperation on parks and recreation services. Historically, the county made payments to the city so that county residents could participate in the city's recreation programs. The governments have jointly applied for grants to fund soccer, baseball, and softball complexes.

Recently, Pasquotank County merged its smaller parks and recreation department into the Elizabeth City recreation department in order to achieve operational efficiencies. "The city manager and I both determined that we really wouldn't save money … but we felt it would be a more efficient operation by having everything under one administration rather than having two separate departments," explained Pasquotank County Manager Randy Keaton. "Make sure that you don't oversell the benefits of the merger," advises Mr. Keaton. Project success involves coming to agreement on clear goals for shared services and interlocal agreements and making these goals public.

Case Two: Identifying Operational Efficiencies in Howard County, Maryland Public Schools

Counties and school districts are separate and independent in Maryland, as they are in many states, but scarce resources have made cooperation appealing. Upon his election to office in 2008, Howard County Executive Ken Ulman made it a priority to work with the Howard County Public Schools to identify areas in which the county and schools could achieve operational and financial efficiencies through cooperation and shared service delivery. Mr. Ulman and Superintendent of Schools Dr. Sydney Cousin assembled a high-level task force including top management and budget personnel from the county and the public schools. The governments had worked together in small ways in the past, but the task force represented a focused effort to rethink service overlaps and efficiency. Deputy Chief of Staff Ian Kennedy explains that there were previously few direct lines of communication between county staff and their counterparts in similar departments within the public schools. "By starting with this [task force] of high-level personnel, as they drill down within their respective agencies … just having that conversation and keeping the lines of communication open has helped them … brainstorm ideas."

In some areas, cooperation has resulted in budget savings. The organizations began to jointly bid health, dental, and other employee benefit plans, which resulted in an estimated $4.3 million in yearly savings. The county added the school to its bulk contract for the purchase of gas and diesel, yielding $30,000 in annual savings, and joined the county's trash and recycling contract for another $50,000 in savings.

Also impressive is the governments' efforts to cooperate on capital improvements. Through discussions about future facility needs, the county acquired a vacant auto dealership and repurposed the facility for its fleet maintenance. The school district, facing similar facility needs, co-located its fleet maintenance operations at the new county facility. This move saved the estimated $8 million that a separate facility would have cost. The governments have undertaken similar efforts to share public broadcasting facilities and a data center. In other areas, cooperation yields improvement to existing services. For example, the schools and county coordinate efforts at snow removal, using school dump trucks to help the county remove snow before school parking lots are cleared.

Some ideas for shared services and cooperation do take time to implement. The maintenance of real grass turf at school sports fields limits their use during the year. Following the example of Anne Arundel County, Howard County proposed replacing grass sports fields with synthetic turf at the county's expense, opening the fields to wider use, including for county recreation programs. The proposal prompted some concern, but through conversations and deliberation about the benefits of the proposal, the program was implemented. Overall, the efforts of Howard County and the Howard County Public Schools show the value of focused discussions about potential areas of cooperation for efficiency and service improvement. Leadership from the top and a task force designed to explore shared services can help governments identify unique opportunities for cooperation.

Selling and Buying County Services through Contracts and Cooperative Agreements

County governments are in a strong position to contract services out to other local governments internal to the county, or even to neighboring counties. Counties may also contract with other governments to receive services. Service contracts with municipal governments are common when new cities incorporate. During the 1950s and 1960s, many municipalities in southern California incorporated and contracted with county agencies for services rather than establishing their own city departments. From time to time, cities with extensive contract relationships do terminate contracts and establish services in-house. Still, the evidence from southern California suggests that intergovernmental contract relationships are fairly stable over time (Joassart-Marcelli and Musso 2005).

By developing service relationships with new units of government, counties have the potential to foster long-term customer relationships for county government services. County contracting to new municipalities is not limited to California. For example, Davidson County, North Carolina, currently provides planning, zoning, and building inspection services for newly incorporated municipalities within the county. Obtaining service through the county allowed the new municipalities, lacking staff and administrative capacity, to begin operations and concentrate on the establishment of other services. The arrangements benefited the county, which had extra capacity and staff in those service areas. County Manager Robert Hyatt emphasizes the importance of structuring flexible arrangements, recognizing that as new municipalities grow, they may prefer to change the service relationship.

Budget constraints are causing more counties to identify opportunities to provide services through contracts. Isabella County, Michigan, began a contract relationship to provide building inspection services to a neighboring county and a few other local units of government. The inquiry for service came at a time when Isabella County had extra capacity due to the economic downturn. County Administrator Tim Dolehanty explains that Isabella County's building inspectors have a reputation for good service delivery, making the county an attractive contractor. "I think the best thing we did was run a good, successful program. That, in and of itself, does a lot to give confidence to the others that we contract with to expect that we know what we're doing, and we know how to do it the most efficient way possible."

Some services lend themselves more easily to contract relationships. Mecosta and other Michigan counties provide property tax billing and other tax-related services for local governments. These are ideal to provide through contract relationships because counties can charge on a per-parcel basis or for a direct fee-for-service to residents. Counties that want to sell services through contracts can identify areas in which the county has excess capacity or an existing strong reputation in service delivery. Identifying these services and considering how they could be priced for an external buyer can help counties be prepared when contract opportunities arise.

Gains from efficiency may also occur when governments obtain services through contracts with other governments. For example, Lancaster County, South Carolina's solid waste transfer

station faced a need to make major equipment investments. Instead, the county worked out an intergovernmental agreement with the city of Lancaster. The city expanded its transfer station and added vehicles, and the two governments now operate with one solid waste transfer site. Before making new investments in capital assets or specialized personnel, counties should consider whether the same expertise or equipment could be obtained through cooperation with a neighbor.

Counties also contract with other governments to obtain a higher service level than they can provide on their own. Gilpin County, Colorado (population 5,441), contracts for public health services with Jefferson County, its much larger neighbor (population 534,543). Jefferson County provides a public health coordinator in Gilpin County to manage public health services and facilitate access to other resources in Jefferson County. Shared staffing models like this require professionalism from the service-providing manager and openness from the contracting agency. The manager from the providing agency must become familiar with the personnel, policies, and procedures of a different government. The service provider must also be sensitive to reporting lines that connect them to their home agency and to the contract government.

Governments receiving service must create an open and friendly work environment, treating the manager from the outside agency like a member of the community and incorporating them into the organization. County Manager Roger Baker explains why the model has been successful in Gilpin County. "We recognize that perhaps we're not going to get the level of immediate response that we might like to get; but on the other hand, we get a much greater level of expertise, of professional knowledge and skills and testing facilities, than we would [otherwise] have." Some government officials might shy away from working with a much larger neighbor, but Gilpin County provides an excellent example of the benefits that can come from an interlocal agreement.

Local governments may also merge or consolidate functions or develop new models to produce a service together. Berrien County, Michigan, like many other U.S. counties, has moved toward a centralized emergency dispatch system. In 2005, County Administrator Bill Wolf proposed moving from several separate public safety answering points (PSAPs) under the sheriff's department to a county-centralized emergency dispatch. With support from the county board of commissioners, the county moved dispatch services and invested in a new 911 call center with sufficient capacity to absorb three municipalities' dispatch responsibility. The county did not undertake a merger of existing departments, but took over dispatch responsibility from municipally operated PSAPs. County Administrator Wolfe credits the board of commissioners with being attentive to future emergency dispatch needs in the county, and engaging in a gradual process to invest in facilities and technology that would be appealing to local municipalities. He explains, "We knew that this was the right thing to do for public safety in Berrien County. We knew the financial crunch would come … It was a "build it and they will come" concept, and sure enough, that is what happened." Mr. Wolfe emphasizes that the county was careful not to craft a county takeover, and instead waited for the municipalities to approach the county with inquiries about providing dispatch service.

Counties entering contract relationships with other governments, whether as buyers or sellers, should keep two considerations in mind.

- **First, while counties may sell services through interlocal agreements or contracts, most governments do not undertake aggressive marketing campaigns to sell services.** Managers and elected officials may make their neighboring jurisdictions aware of excess capacity, or the possibility of working together, but we know of very few instances in which aggressive attempts at persuasion were employed. All participating governments must feel comfortable with the service change. This requires dialogue and the exchange of information, but not what some call a hard sell.

- **Second, counties must understand that selling services requires a certain level of flexibility and customer service.** Officials must explore any different preferences the participating governments have in how service is delivered, or what constitutes good service. If governments are unwilling or unable to adjust services the meet the needs of their contracting partners, perhaps an interlocal agreement is not the right mode of service delivery.

Case Three: Demonstrating Public Value in Reverse Auction Services in Kent County, Michigan

Shared services can give multiple governments the opportunity to participate in new and innovative projects. A purchasing initiative in Kent County, Michigan, is an example of a shared service arrangement involving an innovation by one government that is made available to other governments on a flexible basis. Cooperative purchasing activities have always been viewed as a way to reduce costs—the more of a commodity purchased, the lower the per-unit price. This is illustrated by warehouse retailer operations (e.g., Sam's Club and Costco). In the public sector, state procurement programs have existed for decades. Administratively, however, cooperative purchasing has been a burden for local units of government, especially smaller ones that do not have the personnel or technology to make these initiatives work. The concept of joint purchasing existed well before technology made it a more cost-effective proposition.

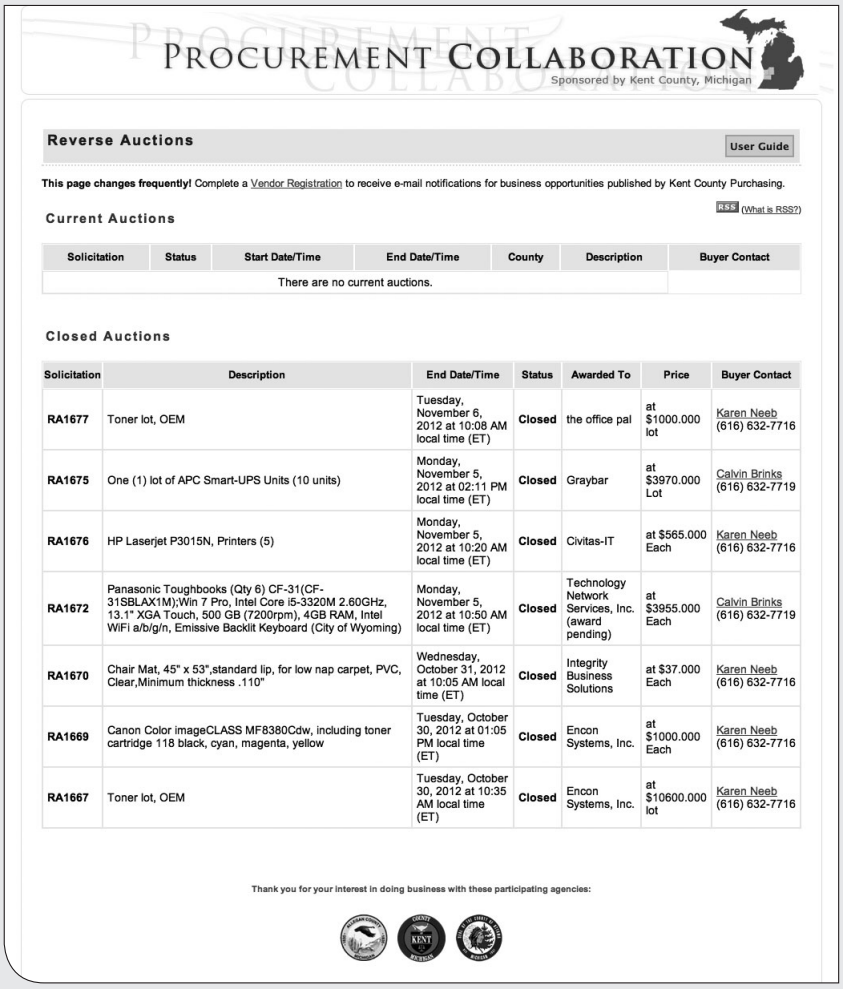
The purchasing division in Kent County, Michigan, developed an online reverse auction for the purchase of commodities and services required by the county. Through a real-time bidding process, a list of prequalified vendors bid to supply a good or service. "Think of it as eBay," states County Administrator/Controller Daryl Delabbio. "But instead of buying something at a contract price, we are buying it at the lowest possible price at that particular time." The application was developed in-house by county staff and is part of the county's standard operating purchasing procedures. Going one step further, the reverse auction has been made available to all cities, villages, and townships within the county and two pilot projects have been developed with neighboring counties. Approximately 20 local units of government currently participate in the program. By making the reverse auction service available to other governments, the county has expanded the pool of purchasers and the amount of goods purchased, which helps lower commodity costs at the time of an auction.

"The process is completely electronic, from the requisition for an item to issuing the purchase order to paying the bill," Delabbio says. When items are needed, the county establishes the maximum price it will pay, using its historical database from previous purchases. Each county department, along with every participating city, village, and township, receives an e-mail notification to determine its interest in participating in the purchase of that particular commodity. Requests are aggregated to the number required, and vendors are notified of the bid date (usually a one-hour time period with at least one week notification), the quantity of each item needed, the maximum price limit (which sets the bar for the bidders to bid against), and its delivery point. Similarly, if a city, village, or township has need for a commodity, it contacts the county's purchasing division to see if it is something that can qualify using the reverse auction process. If so, notification is sent to all participants to determine if they want to add to the requisition. The vendor awards the contract bills to each local government directly, and the commodity is delivered directly to that governmental unit.

Continuing participation is generated by the cities, villages, and townships obtaining a lower cost for each commodity acquired through the system. Enthusiasm and increased participation are built because parties quantify win-win outcomes. During its first full year of implementation, Kent County realized savings of 16 percent on over $1 million in commodities purchased. While savings are no longer in the double digits because the maximum price continues to lower each year, there continue to be considerable savings generated for each local unit participating in the process. Cooperative purchasing increases the quantity of a commodity being purchased, leveraging a more competitive price, which benefits each participant.

Vendors also accept the reverse auction as a potential way to increase sales because of the increased opportunity to sell to multiple units of government. In addition, vendors appreciate the transparency of the process. While they don't know who they are competing against, they see the bids in real time and have an opportunity to reduce their bids. But unlike eBay, if a bid comes in at the last minute, the online bidding is extended for 10 additional minutes. When no activity occurs for 10 minutes after the last bid has been submitted, then the bidding ends.

According to Delabbio, some local units were initially skeptical about the process. To mitigate this, presentations were made to local units (either in a group or individually). A one-page newsletter is distributed to all participants several times during the course of the year, and the county convenes an annual meeting with all local units within the county (regardless of whether they participate in the program) to update everyone on the status of the reverse auction, gather input, answer questions, and tweak the process.



PROCUREMENT COLLABORATION
Sponsored by Kent County, Michigan

Reverse Auctions User Guide

This page changes frequently! Complete a Vendor Registration to receive e-mail notifications for business opportunities published by Kent County Purchasing.

RSS (What is RSS?)

Current Auctions

Solicitation	Status	Start Date/Time	End Date/Time	County	Description	Buyer Contact
There are no current auctions.						

Closed Auctions

Solicitation	Description	End Date/Time	Status	Awarded To	Price	Buyer Contact
RA1677	Toner lot, OEM	Tuesday, November 6, 2012 at 10:08 AM local time (ET)	Closed	the office pal	at $1000.000 lot	Karen Neeb (616) 632-7716
RA1675	One (1) lot of APC Smart-UPS Units (10 units)	Monday, November 5, 2012 at 02:11 PM local time (ET)	Closed	Graybar	at $3970.000 Lot	Calvin Brinks (616) 632-7719
RA1676	HP Laserjet P3015N, Printers (5)	Monday, November 5, 2012 at 10:20 AM local time (ET)	Closed	Civitas-IT	at $565.000 Each	Karen Neeb (616) 632-7716
RA1672	Panasonic Toughbooks (Qty 6) CF-31(CF-31SBLAX1M);Win 7 Pro, Intel Core i5-3320M 2.60GHz, 13.1" XGA Touch, 500 GB (7200rpm), 4GB RAM, Intel WiFi a/b/g/n, Emissive Backlit Keyboard (City of Wyoming)	Monday, November 5, 2012 at 10:50 AM local time (ET)	Closed	Technology Network Services, Inc. (award pending)	at $3955.000 Each	Calvin Brinks (616) 632-7719
RA1670	Chair Mat, 45" x 53",standard lip, for low nap carpet, PVC, Clear,Minimum thickness .110"	Wednesday, October 31, 2012 at 10:05 AM local time (ET)	Closed	Integrity Business Solutions	at $37.000 Each	Karen Neeb (616) 632-7716
RA1669	Canon Color imageCLASS MF8380Cdw, including toner cartridge 118 black, cyan, magenta, yellow	Tuesday, October 30, 2012 at 01:05 PM local time (ET)	Closed	Encon Systems, Inc.	at $1000.000 Each	Karen Neeb (616) 632-7716
RA1667	Toner lot, OEM	Tuesday, October 30, 2012 at 10:35 AM local time (ET)	Closed	Encon Systems, Inc.	at $10600.000 lot	Karen Neeb (616) 632-7716

Thank you for your interest in doing business with these participating agencies:

Pictured above is the Procurement Collaboration webpage for the reverse auction system created by Kent County, Michigan. Additional information can be found online at https://www.reverseauctionbid.org. For more information on reverse auctions, see David Wyld's report at http://www.businessofgovernment.org/report/reverse-auctioning-saving-money-and-increasing-transparency.

Recommendations for Planning and Implementing Shared Service Relationships in County Government

What should county government officials do to establish strong shared service relationships and successful interlocal agreements? The recommendations below synthesize advice from practitioners in the field and were frequently raised in our interviews and in the survey responses of county officials.

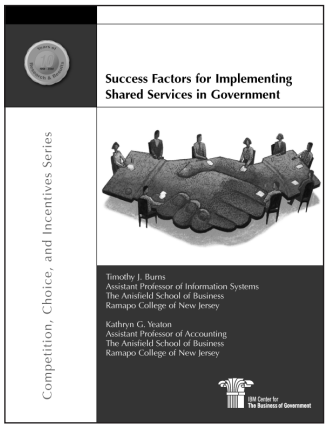
Planning a Shared Service

Recommendation One: Create a shared services assessment team.
Shared service projects and interlocal agreements will not occur unless they are actively pursued by local governments. One approach to starting shared service discussions is the establishment of a team of staff and county government leaders charged with identifying areas for cooperation.

After a period of tension related to annexation, Augusta County, Virginia, began discussions about shared services and collaboration with local municipalities. A governance team was formed, consisting of participants from the county and cities. Members of the community were also involved in the discussion through a special committee. With the help of external facilitators and consultants, the team identified an action plan for 15 different services, which included careful reflection on each jurisdiction's strengths and weaknesses. The cooperative spirit fostered by the work of the governance committee resulted in ongoing dialogue among the jurisdictions. When needs arise in the community, the established patterns of communication allow officials to consider cooperative solutions to problems. County Administrator Patrick Coffield notes 50 different accomplishments related to this process, the most recent being the opening of a regional animal shelter. The county has also moved toward using a regional authority to manage a jail. "Having the governance team made it possible for all

TO LEARN MORE ABOUT SHARED SERVICES

Success Factors for Implementing Shared Services in Government
by Timothy J. Burns and Kathryn G. Yeaton



The report can be obtained:
- In .pdf (Acrobat) format at the Center website, www.businessofgovernment.org/report/success-factors-implementing-shared-services-government
- By e-mailing the Center at businessofgovernment@us.ibm.com
- By calling the Center at (202) 551-9342

of us to come to the table without fear of political whiplash. The governance [team] allowed those conversations to occur." By including representatives of all potential participating governments and even representatives of the public, and by conducting public deliberations, transparency can mitigate fears associated with changing local service delivery.

Dialogue and communication must be sustained after shared service projects and interlocal agreements are initiated. Too often, local governments declare success and set cooperative projects on autopilot. As personnel change over time and documents and records are stored or lost, the informal history and intent associated with a cooperative effort fade. More than one county official interviewed for this report describes a process of reconstructing the history of a long-standing shared service project that required updating and revision. Future managers and policy-makers can be saved difficulty if governments create the habit of regular dialogue over each shared service relationship. Counties that agree to specific goals for shared services and create measures to assess performance can set regular intervals to talk about the performance of the partnership. Lacking data, government managers and elected officials should still talk with partners about the service and about the quality of interaction among the participating governments. Regular communication will keep partnerships on track, mitigate surprises, and contribute to more durable cooperative efforts.

County officials starting a shared service initiative should take the following steps at the beginning:

- If the participating governments are skeptical about shared services, identify a neutral facilitator to help start the discussion.
- Identify goals related to service delivery that potential partners might share, and use this as common ground to talk about models for shared service delivery.
- Build teams to discuss shared service opportunities that involve county leaders and service-level staff from all potential partnering governments.
- Plan to continue discussions about the relationship, even after a shared service project is implemented.
- Remember, concluding that a shared service idea will not work is acceptable, but failure to reach agreement in one area should not inhibit discussions about sharing other services.

Recommendation Two: Seek the strengths in each participating government.
Sharing and contracting services with other local governments requires counties to make honest assessments of their strengths and weaknesses. Not all county services are well suited for selling to other governments through contract. Counties must carefully identify which services they can provide through contract relationships. Mecosta County, Michigan, Controller/Administrator Paul Bullock advises, "Look for commonalities. Look for things that more than one local unit might be doing that you have some expertise in … Look at what you do well and see where that would mesh with something that the component units are doing." Mr. Bullock also advises exploring the same commonalities and strengths with neighboring counties. His county has worked with the City of Big Rapids on information technology projects and with a neighboring county on emergency dispatch services.

When the possibility of cooperation emerges, counties should also consider the possibility that another government may be in a better position to provide the service. "The biggest obstacle that seems to affect everything that comes up is turf and the fear of giving up control and trusting that someone else can do just as good of a job, or a better job, than you were doing," explains Kershaw County Administrator Victor Carpenter. To move past the turf, argues Carpenter, governments must agree to openly consider all of the options for service delivery.

Salvation Through Shared Services—But Only If You Get the Governance Right

By G. Martin Wagner

(From Burns and Yeaton, Success Factors for Implementing Shared Services in Government)

Economies of scale continue to increase for most business processes. Because of the desire for economies of scale, what was previously done internally within an operating unit becomes a service to be provided either by someone else in the larger organization or by a contractor. In a desire to achieve economies of scale, what was under an organization's direct control becomes a service from someone working for someone else. Thus, the management problem of our time is how to capture the benefits of these economies of scale in a way that ensures good customer service.

This is not as simple as it might look. Earlier waves of consolidation captured savings, but sometimes at the price of unhappy customers. They might find it harder to do their job, face increased costs in other areas, or need to create "cuff" accounts for features not available from the central system. Mechanisms for addressing customer satisfaction were often ad hoc, and complaints sometimes got short shrift from the monopoly provider.

It takes sustained executive leadership and an attention to change management to convert to a shared services approach. Shared services is the approach discussed in this report to achieve desired economies of scale. The history of consolidation makes shared services a harder sell than it might otherwise be, but it also explains why shared services is an improvement over earlier rounds aimed at accomplishing economies of scale.

Shared services has the potential to solve the problem of getting an efficient economic solution and also improving customer satisfaction. The key to achieving both economies of scale and customer satisfaction is to get the governance right. The right governance strategy links an efficient provider to a responsible user. An appropriate governance strategy puts in place a framework with metrics and benchmarks in which the provider and user each has accountability and there is a means to resolve problems.

1. **A framework for linking user satisfaction to cost.** The service provider must be accountable for delivering a defined quality of service for a specific cost. There must be a link between that cost and user satisfaction. This can be done through fee-for-service arrangements that emulate the free market or some other mechanism, but the organization must be able to trade off value for cost.

2. **Service level agreements.** This link must be reflected in agreements between providers and users. These agreements must impose requirements on users as well as suppliers. The service provider needs to be accountable, but so does the user. The provider may be accountable for a price and service quality, but the user needs to be accountable for using the service appropriately (for example, conveying a requirement that is defined well enough to be met).

3. **Metrics.** It is important to be able to quantify at least some of what the organization is getting through a shared service. Storytelling is not sufficient. Quantification should involve more than just the direct costs of a service, though this may be the easiest to measure. Quality matters, too. Since not everything can be quantified, there may be a need for qualitative measures as well. Managers also need to be prepared to update metrics as they gain experience with the service.

4. **External benchmarks.** Knowing how one compares to "best in class" solutions is important and will point to where further improvements can be made. Benchmarking against "best in class" providers is better than depending on providers to explain how good they are. It is also important to understand the reasons for differences.
5. **Issue resolution framework.** There needs to be a trusted mechanism for raising and resolving the inevitable issues that will arise. Ideally, an authority above both the provider of the service and the users will oversee this process.
6. **An optimized shared business process.** Despite the many successful examples in the private sector, not every business process lends itself to a shared service. An effective process will have economies of scale that are larger than can be captured by the organizations using the service. It will use a set of business rules that work well for these organizations despite arguments some may make for having unique needs. It will probably blend information technology and specialists in standardized jobs following a standard process for most transactions.

G. Martin Wagner was previously Senior Fellow, IBM Center for The Business of Government, and Associate Partner, IBM Global Business Services.

This may require county governments to give up control of a service to other governments. If another unit of government is leading a shared service initiative, the county government may need to subrogate its role, checking ego and a desire for control for the good of the whole to succeed.

Opportunities for shared services may come about during times of personnel change such as retirements or departures. For example, Archuleta County, Colorado, began providing building inspection services for an interim period to the town of Pagosa Springs when that town's building inspector departed. County Administrator Greg Schulte explains, "In an era of ever-dwindling resources, you have to look for efficiencies. For the average citizen, they do not care if it is a building inspector from the town or from the county. They just want the building inspector to come out, do the inspection, and give them their permits." Public managers should be attentive to personnel change not only in their own government, but also in neighboring jurisdictions. Staff transitions may highlight new opportunities to share services, use existing personnel more efficiently, and prevent the need for hiring and training new staff.

When governments have complementary strengths and needs, opportunities for swapping services should be considered. Racine County, Wisconsin, provided certain county services at a satellite office outside the county seat. With reductions in state aid, providing service at that location was no longer feasible. Through discussions with the city of Burlington, the county developed an arrangement to provide the city with eight hours of human resource administrative services each week. In turn, Burlington city staff are used to provide access to county services including marriage, birth and death certificates, and tax collection. This allows the county to continue making these services accessible to residents at a location outside the county seat while also eliminating the cost of operating the satellite office. "It's really difficult to make the argument against it because it makes sense," explains County Executive James Ladwig. Mr. Ladwig advises that county leaders should not be afraid to give up some control. "I really, truly believe that our constituents do not care whether it is a county employee giving them their birth certificate or a City of Burlington employee. They just want that service, and

they want it at a price they can afford." In sum, counties should be honest about their strengths and weaknesses in service delivery, and be attentive to opportunities for innovation and new models for service delivery.

To identify strengths and potential services to target for shared service projects, county leaders should:

- Identify areas in which the county has extra service capacity or staff time. Using extra capacity to sell service to other governments may help a county generate revenue, enrich employee work, and prevent layoffs or staff reallocations.
- Before hiring new employees to fill niche needs, or investing in specialized equipment that will receive limited use, determine if other local governments in the region have excess capacity that they could sell or share.
- Use personnel turnover as an opportunity to rethink how services are managed in the county. Consider selling or sharing the administrative oversight of services when staff changes occur.
- If local governments have strengths in different areas, counties might swap or exchange services, rather than developing a fee for service contract.

Recommendation Three: Consider pilot projects.

Patrick Coffield, county administrator in Augusta County, Virginia, advises, "Look at the low-hanging fruit. Look at the things that are possible and feasible, no matter how small they are, and build up the trust, the confidence, and the work relationships between people." This advice is echoed by other county officials, and supported by our research. Small successes in cooperation provide a foundation for ongoing relationships. Counties should be willing to engage in cooperative pilot projects, even if long-term collaboration is not guaranteed. Cooperative relationships sometimes begin because a government has a sudden need for administrative capacity, either due to the departure of personnel or the need for specialized equipment. Short-term shared service and pilot projects provide governments with an opportunity to test the waters and assess what a working relationship with a neighbor might provide. If these projects are successful, the gains from cooperation may be reported to policy-makers and the public to gain leeway for an expansion of the project or more extensive shared service delivery. If any particular project results in failure, agreements can be structured so that the costs of failure are low. At the very least, officials from different jurisdictions gain experience working together, improving the general tone for cooperation in the county.

Several of the examples used here, including parks and recreation services in Pasquatank County and economic development planning in San Miguel County, were evolutions of earlier cooperative efforts. County governments that maintain an inventory of cooperative services, and counties that maintain regular dialogue with their partners, are in a strong position to expand existing projects, or obtain resources or service improvements that might not be accessible if they acted alone. County leaders should maintain an open mind about expanding existing shared services and cooperative relationships.

When considering pilot projects, county managers should:

- Conduct an inventory of existing cooperation with other local governments to identify areas in which the county can build new shared service efforts
- Provide service to other governments on a temporary basis, which would allow both governments to test the waters and determine if a long-term shared service model is desirable

- Once a pilot project is underway, regular communication about the service itself and about the cooperative relationship can help build opportunities to expand cooperation

Implementing a Shared Service

Recommendation Four: Discuss and document responsibilities with all partners.
A contract or cooperative agreement can never address all potential issues that might emerge. Recently, relational contracting, in which service recipients and vendors intentionally operate under general frameworks and fill out details through their informal interaction over time, has gained popularity (VanSlyke 2009). Each government must reach its own conclusions about the design and content of contract relationships (Brown, Potoski, and VanSlyke 2006). However, our research indicates that county governments involved in shared service and contracting prefer to carefully document the responsibilities of each participant. Documenting the most important concerns for each participating party provides assurance that the cooperative relationship will perform as expected, and formal agreements can provide avenues for recourse if expectations are not met. Involving the county's legal counsel in shared service discussions can also ensure that cooperative agreements comply with state law. Even if governments have constructive working relationships at one point in time, incomplete contracts can create problems for future public officials.

Counties that do not craft clear agreements at the start of shared service delivery may need to revisit the terms of cooperation in the future. In many parts of the country, library services are provided through cooperative agreements among counties, cities, and other units of local government. In Contra Costa County, California, the county has been the main provider of library services for about the last century, with city governments owning and maintaining library buildings and facilities. Retired Contra Costa County Library Director Anne Cain explains that many of the agreements between city governments and the county library had not been reviewed in decades. Some of the agreements were silent on important operational questions. One agreement originating in the 1940s had never even been signed. The building of several new libraries during the 1990s prompted Ms. Cain and local government leaders to undertake a process of developing a uniform service agreement between the county and cities.

Ms. Cain worked with a subcommittee of the countywide association of local government managers to identify strengths of the county and the cities in the provision of library services. She explains, "We didn't want to get into a situation where we had different language in the agreements for the same thing, or that we cut different deals with the cities. We really wanted to see if we could work out an agreement that all of the cities … as well as the county could agree on." Ms. Cain emphasizes the importance of including both the city managers and city attorneys in the discussion, so that all parties could be comfortable with the details of the new agreement. Counties that need to formalize existing intergovernmental agreements can learn from the experience of the Contra Costa County Library. Through deliberation, the participants struck a new agreement that balanced an appropriate level of detail with the flexibility needed to operate unique facilities across the county.

When agreeing to specific details for shared service projects, county managers should:

- Include specific expectations about how services will be delivered and how performance will be measured in the contract, memorandum of understanding, or interlocal agreements.
- Develop a plan to discuss the shared service relationship on a regular basis. This may involve weekly or daily communication by service-level staff and monthly or yearly check-ins by top administrators and policy-makers.

- Counties with informal shared service agreements should consider developing a set of guiding principles and service expectations for the shared service relationship so that both parties can have predictable expectations for the relationship.

Recommendation Five: Make appropriate changes as needed.
When working with other governments, counties must be prepared to revisit the design of existing cooperative relationships to meet changing service needs and budgetary constraints. Crawford County, Michigan, has worked with Grayling Township on county and township recycling services. The county government invested in capital assets for collecting recycling at transfer sites around the county. The county transports recyclables to the township's recycling center. With changes to the market for recyclables and the recession, the costs of providing the service meant the relationship came under strain. The governments have explored funding the program through various new approaches, but this may also necessitate changes to the nature of the partnership among the governments. Up to this point, the recycling relationship has not been structured by a formal agreement, but formalizing the relationship with a long-term plan for the service may be necessary for the participating governments. County Controller Paul Compo emphasizes the importance of negotiation to work through the impasse. "The temptation is to turn around and walk away, and I think that is what you have to fight against."

Innovation through cooperation can also create new challenges. In northeast Colorado, several rural counties formed the County Express system to provide bus and transportation services to the public. The County Express system is governed by its own board, with representatives from the participating cities and counties. Yuma County Commissioner Trent Bushner emphasizes that the system provides an important service for the community, and the participating governments maintain strong cooperation through the organization's governing board. However, Bushner explains that some residents use the bus system to transport children to different school districts than they would normally attend. He expresses concern that the subsidized cost of transportation makes switching schools more affordable, resulting in problems for area school districts. Bushner suggests raising the fees to deal with the problem, but building a public consensus on this issue has been difficult. This example highlights the importance of considering the side effects that cooperation might have for other governments and other public services.

County officials should also be prepared for the possibility that shared service relationships may no longer serve their interests. Washoe County, Nevada, had a contract relationship for fire service with the City of Reno for 11 years, but the agreement was terminated when the parties disagreed about staffing levels and the cost of service. County Manager Katy Simon advises that governments sharing services devise clear performance metrics and success measures in advance, including expectations for financial performance. When cooperative relationships need to be terminated, it is critical to be transparent about the decision and rationale, and not surprise the contract partner. Both parties might not agree that a separation is the right decision, but transparency might help preserve cooperative relationships in other areas. Other managers advise including specific details in cooperative agreements about how terminations will take place, including how assets will be returned to the participating parties.

County managers can plan for flexibility in their shared service relationships by:

- Recognizing that budget conditions, public expectations, and other conditions change over time and discussing these changes with partners regularly to minimize the extent to which they threaten a cooperative relationship.
- Revisiting the service goals and performance expectations that provided the foundation for a shared service project; if these goals or expectations change, discuss concerns openly and honestly with partners to assess whether common ground still exists

- Talking with other local governments that are not involved with the shared service project to determine if the project impacts them indirectly
- Gauging the interest of other local governments in joining a shared service project that already exists (if participating governments agree)
- Including in the agreement details about how a termination of the shared service would be implemented, including the dispensation of assets

Conclusion

"We need to find innovative ways to provide the service at a lower cost," says Alger County, Michigan, Commissioner Jerry Doucette. Alger County has done this by partnering with its neighboring counties on community corrections and other services. Mr. Doucette argues that counties in Michigan's rural Upper Peninsula have cultivated a cooperative spirit, working to provide public services through collaboration. Other county officials interviewed for this project describe a similar culture of cooperation in their regions. Even places without a strong tradition of interlocal partnerships have been forced by the recent recession and budgetary constraints to rethink service delivery. "I think a key is for people to disregard county lines and look at the region as a whole in trying to provide services, rather than being so focused on your individual county. Sometimes you have to look beyond the borders and see what is the best benefit for my county regardless of whether we are operating it or not," explains Pasquotank County, North Carolina County Manager Randy Keaton.

Counties starting down the path of shared service delivery should prepare for a long and often challenging journey. Opportunities for sharing, merging, or contracting services may be obvious. "It's really a lot about common sense. If you're willing to look at what makes sense instead of who's in charge and who's in control, I really think that we can get some good things accomplished," states Racine County, Wisconsin Executive James Ladwig. Even when opportunities are obvious, county officials should prepare for careful deliberation to make sure all participating parties are happy with the proposed working relationship. "I think you have to be patient at the front end if you want to do it in a cost-effective way and in a well–thought-out way," suggests Berrien County Administrator Bill Wolf.

Shared services and interlocal agreements are not a panacea, and they are not appropriate strategies for all county government services. Only through careful dialogue with potential partners can counties identify when collaborative service delivery is right for them. County governments interested in shared services and interlocal agreements should give careful attention to the preconditions for success, including strong leadership, trust and reciprocity, and clear goals with measurable results. Once the participating governments reach agreement on how cooperation will unfold, county officials should invest in maintaining their relationships over time. With the recommendations and examples in this report, we believe counties will be in a strong position to begin or expand their shared service initiatives, creating better and more efficient services for the public.

Appendix I: Survey of County Government Officials

To better understand the current importance of shared service initiatives and interlocal agreements in county government, we conducted a survey of county managers or elected board/commission chairs across the United States. The survey was sent to a random sample of county government managers or board chairs, and additional surveys were sent to all county managers or board chairs in five states—Colorado, Maryland, Michigan, North Carolina, and Nevada. A total of 69 surveys were returned from the random sample (a 27.6 percent response rate), with a total of 171 surveys (a 33.7 percent response rate) from both groups combined. While this is a small national random sample, the data give us strong insight into shared service projects in the selected states, with response rates of over 50 percent for Maryland and Michigan. The survey allowed us to identify a range of services on which county governments are working with other local governments.

The random sample results provide a useful snapshot of how county government officials view shared services. Of the county officials responding within the random sample, 63 percent report talking with officials from other local governments at least once per week, and 66 percent report attending meetings with officials from other governments at least a few times each month.

County officials responding to the survey were asked about their roles in service-sharing efforts with other governments. The data suggest that county managers and board chairs focus their attention on maintaining communication with neighboring governments and fostering a cooperative atmosphere in which discussions about shared service delivery can take place. Over 73 percent of the respondents agree with the statement, "I maintain communication with officials in other local governments in order to identify opportunities for sharing or cooperating on local government services." Eighty-two percent indicate that they are "improving working relationships and informal cooperation with other local governments in the county." Over 60 percent of the respondents also agree that they have taken steps to "explain to the public how sharing local government services might be advantageous to our community."

This evidence suggests that shared service delivery currently is a popular topic for county governments. The survey also helps us understand common concerns that county officials hold when thinking about sharing or contracting services with other governments. The most salient concerns center on the lack of control that county officials might have over the fair distribution of costs, and control over employment policies.

Appendix II: List of Interviews

The authors extend thanks to the following government officials who took time from their busy schedules to discuss experiences with shared service initiatives and interlocal agreements in their communities.

Charles Abernathy, McDowell County, North Carolina

Rogers Anderson, Williamson County, Tennessee

Roger Baker, Gilpin County, Colorado

Paul Bullock, Mecosta County, Michigan

Trent Bushner, Yuma County, Colorado

Ann Cain (retired), Contra Costa County, California

Victor Carpenter, Kershaw County, South Carolina

Patrick Coffield, Augusta County, Virginia

Paul Compo, Crawford County, Michigan

Timothy Dolehanty, Isabella County, Michigan

Jerry Doucette, Alger County, Michigan

Robert Hyatt, Davidson County, North Carolina

Randy Keaton, Pasquotank County, North Carolina

Ian Kennedy, Howard County, Maryland

James Ladwig, Racine County, Wisconsin

Tom Lundy, Catawba County, North Carolina

Dr. Patricia Mitchell, Ashe County, North Carolina

Les Montoya, San Miguel County, New Mexico

Lt. Rick Mouwen, Los Angeles County, California

Belinda Peters, Livingston County, Michigan

Sue Rahr, King County, Washington

Bjorn Selinder, Churchill County, Nevada

Greg Schulte, Archuleta County, Colorado

Katy Simon, Washoe County, Nevada

Steve Willis, Lancaster County, South Carolina

Bill Wolf, Berrien County, Michigan

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The Florida Association of Counties surveyed county managers asking the following questions and the feedback we received.

1. Are there reports that you submit to the state and uncertain if they lead to actionable items or changes?
2. If so, please list the top 3 reports required by the state that you feel fall in this category.

- Section 760.80, Florida Statutes requires reporting of minority representation on boards, commissions, councils, and committee annually to the Secretary of State.
- The Economic and Demographic Research (EDR) Land and Water Survey
- The Economic and Demographic Research (EDR) County Reporting Form – this one is disseminated to an independent taxpayer review committee and the County is assigned a "grade" on various aspects of local government.
- Florida Statutes 125.66 (2) (b) Certified copies of ordinances or amendments thereto enacted under this regular enactment procedure shall be filed with the Department of State by the clerk of the board of county commissioners within 10 days after enactment by said board and shall take effect upon filing with the Department of State. However, any ordinance may prescribe a later effective date. In lieu of delivery of the certified copies of the enacted ordinances or amendments by first-class mail, the clerk of the board of county commissioners shall transmit the enacted ordinances or amendments to the department by e-mail. The department shall confirm by e-mail the receipt and effective date of the ordinances or amendments with the clerk of the board of county commissioners.
- Florida Administrative Code - 1B-24.003 Records Retention Scheduling and Disposition

  (11) Each agency shall submit to the Division, once a year, a signed statement attesting to the agency's compliance with records management laws, rules, and procedures.

  (12) The Division shall compile an annual summary of agency records scheduling and disposition activities to inform the Governor and the Legislature regarding statewide records management practices and program compliance.

- Independent Accountants' Report Required by Section 29.0085, Florida Statutes
- Assessment of Additional Court Costs Report Required by Section 939.185, Florida Statutes
- Local Government Report that was established in legislature two or three years ago that is submitted to Economic and Demographic Research (EDR). Had to fill out the adopted and amended budget information and permanent FTEs information, then employees in other areas had to provide debt figures, affordable housing expenditures, and seasonal/temporary FTE information. This took several hours of staff time from multiple Divisions.
- Local Government Economic Development Incentives Survey. Reporting on dollar amounts we paid under the QTI and PCBI programs, payments to Central Florida Development Council (CFDC), the amount of revenue we did not receive as a result of the AVTE program, and information provided by CFDC, detailing how they spent the money we gave them over the past fiscal year.
- The quarterly and annual State Article V reports that take a lot of time for one of our Budget Analysts to prepare each year. These reports detail revenue and expenditures in relation to court related functions that County is involved in.

Local Government Financial Reporting Comments

Section 166.241(4), Florida Statutes, requires each county and municipality to electronically submit specified information regarding the final budget and the economic status of the local government to the Office of Economic and Demographic Research (EDR), by October 15 of each year.

Comment: Sections 129.06(2) and 166.241(5), F.S., allow a governing body, within the first 60 days of a fiscal year, to amend the budget for the prior fiscal year. This means that the figures that are reported may be different the next year. Also, budgeted expenses are not audited and are not the same as actuals. Other state reporting requirements, the Annual Financial Report and the Annual Financial Audit Report, are based on audited actuals. This means the reported data may be inconsistent across these requirements.

Specific Information Required for Submission to EDR:

1. Government spending per resident, including the rate for the five preceding fiscal years

   Comment: EDR interprets this requirement to mean total government spending from all funds, not just the general operating fund. This means that municipalities whose spending reflects a higher level of services, such as utilities or police and fire, are compared to municipalities with lower overall expenditures, which may reflect a lower level of services or fewer services.

   The type of data required by EDR for this item has varied from year-to-year, which makes comparison even within the same city difficult. For example, municipal budget officers were asked to only report Total Government Spending by Category for FY 2020-21 based on the final adopted budget, but to report data for FY 2019-20 based on the most recent amended or final budget. For FY 2018-19 and prior fiscal years, EDR will use information from each government's Annual Financial Reports that were submitted to the Department of Financial Services pursuant to s. 218.32, F.S.

2. Government debt per resident, including the rate for the five preceding fiscal years

   Comment: EDR interprets this to require total government debt from all funds, not just the general operating fund. Total debt from all funds would include municipalities that have utility debt, lines of credit to deal with disasters, or other loans not funded out of the general fund. EDR also excludes Covenant to Budget and Appropriate (CBA) which is a common financing tool for local governments. These differences mean that "government debt per resident" is not a useful comparison metric among cities.

   Also, the 2020 reporting form (which is different than 2019) asks for the "cost to pay off current debt obligations," only including principal which does not account for cities that have saved

taxpayer dollars by taking advantage of lower interest rates by issuing new debt or refinancing outstanding debt.

The data point puts a value judgment on debt – that debt is something to be avoided. This value judgment is incorrect. For example, a lower debt burden could simply mean a government has not made appropriate investment in keeping up with critical infrastructure needs.

3. Median income within the county or municipality

   Comment: EDR supplies this from U.S. Census Bureau, 2014-2018 American Community Survey 5-year estimates. The timeline of this data does not line up with the reporting year.

4. Average county or municipal employee salary

   Comment: This data point does not account for variations among cities, which limits the data's utility as a comparative tool. A few examples of these variations:
   - *Cities that outsource their services (police, solid waste, landscaping, etc.) may have lower average employee salaries but the overall expenditures for resulting service may be the same*
   - *Cities that have police/fire versus those that do not*
   - *Cities in areas with a higher or lower cost-of-living*

5. Percent of the entity's budget spent on salaries and benefits for the entity's employees

   Comment: *This data point does not account for variations among cities (see above). In addition, local governments' classification of employee benefits differ significantly, which would not be apparent in the reported data.*

6. Number of special taxing districts that are located wholly or partially within the county or municipality.

   Comment: As of the 2020 reporting cycle, this information is supplied by EDR.

Affordable Housing reporting requirements were added during the 2020 legislative session. Chapter 2020-27, Laws of Florida, requires each county and municipal budget officer to report the jurisdiction's budgeted expenditures for affordable housing and indicate the appropriate funding sources for each type of affordable housing expenditure.

Comment: This requirement is duplicative. Local SHIP administrators are already required to submit an Annual Report with specific information on affordable housing to the Florida Housing Finance Corporation.

Overall Recommendations:

Local Government Reporting and Web Posting Requirements

- Recommend repeal of section 166.241(4) (annual reporting to EDR). In the alternative, recommend this requirement undergo periodic sunset review to assess relative costs vs benefits of the requirement and to provide an opportunity to make improvements and updates.

- Recommend periodic sunset review of all reporting and web posting requirements to assess costs vs benefits and to provide an opportunity to make improvements and updates.

Legal Notice Requirements

- Recommend updating Chapter 50, F.S., to authorize electronic publication in lieu of newspaper publication.

Municipal Ordinance Adoption

- Recommend aligning municipal process for ordinance adoption in Chapter 166, F.S., with county process for ordinance adoption in Chapter 125, F.S.

Physical Quorum for Local Meetings

- Recommend amending chapters 125 and 166 to authorize municipalities and counties to adopt written procedures for waiving physical quorum requirements in emergency circumstances where a physical meeting would endanger public health or safety or would endanger the health or safety of members of the governing body.

Local Government Efficiency Task Force

Rebecca O'Hara, Deputy General Counsel
Florida League of Cities, Inc.

FLC
FLORIDA LEAGUE OF CITIES

Top Efficiency Issues Identified by City Managers, Finance Officers, City Clerks & City Attorneys

- Municipal Ordinance Adoption
- Waiver of Physical Quorum in Emergencies
- Legal Notice Requirements
- Statutory Reporting Requirements

Municipal Ordinance Adoption

- Municipalities – a proposed ordinance may be read by title, or in full, on at least two separate days and shall, at least 10 days prior to adoption, be noticed once in a newspaper of general circulation within the municipality. Section 166.041(3)(a), F.S.

- Counties – may enact or amend any ordinance…if notice of intent to consider such ordinance is given at least 10 days prior to said meeting by publication in a newspaper of general circulation in the county. Section 125.66(2)(a), F.S.

- It is unclear why municipal ordinances are subject to the “two separate day” requirement.

- The requirement for two ordinance readings on two separate days is a built-in inefficiency for the conduct of public business.

Waiver of Physical Quorum in Emergencies

- Section 286.011, F.S. (Sunshine Law) – meetings "at which official acts are to be taken are declared to be public meetings open to public at all times" (silent on quorum requirement)
- Section 166.041(4), F.S. – "A majority of the members of the governing body shall constitute a quorum. An affirmative vote of the majority of the quorum present is necessary to enact any ordinance or adopt any resolution"
- AGO 2020-03 (March 19, 2020)

  "Unless and until legislatively or judicially determined otherwise, if a quorum is required to conduct official business, local government bodies may only conduct meetings by teleconferencing or other technological means if either a statute permits a quorum to be present by means other than in-person, or the in-person requirement for constituting a quorum is lawfully suspended during the state of emergency."
- AGO's recognize the AG's interpretation that 166.041 requires a physical quorum is a "conservative" construction and that is it not a requirement of the Sunshine Law.
- Executive Order 20-69 suspended any statute that requires a quorum be present in-person and permitted local government bodies to use technology for such meetings. This order was extended on several occasions, typically with short notice.
- Local governments faced dilemma about how to properly notice meetings scheduled to occur after the expiration of the Executive Order and how to safely and efficiently conduct public business.

Legal Notice Requirements – Chapter 50, F.S.

- Government legal notices must be in a newspaper meeting the following qualifications:
  - Published at least once/week
  - At least 25% of words in English
  - Considered a periodical by the U.S. Post Office
  - For sale to the general public
  - Contains information of interest to general public in affected area

- If the newspaper has a website, the notice must be published online the same day, published at no additional charge

- Fees set by statute – 70 cents per square inch for first and 40 cents per square inch for subsequent insertion

Legal Notice Requirements – Chapter 50, F.S., Cont'd

- CS/CS/HB 7 (Fine) & SB 1340 (Gruters) filed in 2020 legislative session

- Allowed gov'ts the option to publish legal notices on a publicly accessible website
  - In non-fiscally constrained counties, gov't agencies could publish online if would result in cost savings
  - In fiscally constrained counties (currently 29), agency must make determination at public meeting that online notice would be less expensive than newspaper, and that it would not unreasonably restrict access to notices given conditions in the area
  - Residents or property owners could opt to receive notices via first class mail or email upon registration with agency

- HB 35 (Fine) has been filed for 2021 legislative session

Statutory Reporting Requirements

Financial Reporting Requirements Example:

- Local governments required to file an annual financial report with DFS after end of fiscal year. Section 218.32, F.S.
- Local governments required to conduct annual financial audit after end of fiscal year. Section 218.39, F.S.
- Local governments required to file annually specified financial information with EDR by Oct. 15. Section 166.241(4), F.S. (effective 2019)
  - Spending per resident
  - Debt per resident
  - Average employee salary
  - Number of special taxing districts
  - Percent of budget spent on salaries and benefits
  - Annual expenditures for affordable housing
- The EDR report data is not as reliable because the report is due prior to close out and reconciliation of annual financial information.
- The value of the EDR data for comparing local governments is questionable
- Only two reporting cycles have occurred since passage of EDR requirement

Statutory Reporting Requirements – Cont'd

- No overwhelming consensus on other reporting requirements (likely due to survey size and response time)
- Common examples included:
  - Appointments of disabled or minority Persons. Section 760.80, F.S. (1994)
    - Annual report to Sec'y of State, Governor, and legislature of appointments; info describing each person's race, ethnicity, gender, disability must be available for public inspection.
  - Defined benefit pension plan reporting requirements
    - Section 112.664, F.S. – report annual financial statements to DMS
    - 112.665(1)(e), F.S. – provide fact sheet summarizing plan actuarial status; posted on DMS website
    - This information is already required by section 112.63; requires expenditures for additional actuarial services; purpose for fact sheet unclear.
  - Impact fee studies and reporting. Section 163.31801(11), F.S.
    - New 2020 requirement for info in addition to what is provided in annual financial reports
  - CRA audits and reporting. Section 163.387(8), F.S.
    - Same data included in reports to DFS. New requirement in 2019.

Suggestions

- Reporting and Web Posting Requirements
  - Recommend statutory reporting and web posting requirements be subject to periodic sunset review
  - Periodic review would help assess relative costs vs benefits and provide opportunity for update

- Legal Notice – recommend updating Chp. 50 to authorize electronic publication in lieu of newspaper publication

- Municipal Ordinance Adoption – recommend aligning municipal process in Chp. 166 with county process in Chp. 125

- Physical Quorum – recommend clarifying Chps. 125 and 166 to authorize municipalities and counties to adopt procedures for waiving physical quorum requirements in extraordinary circumstances

Thank You

FLC
FLORIDA LEAGUE OF CITIES

Special Districts in Florida

Local Government Efficiency Task Force

February 22, 2021

“The government closest to the people serves the people best.”

Thomas Jefferson

Special District Definition

- Unit of local government created for a special purpose, as opposed to a general purpose, that has jurisdiction to operate within a limited geographic boundary and is created by:
    - General Law;
    - Special Act;
    - Local Ordinance; or
    - Rule of the Governor and Cabinet

History

- Benjamin Franklin created the first special district in 1736
  - Union Fire Company of Philadelphia
  - Residents in a certain neighborhood paid a fee to receive fire protection service
  - Those who did not pay the fee, did not receive service

Florida History

- The first special districts in Florida were created almost 200 years ago
  - Only two cities at the time: Pensacola and St. Augustine
  - Entire territory consisted of two large counties (Escambia and St. Johns) divided by the Suwanee River
  - No roads at the time, so territorial legislators had to make the long sea voyage between the co-capitols (Pensacola and St. Augustine)
  - In 1822, legislators voted to establish a more convenient location for the capitol: Tallahassee
  - That same year, legislators authorized creation of the first special districts by enacting the Road, Highway, and Ferry Act of 1822
  - Special purpose was to establish and maintain public roads
  - No tax authority
  - Labor needs solved by conscription – men failing to report to work were fined $1/day

Florida History

- In 1845, the Legislature created the first special district by special act
  - The special purpose was to drain the “Alachua Savannah”
  - Governed by five commissioners
  - Project financed by assessments on landowners based on the number of acres owned and benefit derived

Florida History

- In 1907, Governor Broward pushed the Legislature to create the Everglades Drainage District, with the special purpose of draining and reclaiming flooded lands
- Landowners who received a benefit were assessed at 5 cents/acre of land
- In 1949, the Legislature replaced the EDD by creating the Central and Southern Flood Control District
- In 1972, the Legislature created the 5 water management districts (SFWMD encompassed the lands within the old CSFCD)
- In 1976, voters approved a constitutional amendment giving the districts ad valorem tax authority.

Florida History

- The popularity of special districts to fund public works continued through the end of the 19th century as more settlers came to Florida
- By the 1920s, the population had increased substantially in response to the Florida land boom
- Many districts were created to finance large engineering projects
- Many, like the Florida Inland Navigation District, are still in existence today
- By the 1930s, a surge of new residents created a need for the first mosquito eradication district

What Are Special Districts?

- Focused, local government units that address specific, community needs
- Most have single authorized purpose, to provide some service or infrastructure
- Most are governed by elected boards
- 1,782 active special districts in Florida. Compare to:

• Illinois:	3,227
• California:	2,861
• Texas:	2,600
• Colorado:	2,392
• Missouri:	1,854
• Pennsylvania:	1,756
• Kansas:	1,523

*Source – U.S. Census Bureau, 2012 Census of Governments

Special Districts Functions

- Special districts provide literally every governmental service or infrastructure imaginable
- The Department of Economic Opportunity, Special District Accountability Program recognizes 79 different special purposes served by special districts
- The only municipal service a special district cannot provide is police service

Special Districts Functions

- Top 10 (out of 79) Purposes as of July 1, 2020:
  - Community Development 726
  - Community Redevelopment 224
  - Housing Authorities 91
  - Drainage and Water Control 83
  - Fire Control and Rescue 64
  - Soil and Water Conservation 57
  - Neighborhood Enhancement 47
  - Neighborhood Improvement 27
  - Hospital (various types) 27
  - Health Facilities 26

Special Districts Facts

- Every parcel in Florida is covered by at least one special district
- Districts are more numerous in Florida as one moves from north to south
  - ✓ Some North Florida counties have no more that 3 or 4 special districts
  - ✓ Hillsborough County has the most at 166 districts
- Some special districts are large and operate in multiple counties (e.g. Five water management districts and Florida Inland Navigation District)
- Other special districts serve small neighborhoods using all volunteer staff
- Many special districts operate with very little funding (less than $3,000 per year) or no funding at all
- Most special districts do not have taxing authority (only 206)

Special Districts Facts

Special Districts are either Independent or Dependent.

- **Independent Special Districts** have an independent governing board (elected or appointed), which establishes its own budget and collects taxes, assessments or fees, and spends them without oversight of city or county.
- There are 1,153 independent special districts in Florida.

- **Dependent Special Districts** functionally operate as an arm of either a city, county or state agency.
- There are 629 dependent special districts in Florida.

Special Districts Facts

- **Like counties and cities, special districts:**
  - Provide necessary infrastructure and services to a community.
  - May have the authority to levy ad valorem taxes, non-ad valorem assessments, impact fees and other user fees and charges, depending on authorizing act.
  - Are subject to the Sunshine law, public records laws, ethics laws, financial reporting laws, etc.

Special Districts Facts

- **Unlike counties and cities, special districts:**
  - Do not have “local home rule” power and may only do those things explicitly authorized by the Constitution, general law or special act.
  - Can not tax or charge someone that does not receive a benefit.
  - Can only spend money for the purpose(s) provided in enabling act, but cannot spend on general public health, safety, and welfare.
  - Governing board members generally receive little or no compensation.
  - Generally derive all revenue from local sources (no revenue from state fuel tax, sales tax, communications services tax, etc.)

Special Districts Benefits

- Provide necessary infrastructure and/or services when a county or city is unwilling or unable – or when need overlaps jurisdictional boundaries.
- Provide the infrastructure and/or services without burdening taxpayers that do not benefit
- Save tax-payer money through:
  - tax exempt bonds for infrastructure;
  - purchasing tax-free essential goods and services; and
  - sovereign immunity.
- Ability to focus on a specific community need for service or infrastructure.
- Accountability of public resources – special districts are held to the same high standards as cities and counties (Sunshine, Ethics, Financial, etc.)

Accountability

- Since 1980, FASD has worked cooperatively with the Legislature to create laws improving special district accountability. Examples include:
  - Section 197.3632 – first class mail notice and public hearings before imposition of non-ad valorem assessments (1988)
  - Chapter 189 – Uniform Special District Accountability Act (1989)
  - Chapter 191 – Independent Special Fire Control District Act (1997)
  - (2014) – Reorganization of Ch. 189

Accountability to Local Government

- Accountable to and must cooperate and coordinate with county or city within which the district is located
- Special districts must inform the appropriate county/city by filing:
  - Budget, tax levy or financial information
  - Public facilities reports
  - Registered agent and registered office
  - Regular public meeting schedule

Accountability to State Government

- Each special district must file:
  - Registered agent/office information, creation documents, boundary maps and official website address (DEO)
  - Annual Financial Audit (DFS)
  - Financial Audit Report (Auditor General)
  - Bond financing information, if applicable (Division of Bond Finance, State Board of Administration)
  - Retirement plan reports, if applicable (DMS, Division of Retirement)

Oversight and Enforcement

- Similar to oversight and enforcement for cities and counties
  - Governing board responsible for complying with law and charter
  - Public meeting and records law provides oversight by citizens and media
  - Citizens can contact state attorneys for public meeting/records violations and others
  - Florida Commission on Ethics investigates and punishes ethics violations
  - Independent CPAs conducting required financial audits must report suspected illegal activity to governing body or FDLE

Oversight and Enforcement

- Florida Auditor General's Office
  - Performs desk audits on Financial Audit reports
  - Tracks findings repeated for more than 2 years and reports to JLAC for possible state action
- Joint Legislative Auditing Committee:
  - Investigates audit matters, use subpoena power and order state audit by Florida Auditor General
  - Request DEO to file a petition for enforcement in circuit court or declare a district inactive for dissolution when the district fails to comply with financial reporting requirements
- Florida Governor:
  - Monitors special districts and provides assistance when a district meets one or more financial emergency conditions
  - Suspend or remove governing board members

Oversight and Enforcement

- County/City (dependent districts)
  - Remove governing board members
  - Deny approval of budget
  - Veto budget
  - Amend district's charter
  - Merge
  - Dissolve

2012 Review of Special Districts

In his first year of office (2012), Governor Rick Scott issued Executive Order 12-10 for the Governor's Office of Policy and Budget to:

- (C)onduct a deliberate and thorough examination of special districts in the State of Florida, and to make recommendations on the role of special districts in the State, with a special focus on increasing efficiency, fiscal accountability, and the transparency and operations to the public.
- Review began with the 18 mosquito control districts (MCDs)
- Final report noted:
  - ✓ Though Ch. 388 gives MCDs up to 10.0 mills of ad valorem tax authority, the highest levy was 1.0 mill with all other MCD levies between 0.02 and 0.5 mills.
  - ✓ During economic downturn, most MCDs reduced tax revenues and adopted either rolled-back rate or lower.
  - ✓ Prior to downturn, many MCDs accumulated reserves which were utilized during downturn to reduce tax burden to residents.
  - ✓ From FY 2006-07 to FY 2011-12, MCD taxes dropped by 14% total, and when accounted for inflation, 22%

2012 Review of Special Districts

Report found advantages and disadvantages:

- Advantages:
  - ✓ Main benefit from the independent special district model for mosquito control is the ability to concentrate only on mosquito control. With a county providing mosquito control, mosquito control is a secondary objective and may not receive the focus needed.
  - ✓ Revenue remains more constant and service provided on more consistent basis.
  - ✓ Due to independent nature of operations, there tends to be a high level of innovation and utilization of existing resources.
  - ✓ Elected officials of independent district are more readily accessible to taxpayers.
- Disadvantages:
  - ✓ Possible duplication of services in administrative functions (e.g. human resources, IT). If part of a county, some positions might not be necessary.
  - ✓ Possible cost savings in benefits from larger employee pool at a county.

No other reports were published.

Chapter 2014-22, Laws of Florida (SB 1632)

- In 2014, Rep. Larry Metz (R-Lake County) intensely scrutinized special districts and added several new transparency and accountability measures, including:
  - Increased DEO and JLAC enforcement of reporting requirements
  - Requiring districts to maintain websites with specified information (not required of counties/cities)
  - Ensured applicability of Code of Ethics to special districts
  - Prohibiting inactive districts from collecting taxes, fees and assessments
  - Enhanced the Governor's power to remove district board members

Merger/Dissolution

- Current law already provides procedures for merger or dissolution of special districts (Ch. 189 – Part VII)
  - Dependent districts (Merger/Dissolution)
    - By ordinance of the county/city where district is located
    - County cannot dissolve a district dependent to a city and vice versa
    - Only the Legislature can merge/dissolve a district created by special act.
    - Assets and liabilities accrue to the local general purpose government
  - Independent districts (Dissolution)
    - Legislature passes special act dissolving district and residents approve by vote
    - Assets and liabilities accrue to the local general purpose government.

Merger/Dissolution

- Independent districts (Merger)
  - Special act – the Legislature can merge districts created by special act
  - Voluntary – Two contiguous districts with similar functions and elected governing boards can merge into a single district:
    - Joint Resolution
      - Both governing boards agree
      - Joint merger plan (costs, benefits, etc.)
      - Public notice and hearings
      - Must be approved by referendum of residents in both districts
      - Special act of Legislature
    - Citizen Petition Initiative
      - Submit petitions from residents of both districts
      - Supervisor of Elections verifies petitions
      - Governing boards must approve a merger plan
      - Public notice and hearings
      - Must be approved by referendum of residents of districts
      - Special Act of Legislature

Merger/Dissolution

- Involuntary Merger
  - Legislature can merge districts created by special act
  - Merger must be approved at referendum by residents of both districts
  - County/city can merge independent districts created by the county/city. If the district has ad valorem authority, the same procedure required to grant tax power is required to merge (i.e. referendum).

Merger/Dissolution Considerations

- Residents are the ones with the most to gain or lose
- Residents should be the driving force behind decision to merge or dissolve.

Dissolution Considerations

- Dissolution
  - Is service/infrastructure no longer needed or desired? There are mechanisms in law to dissolve. *USE THEM!*
  - If the service/infrastructure is still needed, some entity (state/county/city) will have to provide the service.

Merger/ Consolidation Considerations

- Creates taxpayer winners and losers
  - Unless millage rates are equal prior to merger, some residents will pay higher taxes while others will be lower
  - Some residents will subsidize service for others
- Financial cost or savings?
  - Proponents claim savings will be achieved through merger.
  - Claimed savings/efficiencies should be carefully studied.
  - Bigger government is generally not better or cheaper.
  - Large-scale merger of fire districts historically increases costs
    - Charlotte County: 1986 - $1.6 m vs 1998 - $9.5 m
    - Orange County: 1981 - $12.7 m vs. 1985 - $22.6 m
    - Palm Beach County: 1985 - $61.1 m vs 1997 $100.8 m
    - Sarasota County: 1996 - $25.8 m vs. 1997 $32.9 m

Merger/ Consolidation Considerations

- Accountability/Responsiveness to Residents
  - Special district governing boards must be residents
  - Due to smaller geographic footprint, board members are truly neighbors, unlike city or county
  - Merger/consolidation takes decision making out of the community
  - Fire districts have millage caps
    - General law (3.75 mills) or special law (usually less)
    - Merger/consolidation with a county (10 mills) or city (10 mills) creates possibility of higher taxes

Inefficiencies

- Legal Notice – Update Ch. 50 to allow electronic publication in lieu of newspaper publication.
  - Very expensive
  - Less effective
- Removal of public meeting physical quorum requirement in extraordinary or emergency circumstances
  - Unnecessarily exposes board and staff to COVID
  - Last-minute EO extensions caused uncertainty, administrative burden and duplication (e.g. re-notice meetings)

Inefficiencies

- Special District Fuel Tax Exemption
  - Cities, counties and school districts get refund of taxes paid on gas (15.1 cents/gallon) and diesel (14.1 cents/gallon) used for official purposes.
  - Special districts must use taxpayer dollars to pay the fuel tax - one government paying another.
- Remove unnecessary permit/mitigation requirements
  - Districts that maintain rights-of-way often required to obtain city/county permits and pay mitigation (e.g. plant new trees)
  - Inefficient use of special district time and taxpayer dollars.

Inefficiencies

- Repeal/Modify Certificate of Public Convenience and Necessity (COPCN)
  - Cities and fire districts are required to obtain a county permit to provide basic life support, advanced life support or transport.
  - County is not required to adopt standards for permit issuance/denial nor is there an appeal right if denied.
  - This bureaucracy increases costs, decreases efficiency and jeopardizes public safety.

Other Organizations

- Florida Redevelopment Association
- Association of Florida Community Developers
- Florida Ports Council
- Florida Airports Council
- Florida Safety Net Hospital Alliance
- Florida Children's Services Council
- Florida Mosquito Control Association
- Florida Stormwater Association
- Florida Rural Water Association
- Florida Beach and Shore Preservation Association
- Florida Library Association
- Florida Recreation and Parks Association

Thank you!

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Task Force Members' Interests for Future Initiatives

Local Government Administration and Operations

1. Elections
   - Changing elections to same date statewide, cost savings
   - Election Cycles: Off-cycle elections are expensive and usually have significantly less turnout therefore they are inherently inefficient. I am not referring to special elections that may occur due to vacancy. However, being a supporter of many elements of home rule; perhaps if a local government wishes to engage in the practice of off cycle elections then maybe it should affect their access to state funds. As much as possible of FSS Chapters 97-107 should be uniform throughout the state.
   - Early Voting Sites: Due to the impacts on infrastructure from Hurricane Michael, counties in the panhandle region have been granted greater elasticity, by executive order, to select locations for early voting. Perhaps these standards should be statutorily expanded statewide, as early voting has proven to be both popular and efficient.

2. Public Meetings
   - Legal notices, one public hearing in city government
   - Virtual meetings and let cities/counties implement in extraordinary circumstances, i.e. state of emergency or local emergency
   - Waiver of physical quorum in meetings, regular , land-use etc.
   - Interlocal agreements honored to eliminate duplicative services between local governments and possibly county, ie. Merge transit with incentives for both to do as a money loser.
   - Printed Public Notification Requirements FSS Chapters 50, 166 etc.: Change statutory requirements to permit full migration to digital platforms to increase outreach and reduce costs. This should also provide greater transparency.
   - Second Reading for Municipal Ordinances: Eliminate the requirement. Treat all local governments the same.

3. Reporting
   - Financial Reporting: Local Governments should not be compelled, by the state, to produce specific reports for research or reference. If needed components can be included in Annual Reports or CAFR's to fulfill specific requirements, that seems reasonable.
   - Repetitive reporting and possible sunsetting so these rules get examined maybe every 10 years. Statute reporting requirements and is it necessary, costs - vs- benefits

4. Pension Plans (FSS Chapters 175 & 185): What specific barriers exist that impede migration into FRS?

5. Unfunded mandates, state must provide funding if required

Business Requirements

6. Local Business Tax (LBT) Occupancy License
   - LBT Redundancy: Without getting into the home rule aspects of this, at a minimum, I would just address this: Should a business located within a municipality also be required obtain a county LBT certificate?
   - LBT required for Home Based Businesses: This seems odd. Why is this necessary?

7. Mandate Electronic Permitting Capability (Submissions, Adjustments and Payments). Welcome to the 21st Century.

Facilities and Utilities

8. Local Government Facilities: How can state government compel or perhaps incentivize, the collaboration of multiple government entities in the same community, when they are building new or expanding existing facilities? (Counties, County Constitutional Officer's Operations, Special Districts, School Districts, Municipalities) The fewer fully exempted parcels on a tax roll the better.

9. WMD's and Local Government (Water Management & Stormwater) Should review be required by both local authority and WMD district?

Special Purpose Local Governments

10. Special Districts
    - Look at all special districts. Duplicative reporting, justifying continuing with that special district and is it still meeting the original guidelines when put in place
    - Special Districts: How can they be more efficient operationally, both in the normal course of business and within an emergency management framework?

Miscellaneous

11. COVID -19 Related Local Government Efficiencies: Right now, I would just say we should leave some space for this one as events continue to unfold.

12. Occupational licenses – not interested in removing in chartered governments for public safety purposes only. It does have a public safety component due to, way to know what services/businesses your govt. has available in case of an emergency.

13. Minority reporting - not interested in removing until we see if there has been a cost savings versus benefits to the governments.

Community Redevelopment Agencies (CRAs)

House Local, Federal & Veterans Affairs Subcommittee

Laila Racevskis, PhD, Senior Legislative Analyst

February 15, 2017

Legislative Scope

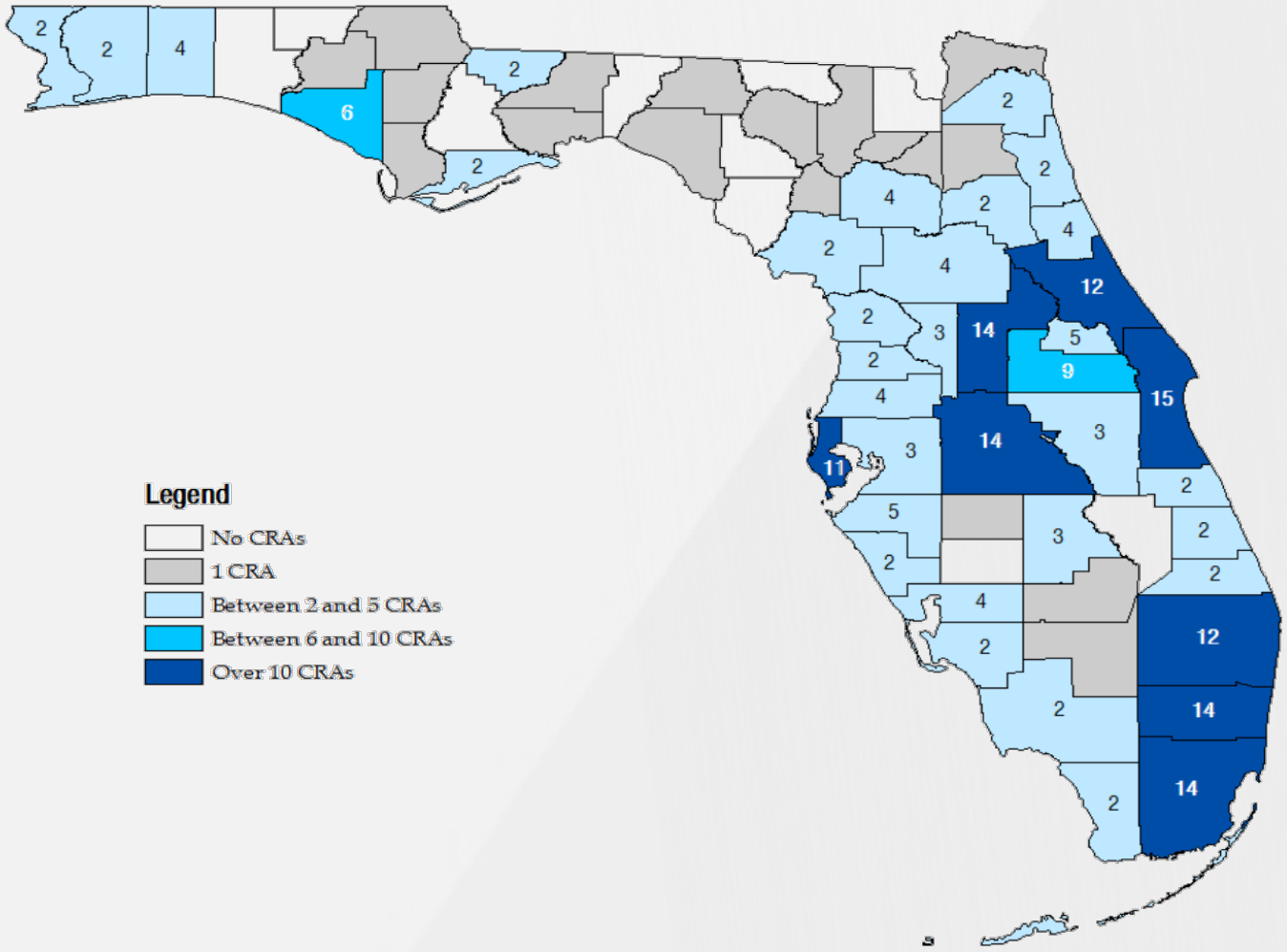
- OPPAGA CRA review addressed
  - Primary activities
  - Governance structure
  - Funding mechanisms
  - Program/project overlap
  - Achievement of established goals
  - Options for improvement

BACKGROUND

CRAs Created to Revitalize Slum and Blighted Areas

- Community Redevelopment Act provided funding for local redevelopment efforts
  - 1969 act stated that local governments can establish CRAs in areas containing slum or blight where there is a shortage of affordable housing and where redevelopment is in the interest of public welfare
  - 2002 act amendment stipulated that lack of affordable housing no longer an independent reason for creating a CRA

219 Active CRAs; Number per County Varies Widely



QUESTIONS AND ANSWERS

What Are the Primary Activities of CRAs?

- OPPAGA survey shows most frequently reported CRA activities include
  - Enhancing appearance of residential or commercial areas (64%)
  - Rehabilitating commercial properties (42%)
  - Improving transportation infrastructure (28%)
  - Improving utilities (28%)

How Are CRAs Governed?

- 76% governed by a board that mirrors or is very similar to the local government that oversees the CRA
- 72% of OPPAGA survey respondents reported that their board membership consists solely of elected officials
- 27% of OPPAGA survey respondents reported that private citizens serve on their board

How Are CRAs Funded?

- Tax increment financing is primary source of funding
- For Fiscal Year 2014-15, CRAs reported
  - $594.4 million in revenues
  - $605.2 million in expenditures
  - $714.5 million in debt
- During a 10-year period, CRAs issued $1.35 billion in bonds

Do CRA Programs and Projects Overlap With Those of Other Entities?

- 47% of survey respondents do not think there is overlap between their CRA's activities and those of other organizations
- 39% of survey respondents reported that there is overlap
  - Of these respondents, 97% reported that other similar projects may be funded by local government entities such as cities or counties

Are CRAs Achieving Established Goals?

- Studies of CRAs in other states show mixed results
- Recent Florida reports raised concerns about effectiveness
- CRAs use a variety of performance measures, but no standard gathering and reporting of performance data across CRAs

OPTIONS FOR IMPROVEMENT

Improve Governance

- Provide county taxing authorities more control over expenditures of CRAs created by municipalities
- Expand board composition to include non-elected citizen members

Ensure Appropriate Use of Funds

- Specify types of expenditures that qualify for undertakings of a CRA
- Require all municipally-created CRAs to submit annual budget requests with sufficient time to allow the county commission to review
- Promote compliance with the audit requirement in s.163.387(8), *F.S.*
- Require audits to determine compliance with laws pertaining to expenditure and disposition of unused CRA trust fund moneys

Enhance Accountability

- Require CRAs to submit digital map files depicting geographical boundaries and total acreage
- Require CRAs to annually report on a set of standard performance measures that include job creation, business establishment growth, unemployment, and other metrics
- Require CRAs to annually submit a project list that includes project description, anticipated project costs, project expenditures, and other data

Enhance Accountability

- In order to be reauthorized, CRAs must demonstrate progress in areas such as business, employment, and wage growth as well as poverty, unemployment, and crime reduction
- Create a dissolution process for CRAs that do not demonstrate progress during the first 20 years of existence or during the first 20 years since the last reauthorization

QUESTIONS

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OPPAGA
Office of Program Policy Analysis and Government Accountability

Research Memorandum

December 2020

Santa Rosa County Fire and Emergency Services

EXECUTIVE SUMMARY

Fifteen fire districts and departments provide fire services and Emergency Medical Services (EMS) across Santa Rosa County, along with a contracted ambulance service that delivers emergency and non-emergency ambulance-based response and transport services. OPPAGA's research focuses primarily on a subset of the 15 entities that are organized as independent special fire control districts: Avalon, Holley-Navarre, Midway, and Pace.

The fire control districts generally provide similar services to other fire departments but differ in life support services offered. The districts utilize paid, volunteer, and combinations of paid and volunteer firefighters providing services such as fire extinguishment, special rescue, and limited hazardous materials response. While all fire departments provide basic life support, some have capabilities for advanced life support services.

Most requests for service are routed through a central county dispatch center and can involve activation of interdepartment mutual aid agreements. The majority of calls to which the fire control districts responded from 2017 to 2019 were rescue and medical calls, comprising over 65% of all incidents; fire extinguishment calls comprised less than 3%. Deploying both fire departments and ambulance service to EMS calls is a practice perceived by some experts as an efficient method to meet service demands and is a routine practice that is consistent with national patterns.

SCOPE

The Legislature directed OPPAGA to determine the scope of services and funding for Santa Rosa County's fire districts. The review includes

- explaining service delivery systems, funding mechanisms, and service costs;
- describing current issues, including service and fiscal trends;
- discussing statewide and national trends in fire/EMS service delivery; and
- presenting options for improving the efficiency and effectiveness of county fire/EMS delivery.

Over the past five years, some fire control district revenues have grown and exceeded expenditures. During the same period, expenditures for all four fire control districts increased, primarily due to personnel costs. Districts increased their budgets for the current fiscal year, and reported that if housing growth continues, their current budgets are sufficient to meet future needs.

There are no mandated national or state fire service performance measurements, though the four fire control districts track response times as a primary performance measure. The fire control districts are generally meeting goals for response times, but could consider adopting additional performance measures to help assess operational efficiency and effectiveness. Incident data reported by fire control districts to the Florida Fire Incident Reporting System present additional data that districts could use to improve planning and self-assessment.

INTRODUCTION

Fire and Emergency Medical Providers in Santa Rosa County

Santa Rosa County is a growing county in Northwest Florida. Of the state's 67 counties, Santa Rosa is the 16th largest by land area (1,012 square miles) and 29th largest by population (179,054).[1] Averaging 177 residents per square mile, it is the 35th most densely populated county in the state. The county's overall population has increased by 18% since 2010 and 119% since 1990.[2] The 2000 Census reported 49,119 housing units in the county, which had grown by almost 49% to an estimated 73,067 housing units by 2018. The estimated 2018 median value of owner-occupied housing units was $184,400 and the median household income was $66,242.

Fifteen geographically and administratively separate fire districts and departments and one ambulance service provide fire and emergency medical services within the county. Santa Rosa County's 15 fire service providers are categorized into three groups: 4 independent special fire control districts, 9 Municipal Service Benefit Units, and 2 municipal departments. (See Exhibit 1 for the location of all 15 fire districts and departments in Santa Rosa County.)

Fire control districts are governed by Florida statutes and are "unit[s] of local government created for a special purpose, as opposed to a general purpose, which [have] jurisdiction to operate within a limited geographic boundary and [are] created by general law, special act, local ordinance, or by rule of the Governor and Cabinet." [3] Santa Rosa County's four special fire control districts are

- Avalon Fire Rescue District;
- Holley-Navarre Fire District;
- Midway Fire District; and
- Pace Fire Rescue District.

While the Avalon, Holley-Navarre and Midway districts were recreated by special acts of legislation from 2003 to 2005, Pace did not begin operating as an independent special district until 2019. These four districts are the focus of OPPAGA's review.

Florida statutes allow county governments to establish ***Municipal Service Benefit Units*** (MSBUs) for fire protection. Santa Rosa County established the Fire District MSBU in 1990 to provide operational

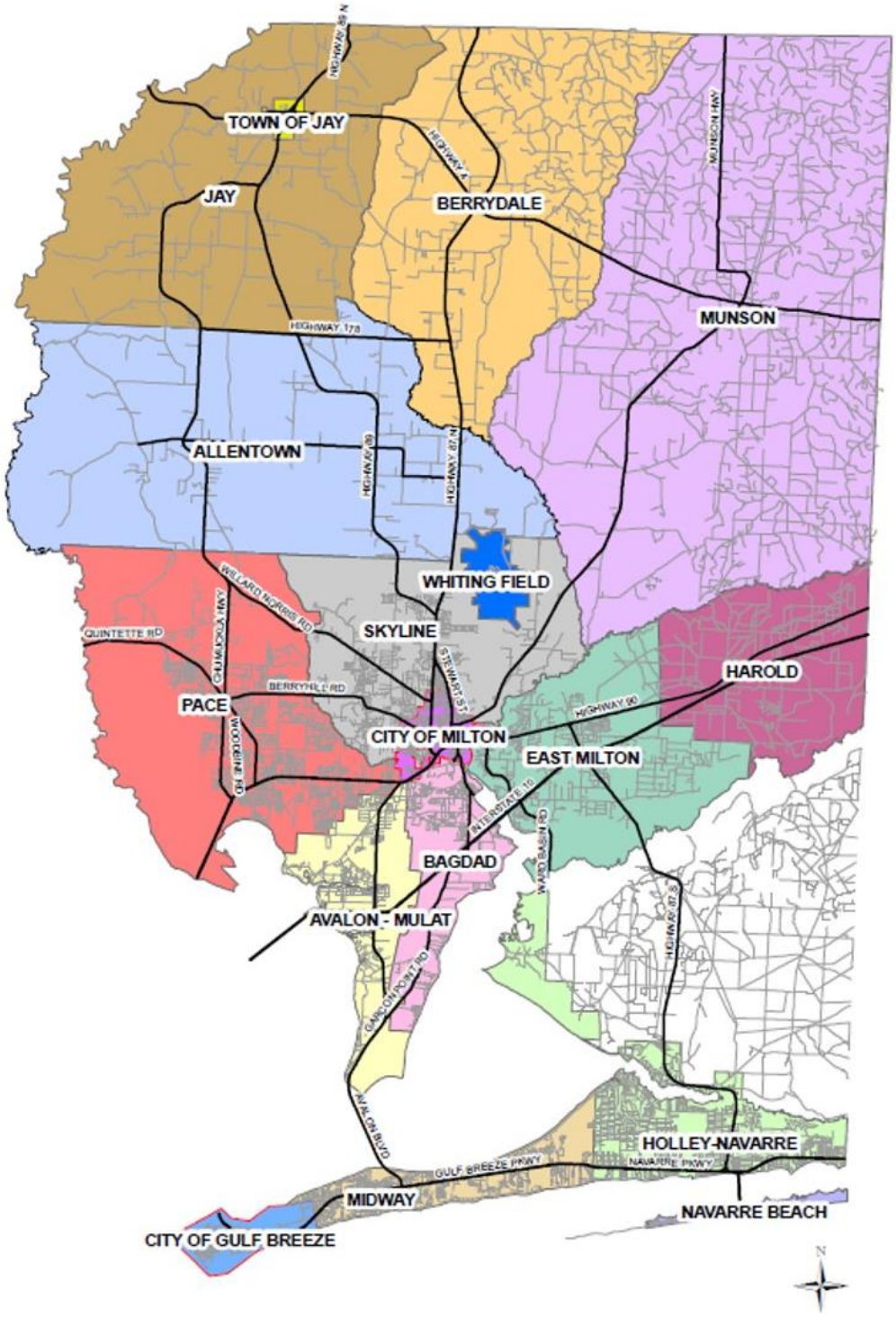
[1] Estimate as of April, 2019.
[2] Percentage changes were calculated by comparing a baseline year to 2019. The 2019 figures are based on estimates, and thus the resulting percentage changes are estimates.
[3] Section *189.012*, *F.S.*, and Chapter 191, *F.S.*

funding for the county's non-special fire district departments. These fire departments are non-profit corporations, each governed by a board of directors. Santa Rosa County's nine MSBUs are

- Allentown Volunteer Fire Department;
- Bagdad Fire Department;
- Berrydale Volunteer Fire Department;
- East Milton Volunteer Fire Department;
- Harold Volunteer Fire Department;
- Jay Volunteer Fire Department;
- Munson Volunteer Fire Department;
- Navarre Beach Fire Department; and
- Skyline Fire and Rescue District.

In addition to the fire control districts and MSBUs, Santa Rosa County has two ***municipal fire departments***: City of Gulf Breeze Fire Department and City of Milton Fire Department. (See Appendix A for more information on the county's nine MSBUs and two municipal departments.)

Exhibit 1
Santa Rosa County Fire District and Department Areas of Responsibility[4]



Source: Santa Rosa County government website.

[4] Although Naval Air Station Whiting Field is located within Santa Rosa County, it was not individually considered in this study as it is a federal military installation and its fire services are funded through the Department of Defense. The Town of Jay fire services are provided by the Jay Volunteer Fire Department, not a town-specific department.

Santa Rosa County contracts for ambulance-based medical transport service. The county's emergency and non-emergency medical services/ambulance service provider, Lifeguard Ambulance Services of Florida, LLC, is a key partner to the districts' emergency response. The county does not pay for Lifeguard Emergency Medical Services (EMS). The contractor is paid via a patient user fee or by the patient's insurance company. As of March 2020, Lifeguard provided services with 83 full-time and 43 part-time crewmembers, responding in two-person teams comprised of an Emergency Medical Technician (EMT) and paramedic from up to 10 post locations. The number and location of manned posts may differ each day based on Lifeguard's System Status Management plan, which in turn is driven by regular deployment analyses.

Lifeguard EMS services are supplemented by Basic Life Support (BLS) and/or Advanced Life Support (ALS) services provided by the 15 fire service districts and departments. EMS services provided by fire districts and departments are performed by responding firefighters who have completed training as either EMTs or paramedics using medical equipment and supplies kept on the responding fire apparatus or other fire service vehicles. (See Appendix B for additional information on Lifeguard.)

State law provides specific direction related to the operations and governance of independent special fire control districts; performance standards are outlined by national entities. Chapter 191, *Florida Statutes*, presents a range of standards, financing authority, and procedures for special fire control districts**.**

Governance. Florida statutes authorize a five-member Board of Commissioners elected to four-year terms by the district's electors to govern fire district operations and funding. All four fire control districts reported that their boards provide oversight on the special district's budget and finance as well as the addition of new staff, station, apparatus or equipment, or any other large projects.

Special powers*.* Florida statutes dictate that independent special fire control districts provide for fire suppression and prevention; establish and maintain emergency medical and rescue response services; employ, train, and equip personnel; conduct public education to prevent fires and reduce the loss of life and property; adopt and enforce fire safety standards and codes and enforce State Fire Marshal rules; conduct arson investigations; adopt hazardous material safety plans and emergency response plans in coordination with the county; and contract with general purpose local government for emergency management planning and services.[5]

Funding. Fire control districts are authorized by state law to levy and assess ad valorem taxes; levy non-ad valorem assessments; charge user fees for special emergency services such as firefighting for marine vessels, aircraft, or rail cars; and impose impact fees for construction within their jurisdiction.

State law does not prescribe performance standards for fire districts. Rather, national organizations provide criteria by which fire departments may set goals. These entities include the National Fire Protection Association (NFPA) and the Insurance Services Office (ISO).

NFPA Codes. The NFPA serves as the nationally recognized source for fire service standards, and NFPA codes serve as the basis of the Florida Fire Prevention Code. One NFPA code fire departments commonly use is NFPA 1710. [6] Along with NFPA 1720, these two codes specify requirements for

[5] The Florida Division of the State Fire Marshal is comprised of two bureaus. The Bureau of Fire Prevention conducts fire/life safety inspections and construction plans review on all state-owned buildings, regulates the fireworks and the fire sprinkler industries, inspects and licenses boilers, and certifies fire suppression industry workers. The Bureau of Firefighter Standards and Training approves firefighter training curricula, offers fire service training at the Florida State Fire College, and certifies that fire service members meet industry-based standards.

[6] *NFPA 1710* (Standard for the Organization and Deployment of Fire Suppression Operations, Emergency Medical Operations, and Special Operations to the Public by *Career* Fire Departments).

effective and efficient organization and deployment of fire suppression operations, emergency medical operations, and special operations to the public by career, volunteer, and combination fire departments to protect citizens and the occupational safety and health of fire department employees.[7] NFPA codes include several recommended standards including staffing levels, training, and response time objectives based on department type and population density, and call type (emergency or fire).

ISO Ratings. The ISO establishes ratings based on its "evaluation of municipal fire-protection efforts in communities throughout the United States." The ISO rating serves as a reference for insurance companies in setting property insurance rates. The ratings are based on a 1 to 10 scale where 1 is best and 10 is worst.[8] Typically, a better classification resulting from enhanced fire protection leads to lower insurance premiums; service improvements may include construction of more fire stations and modernization of communication and dispatch systems.

FINDINGS

Fire control districts provide comparable services and primarily respond to medical incidents

Santa Rosa County's fire control districts generally provide similar services to other fire departments. Most requests for service are routed through a central county dispatch center and can involve activation of interdepartment mutual aid agreements. The majority of calls to which the fire control districts responded from 2017 to 2019 were rescue and medical calls, comprising over 65% of all incidents; fire extinguishment calls comprised less than 3%. Deploying both fire departments and ambulance service to EMS calls is a routine practice and perceived by some experts as an efficient method to meet service demands and is a routine practice that is consistent with national patterns.

Fire control districts generally provide similar services to other fire departments, but differ in life support services offered

All four fire control districts provide some common services. These are fire protection services and fire safety education, as well as some level of preliminary/operational hazardous material (HazMat) response, special rescue, inspection and code enforcement, fire and arson investigation, and other public benefit services. (See Exhibit 2.) All 15 districts/departments in the county rely on the nearby Escambia Fire Rescue Regional HazMat Team for advanced HazMat response. Additionally, similar to the county's other fire service providers, the fire control districts rely on the State Fire Marshal for advanced fire and arson investigations, particularly if a fire is deemed "suspicious."

[7] *NFPA 1720* (Standard for the Organization and Deployment of Fire Suppression Operations, Emergency Medical Operations, and Special Operations to the Public by *Volunteer* Fire Departments).

[8] ISO rating updates are triggered by responses to questionnaires sent to communities approximately every two years, ISO assessed changes in capabilities or circumstances through its own research, or when a community request for update meets ISO thresholds to trigger an update.

Exhibit 2
Fire Control Districts Provide Similar Services

Service	Avalon	Holley-Navarre	Midway	Pace
Fire Service	X	X	X	X
EMS Advanced Life Support			X	X
EMS Basic Life Support	X	X	X	X
Hazardous Materials Response	X[1]		X	X[2]
Special Rescue	X		X	X
Inspection and Code Enforcement		X	X	X
Fire and Arson Investigation		X[3]	X	X[4]
Fire Safety Education	X	X	X	X
Other	X[5]		X[6]	X[7]

[1] Awareness level only.
[2] Operations level only.
[3] Basic only.
[4] Limited.
[5] Boating emergencies; search and rescue.
[6] Emergency management.
[7] Car seat safety.

Source: OPPAGA analysis of data provided by Santa Rosa County special fire control districts.

While the types of services that the fire control districts provide generally align with state and national trends, the type of life support services provided varies across districts. According to National Fire Protection Association survey data, 46% of fire departments in the U.S. that serve a population similar to Holley-Navarre, Midway, and Pace provided advanced life support (ALS) service between 2016 and 2018.[9] However, only Midway and Pace have ALS; Holley-Navarre anticipates providing ALS service in the future. Avalon provides basic life support, which is consistent with fire departments in the U.S. that serve a similar population.

All fire districts and departments in the county cooperate to provide services to each other through automatic or mutual aid agreements. In 2017, the fire control districts established the Santa Rosa County Firefighter's Association Mutual Aid Agreement to cooperate at the scene of any fire or emergency wherein lives and/or property are threatened.[10] The agreement outlines procedures for incident command, apparatus and personnel staging, insurance coverage, and designating which district pays associated costs for a given incident.

Generally, there are two forms of local mutual aid agreements: automatic mutual aid and mutual aid. Automatic aid agreements permit the automatic dispatch and response of requested resources without incident-specific approvals or consideration of entity boundaries.

Alternatively, local mutual aid agreements between neighboring jurisdictions or organizations involve a formal request for assistance and generally cover a larger geographic area than do local automatic mutual aid agreements.[11] In Santa Rosa County, mutual aid requests are made by an officer or incident

[9] According to NFPA survey data, between 2016 and 2018, almost half of U.S. fire departments serving a population of 25,000 to 49,999 provided ALS service (46%). A similar percentage of U.S. fire departments serving a population of 5,000 to 9,999 provided basic life support (43%).
[10] Although Naval Air Station Whiting Field is located within Santa Rosa County and is a signatory to county fire service mutual aid agreements, it was not individually considered in this study as it is a federal military installation and its fire services are funded through the Department of Defense.
[11] Section 252.40, *F.S.*, authorizes each local government of the state to develop and enter into mutual aid agreements within the state. Complementing the agreement amongst the county's fire districts and departments, Santa Rosa County is also a signatory to a statewide mutual aid agreement for reciprocal emergency aid and assistance within the state in case of emergencies too extensive to be dealt with unassisted and related cost reimbursement for local governments that render assistance.

commander and are routed through the county's Emergency Communications Center. The fire control districts reported providing mutual aid 1,018 times from 2017 through 2019. During this period, the Avalon fire control district gave the most mutual aid at 384 responses, followed by Holley-Navarre at 331, Pace at 221, and Midway at 82.

From 2017 to 2019, fire control districts responded primarily to rescue and emergency medical calls, which is consistent with national patterns

Overall, the four fire control districts responded to 53.9% of 50,948 total incidents in Santa Rosa County from calendar year 2017 through 2019. The number of incidents increased for three fire control districts during this period, with the highest increase in Midway at 14.2%. Conversely, the number of incidents in Holley-Navarre decreased by 28.3%, in part because in 2019 the district handled fewer rescue and emergency response incidents. During the same period, Lifeguard responded to over 52,000 emergency medical calls across the county.

Most incident calls for the fire control districts from calendar year 2017 to 2019 were for rescue and emergency medical services rather than fire control. (See Exhibit 3.) For example, 60.4% of Midway's incidents were for EMS incidents compared to 2.2% for fire incidents. The districts' low percentage of calls for fire incidents is consistent with national trends. Nationwide, fire incidents made up just 4% of fire departments' total calls in 2018.

Exhibit 3
From 2017 through 2019, Most Calls for Fire Control Districts Were for Rescue and Emergency Medical Services

	Avalon		Holley-Navarre		Midway		Pace		Total	
Description	Calls	Percentage	Calls	Percentage	Calls	Percentage	Calls	Percentage	Calls	Percentage
Rescue and Emergency Medical Service Incidents	1,704	79.2%	6,192	67.8%	4,446	60.4%	5,625	63.8%	**17,967**	**65.4%**
Good Intent Call	47	2.2%	1,421	15.6%	1,283	17.4%	1,469	16.7%	**4,220**	**15.4%**
Service Call	109	5.1%	662	7.2%	822	11.2%	615	7.0%	**2,208**	**8.0%**
False Alarm and False Call	94	4.4%	547	6.0%	405	5.5%	491	5.6%	**1,537**	**5.6%**
Fire	132	6.1%	173	1.9%	164	2.2%	291	3.3%	**760**	**2.8%**
Hazardous Condition (No Fire)	49	2.3%	118	1.3%	205	2.8%	247	2.8%	**619**	**2.3%**
Special Incident Type	13	0.6%	5	0.1%	8	0.1%	44	0.5%	**70**	**0.3%**
Severe Weather and Natural Disaster	3	0.1%	10	0.1%	11	0.1%	28	0.3%	**52**	**0.2%**
Overpressure Rupture, Explosion, Overheat (No Fire)	0	0.0%	6	0.1%	13	0.2%	6	0.1%	**25**	**0.1%**
Total	**2,151**	**100.0%**	**9,132**	**100.0%**	**7,357**	**100.0%**	**8,816**	**100.0%**	**27,458**	**100.0%**

Source: OPPAGA analysis of data provided by the Florida Department of Financial Services, Division of State Fire Marshal.

The county's dispatch center prioritizes medical calls on a scale from Alpha to Echo based on severity; for example, Echo priority calls require immediate aid for persons who are in an imminent death situation. The number of EMS calls to which fire districts responded may be lower in calendar year 2020 relative to the past two years due to changes in dispatch protocols for Coronavirus (COVID-19). Due to the pandemic, fire control districts are now responding only to higher priority EMS calls (i.e., Delta and Echo priorities). From 2017 through 2019, only 35.2% of EMS calls to which fire control districts responded had a Delta and Echo priority.

Deployment of fire departments and county ambulance service to EMS calls is a routine practice perceived by some experts as an efficient method to meet service demands

Typically, Santa Rosa County dispatches both medically trained firefighters and fire apparatus and vehicles, some carrying medical equipment, in addition to a Lifeguard ambulance and crew to medical calls. Dispatch requests for countywide fire and EMS services for all departments and districts are routed through the central county Emergency Communication Center Computer-Aided Dispatch system, with the exception of the City of Gulf Breeze.[12] Additionally, the Santa Rosa County Emergency Communication Center dispatches non-emergency EMS ambulance calls to neighboring Escambia County under an agreement with Escambia County and Lifeguard.[13]

Interviews with fire district leaders suggested dual dispatch for EMS calls is helpful for several reasons. Fire services have multiple stations and may be closer than ambulance services to many incidents, thus ensuring a more rapid response time. The county's size and roadway infrastructure, including multiple bridges that can serve as traffic chokepoints, could make response times longer if only one party was responding. Further, although fire services often have physical proximity to a scene, they cannot transport patients to a hospital. In addition, fire district leaders reported that the incidents to which the districts respond most, rescue and medical, may include assisting EMS with lifting patients, which would require their manpower regardless of the severity of the case. Alternately, dual dispatch is valuable in circumstances in which Lifeguard lacks relevant equipment, e.g., for extrications.

Emergency response association leaders we interviewed noted that Santa Rosa County's dual dispatch model is consistent with national practices. Moreover, research suggests that dual dispatch of fire and EMS allows for faster response times, and consequently, in more serious cases, to better patient health outcomes.[14]

Fire control district revenues generally covered expenditures over the past five years; districts reported that if growth in housing values continues, current budgets will meet future needs

Over the last five years, some fire control district revenues have grown and exceeded expenditures. During this period, expenditures for fire control districts increased, primarily due to personnel costs. Fire control districts reported that if housing growth continues, their current budgets are sufficient to meet future needs.

Fire control district revenues have increased largely due to housing market growth and changes to revenue sources and property tax rates

Avalon, Midway, and Pace fire control districts currently obtain revenue through ad valorem assessments. While the highest allowable millage rate under state law for most special fire control districts is 3.75 mills, the three districts levied lower rates from Fiscal Years 2014-15 through 2019-20:

[12] The Gulf Breeze police department administers fire and non-ambulance EMS dispatch and provides dispatch services to the police and fire departments, as well as the Gulf Islands National Seashore (U.S. National Park Service).

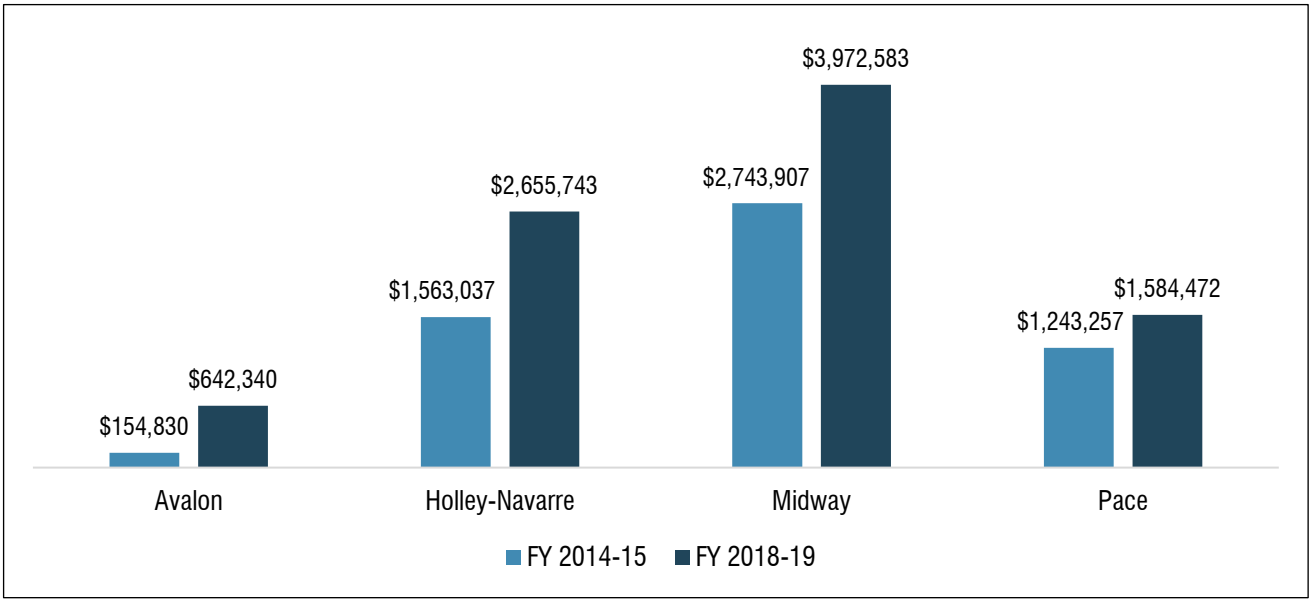
[13] Lifeguard pays Santa Rosa County for two dispatchers to provide non-emergency services to Escambia County; the payment was approximately $73,333 in Fiscal Year 2018-19.

[14] For example, see Raun, Loren, et. al., "Effectiveness of the Dual Dispatch to Cardiac Arrest Policy in Houston, Texas," *Journal of Public Health Management and Practice*, September/October 2019, Volume 25, Issue 5, E13-E21.

Midway (2.2 mills), Avalon (2.0 mills), and Pace (1.48 mills).[15] In contrast to the other fire control districts, Holley-Navarre revenues are derived from non-ad valorem property tax assessments based on property square footage.

Fire control district revenues increased over the last five local fiscal years; this growth is partly attributable to increases in housing units and property values.[16] The percentage change in total revenues between Fiscal Years 2014-15 and 2018-19 was highest in Avalon (315%), followed by Holley-Navarre (70%), Midway (45%), and Pace (27%).[17] (See Exhibit 4.)

Exhibit 4
Districts' Total Revenues Increased From Fiscal Years 2014-15 Through 2018-19



Source: OPPAGA analysis of financial data provided by each district.

Fire district revenue growth is partly attributable to increases in housing units within the districts. According to U.S. Census Bureau data for areas consistent with fire control district boundaries, the number and percentage of housing units increased between 2010 and 2018 for all fire control districts except Avalon.[18] Holley-Navarre had the highest change in housing at 2,440 units or a 19.3% increase, followed by Pace and Midway. (See Exhibit 5.) As the number of housing units increases, a district's property tax revenue will increase due to a greater number of units contributing to the tax base, regardless of district use of ad valorem or non-ad valorem assessments.

[15] In Avalon, the millage rate increased from 1.0 mills to 2.0 mills in August 2012.
[16] The fiscal year for local governments is October 1 to September 30. This timeframe is the reporting period for all financial information. Financial data were derived from reported changes in fund balances and statements.
[17] Financials for Fiscal Year 2014-15 were based on the district's reported budget variance sheet in Avalon and Pace and audited financial reports for the other two districts. Financial data for Fiscal Year 2018-19 was from all four districts' budget variance sheets as audited financial reports were not available at time of review. During these five fiscal years, Pace was operating as a MSBU.
[18] We found that there was no statistically significant change in the number of housing units from 2010 and 2018 for the area consistent with Avalon Fire Control District.

Exhibit 5
Housing Units Increased Within Fire Control District Boundaries Between 2010 and 2018

	Avalon	Holley-Navarre	Midway	Pace
Increase in Housing Units	317[1]	2,440	896	1,823
Percentage Change in Housing Units	12.7%[1]	19.3%	9.0%	15.5%

[1] This increase was not a statistically significant change; this means we could not be confident there was growth in the number of housing units in Avalon. The large percentage growth is due to the small number of housing units being analyzed; thus, even a small increase is a large change.
Source: OPPAGA analysis of U.S. Census Bureau data.

Revenue growth is also attributable to increases in property values. According to Santa Rosa County Property Appraiser data, property values within fire control district boundaries increased between 2010 and 2018. Property values increased for those districts that use ad valorem assessments.[19] (See Exhibit 6.) Property appraisal values were not available for the Holley-Navarre district boundary; however, property values should have no effect on the district's property tax revenue because it uses non-ad valorem assessments.

Exhibit 6
Housing Values Increased in Fire Control District Boundaries Between 2010 and 2018

	Avalon	Midway	Pace
Increase in Housing Value	$70,801,823	$567,510,139	$715,145,365
Percentage Change in Housing Value	17%	30%	44%

Source: OPPAGA analysis of U.S. Census Bureau data.

Changes in taxing structures or rates, resulting in higher assessments, also contributed in part to revenue growth. Three fire districts changed their taxing structures or rates during the review period. In 2016, voters in Holley-Navarre approved a new assessment rate structure for the fire district, which eliminated flat fees and added new per square footage rates; these additional square footage rates helped the district capitalize on revenue from larger properties. Holley-Navarre's property tax revenues increased by 87% between Fiscal Years 2016-17 and 2017-18.

Midway's millage rate changed three times between Fiscal Years 2015-16 and 2018-19.[20] Its largest percentage increase in property tax revenues was 23% between Fiscal Years 2017-18 and 2018-19. During this time, Midway's millage rate increased from 2.0 mils to 2.2 mils. If housing values and units remained constant, this increase in millage would result in a 10% increase in property tax revenue. The remaining increase in property tax revenue is likely due to the increase in housing units and property values during this time.

In Fiscal Year 2019-20, Pace began operating as a special fire control district and administering ad valorem property taxes. Previously, as a MSBU, its tax structure was non-ad valorem and based on the county's assessed square footage rates. After becoming a special district, Pace's budgeted property tax revenues increased by 72%.

Expenditures for most fire control districts have increased, primarily due to personnel costs

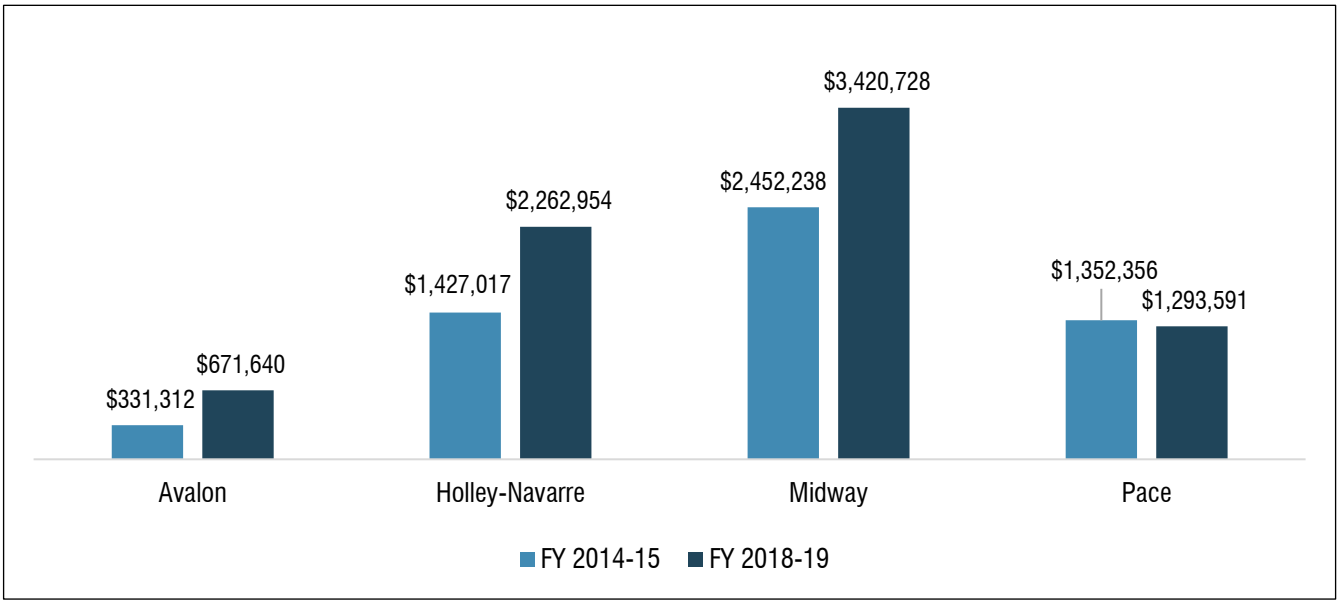
In general, fire control districts' expenditures increased over the previous five fiscal years. New personnel expenses accounted for most of these increases. Districts try to manage costs through some cooperative activities.

[19] During this period, Pace operated as a MSBU using non-ad valorem property tax assessments. Therefore, revenue was not affected by property values. Property values affect Pace's revenues as of Fiscal Year 2019-20.
[20] The millage rate was 1.75 mills in Fiscal Years 2014-15 and 2015-16, 1.85 mills in Fiscal Year 2016-17, 2.0 mills in Fiscal Year 2017-18, and 2.2 mills in Fiscal Year 2018-19.

Total expenditures increased for most fire control districts from Fiscal Years 2014-15 to 2018-19; these increases are largely due to changes in personnel costs. The highest percentage change in expenditures during this time was in Avalon (103%), followed by Holley-Navarre (59%), and Midway (39%). Pace's expenditures decreased by 4% between 2014-15 and 2018-19. (See Exhibit 7.)

These expenses do not include the districts' outstanding debt or liabilities. Consequently, some of the districts' investments in land, buildings, fire trucks, and equipment are not reflected in the total expenditures. As of March 2020, the four fire control districts operated out of 13 active and storage stations housing 43 pieces of apparatus and other vehicles. (See Appendix C, Exhibit C-1 for more information on special districts' vehicle inventory.)

Exhibit 7
Most Fire Control District Expenditures Increased From Fiscal Years 2014-15 Through 2018-19



Source: OPPAGA analysis of financial data provided by each district.

Fire district expenditure increases are largely attributable to changes in personnel costs. Employee wages and benefits was the largest expense category for the four fire control districts over the last five local fiscal years. On average, employee wages and benefits made up 63% of each districts' total expenses during this period.

One reason for rising personnel costs is adding career firefighters to staff. The four fire control districts currently provide services through 123 all-paid or a combination of paid and volunteer firefighters and 9 support staff. (See Exhibit 8.) In Fiscal Year 2018-19, all of Holley-Navarre and Midway's firefighters were full-time staff. Avalon and Pace have been shifting from volunteer to full-time positions. For example, Avalon added one full-time firefighter each year from 2016-17 through 2018-19. Pace added part-time firefighters in 2017-18 and 2018-19. Although Pace lost one full-time firefighter in Fiscal Year 2018-19, it gained six full-time firefighters in Fiscal Year 2019-20. While using volunteer staff can extend a district's budget, two of the four districts reported that recruiting firefighters is difficult, suggesting that firefighters leave the county after completing fire academy training due to pay or cost of living concerns.

Exhibit 8
As of March 2020, Most Fire Control Districts' Staff Were Majority Full-Time Firefighters

Fire Control District	Number of Full-Time	Percentage Full-Time	Number of Part-Time	Percentage Part-Time	Number of Volunteer	Percentage Volunteer
Avalon	6	29%	0	0%	15	71%
Holley-Navarre	26	96%	0	0%	1	4%
Midway	31	100%	0	0%	0	0%
Pace	22	50%	5	11%	17	39%
Total	**85**		**5**		**33**	

Note: Due to rounding, percentages may not sum to 100%.

Source: OPPAGA analysis of information from Santa Rosa County Emergency Services.

We compared district staffing proportions with national data and found that Avalon, Holley-Navarre, and Midway's staffing ratios of full-time versus volunteer firefighters exceed national trends while Pace's staffing ratio falls below. For U.S. fire departments that served a population size comparable to Holley-Navarre, Midway, and Pace, full-time firefighters made up an average of 72% of total firefighters in 2018. For U.S. fire departments that served a population size comparable to Avalon, the average percentage of volunteer firefighters was 80%. These trends are based on data reported from the NFPA Survey of Fire Departments for U.S. Fire Experience during 2018.

Rising personnel costs may also be associated with changes in employee benefits, such as retirement plans. For example, in local Fiscal Year 2016-17, Midway's expenses for personnel services, which includes employee salaries and benefits, increased by 60% from Fiscal Year 2015-16. This increase was due primarily to pension plan changes that resulted in an additional expense of $888,467.[21]

Fire control districts conduct collaborative activities to manage expenses. In addition to collaborating with other districts or departments through providing mutual aid, some districts share other resources to offset common costs. For example, leaders from Midway Fire District, Holley-Navarre Fire District, and Navarre Beach Fire Rescue reported that their districts share apparatus and training with each other. Midway leaders reported that they have donated equipment and hosted firefighter physical examinations for other departments across the county.

Further, districts have considered merging to further leverage resources. For example, in 2018, Midway Fire District, Holley-Navarre Fire District, and Navarre Beach Fire Rescue commissioned a consolidation study.[22] The purpose of the study was to identify the feasibility and consequences of merging the three entities into one special district. The report found that a full merger between all three areas would likely result in increased costs to district taxpayers. In addition, consolidation would require voter referendums to terminate the existing organizations, reorganize taxing structures, and form the new special district. However, the report noted that costs could be justifiable when considering the improvement to service delivery, prevention, training, staffing, and administration.

Fire control district revenues generally covered expenditures over the past five years

For most of the fire districts, revenues generally covered expenditures for Fiscal Years 2014-15 through 2018-19; however, each fire control district had at least one year within our review period when expenditures exceeded revenues. The districts' average ratio of expenses to revenues was 95%,

[21] Effective October 1, 2017, the district switched to a Ch. *175*, *F.S.*, local pension plan.
[22] The consolidation study was conducted by Emergency Services Consulting International, and the report is dated October 2018.

which means that on average, 95% of revenues were used for expenses each year, and the districts' net margin was 5%. [23]

Each fire control district had at least one year within our review period when expenditures exceeded revenues. This difference was due to both increases in expenditures and revenue losses. Fire control districts reported a number of reasons for budget differences, including declines in impact fees, increased personnel expenses, and purchases of new apparatus. However, most of the special districts maintained an overall positive net position.[24]

Fire control districts reported being able to fund future expenditures if growth in housing values continues

Most districts reported being able to fund their current needs. Each fire control district maintains a strategic plan that outlines projected needs to address future growth such as anticipated apparatus or equipment purchases. Housing growth is expected to persist in Santa Rosa County, and some districts anticipate the related revenue growth will be sufficient to fund future expenses outlined in district strategic plans.

Most districts reported having adequate revenue to meet current needs; all districts develop strategic plans to address future growth. Fire control district leaders from Avalon, Holley-Navarre, and Midway reported that they have sufficient revenue for the county's current population size. Specifically, they are able to fund the staff, apparatus or equipment, and fire stations necessary to meet current needs. Pace Fire Control District leaders reported that their current outlook has improved now that it has become a special district. District leaders reported that they had sufficient funding this year to begin replacing apparatus and adding running water to stations over the next several years, and that they will add tax increases gradually if needed. (See Appendix C, Exhibits C-1, C-2, and C-3 for information about fire control district vehicle and station inventories and current budgets.)

District strategic plans include anticipated apparatus or equipment purchases, personnel additions, and facility construction.[25] Most districts specify in the plans that they are based on the need to provide service levels described in NFPA 1710 and to maintain or improve district ISO ratings. The strategic plans for Midway, Holley-Navarre, and Pace detail the districts' current capabilities and needs over the next several years.

Over the next five fiscal years, districts plan to add 56 firefighters and 18 other personnel. In addition, districts plan to build or remodel several stations. Finally, districts plan to purchase seven engines or trucks, several additional vehicles, and a range of life saving equipment. (See Exhibit 9.)

[23] Avalon's financial data for Fiscal Year 2014-15 was omitted from this calculation due to being an outlier and inconsistency between the district's reported revenues and expenditures and its financial audit for the same year.

[24] Net position takes into account the districts' assets and liabilities. Avalon's Fiscal Year 2018-19 audited financial report was not available during our review, so overall net position could not be determined.

[25] Most districts reported that maintaining four firefighters for each engine company helps them adhere to the NFPA 1710 two-in-two-out rule. Additionally, most districts reported that stations help with engine coverage for the districts to abide by ISO grading recommendations.

Exhibit 9
Fire Control Districts Have Plans to Add Equipment, Staff, and Facilities Over the Next Few Years

Fire Control District	Strategic Plan Timeframe	Strategic Plan Activities
Avalon	Fiscal Years 2017-18 through 2021-22	• Purchase property for building a new station • Acquire new self-contained breathing apparatus, automated external defibrillators, and other gear • Purchase a new tank for the ladder truck and a new boat • Add eight firefighters
Holley-Navarre	Fiscal Years 2018-19 through 2022-23	• Purchase one engine and start leasing two engines • Replace self-contained breathing apparatus and extrication equipment • Begin advanced life support response with existing paramedics and train existing firefighter/EMTs as paramedics • Add six firefighters and nine other personnel
Midway	Fiscal Years 2018-19 through 2024-25	• Replace three engines, one truck, and operations chief and inspector vehicles • Make capital outlay to its stations • Purchase new self-contained breathing apparatus and extrication equipment • Add 27 firefighter/EMTs and 4 other personnel
Pace	Fiscal Years 2019-20 through 2025-26	• Replace one engine, one truck, and five vehicles • Purchase new self-contained breathing apparatus and extrication equipment • Remodel Station 3 and Station 4 to accommodate personnel 24/7 • Add 15 firefighter/EMTs and 5 other personnel

Source: OPPAGA analysis of fire control district strategic plans.

Most fire control district leaders estimate that housing growth will adequately fund planned operational changes if growth continues as projected. Housing growth expectations are consistent with historical growth in district areas. For the three fire control districts that use ad valorem assessments, increases in housing value and housing units contribute to property tax revenue for the districts. Although Avalon's housing unit increase was not statistically significant between 2010 and 2018, its increase in housing values was significant. For Midway and Pace, both housing units and housing values increased between 2010 and 2018. However, because Holley-Navarre uses non-ad valorem assessments, the growth in housing units drives property tax revenue growth. Historically, between 2010 and 2018, Holley-Navarre had the highest growth in housing units of the four fire control districts. Without holding a voter referendum, the fire control district leaders in Holley-Navarre can only make small increases to the non-ad valorem assessment.

Fire control districts use response time to assess performance and develop strategic plans but could consider utilizing additional performance information

There are no mandated national or state fire service performance measurements, though fire control districts track response times as a primary performance measure. The fire control districts are generally meeting goals for response times, but could consider adopting additional performance measures to help assess operational efficiency and effectiveness and develop strategic plans. National standards present additional performance metrics that districts could use to assess service quality and community value.

There are no mandated national or state performance measurements for fire districts

OPPAGA's review of literature and interviews with key stakeholders suggest that there are no mandated local, regional, or national fire service performance metrics. Further, national and state fire service-related association interviewees most commonly referenced National Fire Protection

Association standards and Insurance Services Office ratings as potential metrics. A state EMS association leader also suggested monitoring patient outcomes as a measure of medical service performance.

Florida's Division of State Fire Marshal does not require or maintain statewide performance measurement systems or standards for the state's fire departments. Instead, the division leaves it up to individual agencies and departments to determine which performance measurements they use and track if any are desired. State Fire Marshal staff noted that districts may be referencing NFPA standards 1710 and 1720 for guidance on performance measures, as these standards provide recommendations for alarm answering times, crew size on duty, and minimum EMS provisions. However, neither of these standards are required for use by fire departments.

Fire control districts track response times as a primary performance measure, but could utilize a few other measures to support planning

Fire control districts reported that they primarily use incident response times to assess their performance relative to NFPA standards, and in 2019 most of them outperformed response time objectives. This information also helps districts plan for future needs. Some districts also use their ISO rating to gauge performance and reported informally gathering other relevant information.

Fire control districts track response times to assess performance, and most outperformed 2019 response time objectives. Most fire control districts track and measure some metrics that they deem important. For example, Holley-Navarre, Midway, and Pace reported they track call response times for all types of calls. In addition, Avalon, Holley-Navarre, and Pace track call volume and calls received.

The fire control districts use portions of the NFPA codes as performance objectives. NFPA 1710, for career fire departments, recommends a performance objective of an 8-minute total response time from the time a call is first received until the first responding unit initiates actions or intervenes to control the incident. [26] NFPA 1710 does not provide separate recommendations for urban, suburban, or rural response times. However, NFPA 1720, for volunteer fire departments, recommends a total response time of 9 minutes for urban areas, 10 minutes for suburban areas, and 14 minutes for rural areas.[27]

Most of the fire control districts meet these performance objectives. As of 2019, the Midway and Holley-Navarre districts were predominantly career departments, while Avalon and Pace are a combination of paid and volunteer firefighters. While Midway and Pace are predominantly urban districts, Avalon and Holley-Navarre are a combination of urban and rural. During 2019, Avalon, Midway, and Pace had average extinguishment response times of 7 minutes and 22 seconds or less. Holley-Navarre averaged 8 minutes and 8 seconds for fire extinguishment calls; district officials are actively working to add a station to reduce total response times. (See Appendix C, Exhibit C-4 for 2019 average response times and run volumes for the four fire control districts.)

Fire control districts also use ISO ratings and informal mechanisms to gauge performance and help build their strategic plans. The ISO uses the Fire Suppression Rating Schedule to evaluate four major areas in assessing an ISO rating: Emergency Communication System (10% of total rating), Fire Departments (50%), Water Supply (40%), and Community Risk Reduction (extra credit 5.5%). The Fire Departments section of the rating schedule considers factors that departments can control, such

[26] The response time for high-rise fires is 10 minutes and 10 seconds.

[27] NFPA 1720 defines "urban area" as more than 1,000 people per square mile, "suburban area" as 500-1,000 people per square mile, and "rural area" as less than 500 people per square mile

as engine companies, ladder or service companies, deployment of fire companies, equipment carried on apparatus, pumping capacity, reserve apparatus, company personnel, and training. Three districts (Holley-Navarre, Pace, and Midway) reported that they evaluate their staffing, performance, and/or planning (e.g. building new stations) with the intent of improving their ISO rating. As of August 2020, most fire departments in the United States received an ISO rating classification of 5 or better, while most fire departments in Florida received an ISO rating of 4 or better.

Midway's ISO rating remained a 3 from Fiscal Years 2014-15 through 2018-2019, while Pace's ISO rating improved from a 6/9 to a 4/4 between Fiscal Years 2016-17 and 2017-18. Holley-Navarre's ISO rating remained a 4, while Avalon improved its rating to 4/4 after several years as 5/9.[28] By comparison, Santa Rosa's two municipal districts were both rated 4, while the nine MSBUs ranged from low scores of 6/8 and 5/10 to a high rating of 2. Holley-Navarre and Midway are trying to improve their ISO ratings by planning to add new fire stations to reduce the distance between stations and the buildings in the community they protect.

Other information that districts use to gauge performance is informal. Fire control district board members noted that they relied on the fire chief for feedback or informal mechanisms such as letters, community feedback, and comments from employees. In addition, district leaders described occasionally utilizing formal mechanisms such as audits to assess performance.

Fire control districts collect data for the state that they could use to further support planning and assessing value. Florida fire control districts also collect and provide data to the Florida Fire Incident Reporting System maintained by the State Fire Marshal, which in turn transmits data to the National Fire Incident Reporting System. (See Exhibit 10.) Florida law requires the State Fire Marshal to establish this system for the reporting of fire incidents. Fire departments can voluntarily participate in the system. Although all of Santa Rosa County's fire districts participate in this system, it does not appear that they use this data in their strategic planning efforts. Considering that the vast majority of fire service calls are for rescue and EMS assistance and the ISO ratings are not focused on this sector, fire districts may consider which of this data could be used to present more of the value they offer to their community.

[28] For a split number (e.g., 5/9), the first number refers to the classification of properties within 5 road miles of a fire station and within 1,000 feet of a creditable water supply. The second number applies to properties within 5 road miles of a fire station but beyond 1,000 feet of a creditable water supply. ISO generally assigns Class 10 to properties beyond 5 road miles.

Exhibit 10
National Standards Performance Areas Provide a Base for Performance Measure Development

Sources of Incident Calls	Fire Incident Calls	Medical Aid Responses	HazMat Calls	Other Calls	Other Fire Department Activities
• Source of Call	• Fire Rate • Response and Control Times - Fire Incident Calls • Fire Spread • Civilian Fire Death and Injury Rate - Fire Incident Calls • Firefighter Death and Injury Rate - Fire Incident Calls • Human Saves and Rescues - Fire Incident Calls • Property Saves - Fire Incident Calls • Quality of Service - Training and Certification - Fire Incident Calls	• Medical Response Rate • Response and Transport Times - Emergency Medical Response Calls • Patient Treatment Measures • Quality of Service - Training and Certification - Emergency Medical Response Calls	• Rate of HazMat Calls • Response and Transport Times - HazMat Calls • Quality of Service - Training and Certification - HazMat Calls	• Rate of Non-Fire, Nonmedical Emergency, and Nonhazardous Materials Calls • Response Times - Other Calls	• Code Compliance Effectiveness

Source: *Fire Service Performance Measures*, National Fire Protection Association, 2009.

APPENDIX A

Services Provided and Resources of Santa Rosa County Municipal Service Benefit Units and Municipal Fire Department

Santa Rosa County's Municipal Service Benefit Units (MSBUs) and municipal fire departments provide a number of services and maintain various equipment and facilities to support these services. Exhibit A-1 includes service information and Exhibit A-2 provides a facility inventory. Exhibit A-3 includes the ISO ratings for the 11 departments.

Exhibit A-1
MSBU and Municipal Fire Department Services

Services	Allentown	Bagdad	Berrydale	East Milton	Harold	Jay	Munson	Navarre Beach	Skyline	City of Gulf Breeze	City of Milton	Notes
Fire Service	X	X	X	X	X	X	X	X	X	X	X	
EMS Advanced Life Support												
EMS Basic Life Support	X	X	X	X	X	X	X	X	X	X	X	All departments are non-transport capable
Hazardous Materials Response[1]	X	X	X	X	X	X	X	X	X	X	X	
Special Rescue	X	X	X	X	X	X	X	X	X	X	X	All departments have extrication equipment and respond to motor vehicle crashes
Inspection and Code Enforcement											X[3]	
Fire and Arson Investigation[2]												Fire departments do initial investigation in consultation with State Fire Marshal, then if results are "suspicious," turn the case over to State Fire Marshal
Fire Safety Education	X	X	X	X	X	X	X	X	X	X	X	

[1] All are operations level only except for the City of Gulf Breeze, which is awareness level only. Santa Rosa County relies on a Regional HazMat Team from Escambia Fire Rescue for advanced HazMat response.

[2] Fire departments do an initial investigation in consultation with the State Fire Marshal. If results are "suspicious," they turn the case over to the State Fire Marshal. Departments without investigative capabilities rely on the State Fire Marshal for those services.

[3] Incudes permitting.

Source: OPPAGA analysis of data provided by the Santa Rosa County Director of Emergency Services and the cities of Gulf Breeze and Milton.

Exhibit A-2
MSBU and Municipal Fire Department Facility Inventory

	Allentown	Bagdad	Berrydale	East Milton	Gulf Breeze	Harold	Jay	Milton	Munson	Navarre Beach	Skyline
Stations	2	1	1	2	1	1	1	1	3	1	4

Source: OPPAGA analysis of data provided by the Santa Rosa County Director of Emergency Services.

Exhibit A-3
Current MSBU and Municipal Fire Department ISO Ratings

	Allentown	Bagdad	Berrydale	East Milton	Gulf Breeze	Harold	Jay	Milton	Munson	Navarre Beach	Skyline
ISO Rating	5/9	5/9	5/10	6/6	4	6/8	5/10	4/4	6/6	2	4/4

Note: For ISO ratings, 1 = highest score, 10 = lowest score. For a split number (i.e.., 5/9), "the first number refers to the classification of properties within 5 road miles of a fire station and within 1,000 feet of a creditable water supply. The second number applies to properties within 5 road miles of a fire station but beyond 1,000 feet of a creditable water supply. ISO generally assigns Class 10 to properties beyond 5 road miles.
Source: Data provided by the Santa Rosa County Director of Emergency Services.

APPENDIX B

Lifeguard Contract EMS

As noted in the service agreement, Lifeguard Ambulance Services of Florida, LLC, the Santa Rosa County ambulance contractor, manages all day-to-day operations, including field operations, billing, collections, purchasing and other operational functions. Santa Rosa County's contract with Lifeguard includes performance standards for non-life threatening calls. Lifeguard ambulances must be on-scene within 20 minutes in urban areas and 25 minutes in rural areas.[29] For more serious calls, Lifeguard ambulances must be on-scene within 10 minutes in urban areas and 18 minutes in rural areas. Santa Rosa County Emergency Operations reported that Lifeguard is compliant with performance metrics for these activities.

Exhibit B-1 presents recent data on the type of incidents to which Lifeguard responded in the county from 2017 to 2019. Medical priority codes in the exhibit are presented alphabetically. OMEGA incidents are slightly different from other EMS response incidents; they require special referrals or alternate care.

Exhibit B-1
Lifeguard EMS Response Incidents From 2017 Through 2019

Medical Priority	Incident Examples	Number of Incidents	Percentage of Total
ALPHA	Abdominal pain, assault (not dangerous body area), and blood pressure abnormality	11,976	23%
BRAVO	Threatening suicide, falls (not on stairs), animal bite, and heat exposure	10,309	20%
CHARLIE	Diabetic problems, breathing problems, back pain, and fainting	14,034	27%
DELTA	Chest pain, seizures, hemorrhage/laceration, and imminent delivery pregnancy	13,820	27%
ECHO	Cardiac arrest, ineffective breathing, drowning, and electrocution	1,350	3%
OMEGA	Baker Act, overdose (no priority symptoms), and obvious death	589	1%
Total		**52,078**	**100.00%**

Note: The Medical Priority Dispatch System, including priority codes Alpha through Omega, was developed by the International Academies of Emergency Dispatch. Due to rounding, percentages may not sum to 100%.

Source: OPPAGA analysis of data extracted from Santa Rosa County Emergency Communication Center Computer-Aided Dispatch system. Data does not include the City of Gulf Breeze because it has its own dispatch system.

[29] "The area designated *urban* is generally described as the central developed area of the county around Pace and the City of Milton plus the south end of the county from Gulf Breeze to Navarre. The area designated *rural* is generally described as the less densely developed areas of the county."

APPENDIX C

Additional Information on Services Provided and Resources of Santa Rosa County Fire Control Districts

For the four Santa Rosa County fire control districts under review, Exhibit C-1 presents an inventory of major vehicles and facilities operated by the fire control districts. Exhibits C-2 and C-3 present fire district budget information for Fiscal Year 2019-20 compared to Fiscal Year 2018-19. Exhibit C-4 presents the types of incidents districts are called to address, workload by district, and average response time by incident type.

Exhibit C-1
Fire Control Fire District Apparatus, Vehicles, and Stations

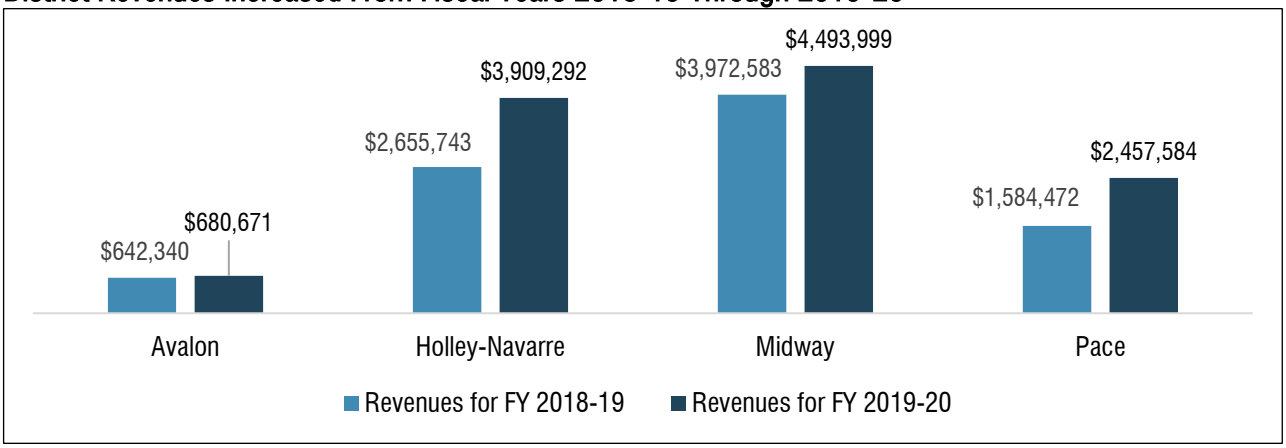
	Avalon	Holley-Navarre	Midway	Pace
Apparatus/Vehicles				
Battalion Chief's Vehicle			1	1
Boats	2		1	1
Brush Truck	1	1		
Chief's Vehicle	1		1	
Deputy Chief's Vehicle				1
Engines-Active	3	3	2	2
Engines-Reserve			2	
General Purpose		3		
Inspector Vehicle			1	
Ladder Trucks	1		1	1
Other			1	1
Rescue Units	2	1		1
Rehab Trailer				1
Service Vehicles	2			1
Support Vehicle-Reserve			1	
Tanker				1
Total Apparatus/Vehicles	**12**	**8**	**11**	**12**
Stations	**3**	**4[1]**	**2**	**4[2]**

[1] Two stations are designated as "active" and two as "storage."

[2] Three of the four stations did not have running water at the time of our review.

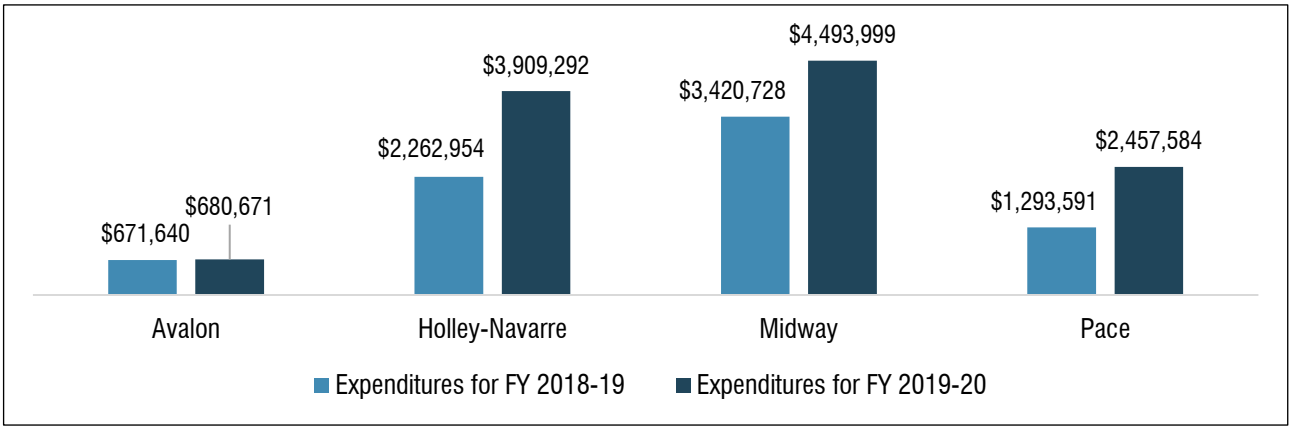
Source: OPPAGA analysis of data submitted by each respective fire control district and Santa Rosa County Emergency Services.

Exhibit C-2
District Revenues Increased From Fiscal Years 2018-19 Through 2019-20



Source: OPPAGA analysis of financial data provided by each district.

Exhibit C-3
District Budgeted Expenditures for Fiscal Year 2019-20 are Higher than Prior Year



Source: OPPAGA analysis of financial data provided by each district.

Exhibit C-4
Selected Incident Actions Taken and Average Response Time for Fire Control Districts in 2019

NFIRS Incident Code[1]	Incident Action Description	Avalon		Holley-Navarre		Midway		Pace	
		Number of Incidents	Average Response Time (Minutes)	Number of Incidents	Average Response Time (Minutes)	Number of Incidents	Average Response Time (Minutes)	Number of Incidents	Average Response Time (Minutes)
11	Extinguish (Fire)	3	7.33	28	8.14	19	7.26	33	7.36
30	Emergency Medical Services (Other)	278	8.97	235	9.96	10	8.60	511	10.31
32	Provide Basic Life Support (BLS)	73	7.96	807	9.51	207	7.98	928	9.52
33	Provide Advanced Life Support (ALS)	-	-	11	8.45	562	7.87	467	9.24
45	Remove Hazard	8	6.12	31	7.32	23	6.57	91	7.92
58	Operate Apparatus or Vehicle	2	10.00	12	9.42	-	-	1,347	9.34
73	Provide Manpower	17	9.24	381	10.64	615	8.84	474	9.94
80	Information, investigation and enforcement, other	354	9.46	9	11.22	114	8.32	6	9.33
86	Investigate	10	8.10	342	8.92	311	7.92	640	8.35
93	Cancelled Enroute	4	5.00	278	7.50	311	9.00	354	7.89
	TOTAL INCIDENTS	**749**	**8.02**	**2,134**	**9.11**	**2,172**	**8.04**	**4,851**	**8.92**

[1] National Fire Incident Reporting System.
Source: OPPAGA analysis of data provided by Florida State Fire Marshal's Office.

The Florida Legislature

OFFICE OF PROGRAM POLICY ANALYSIS AND GOVERNMENT ACCOUNTABILITY

Gary R. VanLandingham, Ph.D., Director

SUNSET MEMORANDUM

Governance of Florida's Water Management Districts
Options for Legislative Consideration

December 19, 2007

Summary

To support the Sunset Review process, the Legislature directed OPPAGA to examine Florida's water management districts.[1] This memo is part of a series that reviews the districts' operations, and focuses on district governance and options for legislative consideration. These options include requiring the Legislative Budget Commission to review and comment on district budgets (Option 1), revising dates for the water management district budget review process to match the state fiscal year (Option 2), directing districts with basin boards to assess the value of their basin boards (Option 3), eliminating the authority of district governing boards to designate basin boards (Option 4), and providing for the election of governing board members (Option 5). For each option, we describe the advantages, and disadvantages.

[1] Sections 11.901-11.920, *F.S.*

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Purpose, Organization, and Responsibilities

Florida's five water management districts are responsible for managing and protecting the state's water resources and related natural systems. As shown in Exhibit 1, the districts are regionally based with boundaries that match the state's hydrological geography, and include Northwest Florida, Suwannee River, St. Johns River, Southwest Florida, and South Florida. The districts are governed by boards whose members are appointed by the Governor and must be confirmed by the Florida Senate. The governing board of each district is composed of nine members, except the Southwest Florida Water Management District, which has 13 members.[2] The term of office for a governing board member is four years. Vacancies are filled according to residency requirements that are unique to each district, such as requirements that appointees reside in a certain county. For example, two members of the South Florida Water Management District Governing Board must reside in Dade County.

District governing boards, which meet on a monthly basis, oversee district operations, establish policy, hire an executive director, issue orders to implement or enforce regulations, and approve contracts.[3] Governing boards are also authorized by the Florida Constitution and by statute to levy ad valorem taxes to fund district operations. As specified by the Florida Constitution, four districts are limited to a maximum property tax rate of 1.00 mill, which is $1 for every $1,000 of taxable property value; the Northwest Florida Water Management District is limited to 0.05 mill.

In addition, governing boards can designate areas as subdistricts or hydrological basins.[4] Two districts have designated such basins. The basins are represented by boards composed of at least one member from each county in the basin. The Southwest Florida Water Management District has established eight basin boards with 44 members.[5] There are two basins in the South Florida Water Management District; the district's Big Cypress Basin has a six-member board and the district's governing board serves as the board for the Okeechobee Basin. Basin board members are appointed to three-year terms by the Governor and must be confirmed by the Florida Senate. A governing board member serves as the ex-officio chair of each basin board.

Basin boards assist districts in implementing their mission within a hydrological area. The basin boards do not have regulatory authority but are statutorily responsible for planning and developing water resources and water control facilities that connect to and complement the primary engineering works in the basin. The two districts utilize their boards differently. In the Southwest Florida Water Management District, the basin boards plan for and carry out the works of the basin including construction and maintenance of water control structures, work with local governments and regional water supply authorities to identify local needs and priorities (e.g., alternative water supplies), and develop projects and budgets to address those needs. In contrast, the Big Cypress Basin Board in the South Florida Water Management District emphasizes planning, building, operating, and maintaining canals, and water control structures in the region.

The Basin Boards may request the district governing board to levy ad valorem taxes within a basin to finance that basin board's works and functions. These taxes are not in addition to the water management

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[2] Chapter 2007-120, *Laws of Florida*, revised the composition of the Southwest Florida Water Management District's Governing Board from 11 to 13 members.

[3] The executive director must be approved by the Governor and confirmed by the Senate.

[4] The St. Johns River Water Management District cannot establish basins without legislative approval.

[5] The ninth basin is the Green Swamp, the headwaters for four major rivers. Given its hydrologic importance to the district, the governing board serves as the basin board.

district taxes, but represent an allocation of the total authorized millage rate. Specifically, the total authorized millage rate is divided for district and basin purposes and cannot exceed the statutory maximum total millage rate. For example, the statutory maximum millage rate in the Southwest Florida Water Management District is one mill, with the maximum millage assessed for district purposes not to exceed 50% of the total authorized millage when there are one or more basins in the district, and the maximum millage assessed for basin purposes not to exceed 50% of the total authorized millage.

Resources

The water management districts reported total budgeted expenditures of $2.4 billion for Fiscal Year 2006-07.[6] Of this total, $813,578 was spent to support the governing boards (see Exhibit 1), including travel, equipment, advertising, office supplies, subscriptions, memberships, and estimated staff support. As shown in Exhibit 1, board-related costs reported by the South Florida Water Management District exceeded the total reported by the other four districts combined, which may be attributed in part to $216,215 incurred for outside counsel to provide additional qualified representation for the district's governing board in legal affairs.[7]

Exhibit 1
Water Management Districts Reported $813,578 in Governing Board Costs in Fiscal Year 2006-07

District	Reported Costs
Northwest Florida	$ 68,933
Suwannee River	64,792
St. Johns River	92,838
Southwest Florida	112,961
South Florida	474,054
Total Funds	**$813,578**

Source: Water Management Districts.

The water management districts also reported spending $509,046 during the fiscal year to support basin boards. The Southwest Florida Water Management District reported $478,222 (approximately $60,000 per basin board) in operating and staff costs for its eight basin boards.[8] The South Florida Water Management District reported $30,824 in staff support for the Big Cypress Basin Board. Since the district governing board also serves as the Okeechobee Basin Board and has no separate meetings, operating expenses for this basin board are included in the district costs reported above.

Several Long-Standing Issues Relate to District Governance

Over the years, citizens and policymakers have raised several concerns about the current governance structure of Florida's water management districts. These concerns are related to board member selection, the budget approval process, and basin board expenditures.

[6] The water management district fiscal year runs from October 1 to September 30.

[7] The Northwest Florida and Suwannee River Water Management District also incurred $13,219 and $20,740 for outside counsel, respectively.

[8] According to Southwest Florida Water Management District Officials, the governing board costs represent direct costs including staffing costs to conduct the meetings; whereas the basin board costs include indirect costs associated with staff preparing, attending, and following up on basin board meetings.

Some stakeholders have raised the concern that appointed governing boards result in "taxation without representation" because the boards have taxing authority but governing members are not elected. According to a 1995 Water Management District Review Commission Report, the Legislature in creating the districts reasoned that appointed governing board members from across a district's jurisdiction would better manage regional resources for the benefit of the entire region, since each member would not be elected by and represent a discrete constituency. [9] However, as board members are not elected, citizens who are dissatisfied with decisions about district funding and operation cannot address these concerns through the electoral process.

A second and related concern is that some stakeholders assert that there is a lack of accountability over district funding decisions. This issue arises because the Florida law provides that the Governor, rather than the Legislature, has the authority to approve or disapprove, in whole or in part, the budget of each water management district. The Legislature's appropriation committee chairs may provide comments and objections to the districts on their proposed budgets. While the district's governing board has final budget approval, any provision rejected by the Governor cannot be included in the district's final budget. This approval process was established to avoid a separation of powers issue because the state is constitutionally prohibited from levying ad valorem taxes, which is a source of district revenues. [10]

Third, concerns have also been raised about the purpose and benefits of basin boards relative to time and effort expended on supporting them; in particular, the Southwest Florida Water Management District, which has eight basin boards and 44 members. Basin boards provide a mechanism for local input and guidance for water resource programs and projects. Property taxes recommended to the governing board and raised by basin board assessments also provide a dedicated funding source to address local needs and priorities. However, taxpayers incur $509,046 in costs to support the basin boards, due mainly to considerable staff time spent preparing and attending basin board meetings (an average of five meetings per year per basin), responding to board requests and inquires, and developing budgets for each board.

Numerous accountability mechanisms can help address these issues. There are several accountability mechanisms in place that address some of these concerns. These include statutory millage caps, budget reporting requirements, Department of Environmental Protection oversight authority, and the Legislature's ability to modify governing board composition.

Statutory millage caps. The Legislature has exercised its authority to reduce the districts' maximum millage rate. The Florida Constitution provides a millage cap of .05 mill for Northwest Florida Water Management District and limited the remaining four districts to 1 mill. However, the Legislature has further restricted the taxing authority for three districts: Suwannee River (0.75 mill), St. Johns River (0.6 mill), and South Florida (0.80 mill).

Budget reporting requirements. The districts must submit their proposed annual budgets to several entities, including the Governor, the President of the Senate, the Speaker of the House of Representatives, and the chairs of all substantive and fiscal committees by August 1 of each year. [11] The House and Senate appropriation committee chairs may submit comments and objections to each district on their proposed budgets by September 5. In adopting their final budget, the district governing board must include a written response to any comments and objections of the appropriation chairs.

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[9] *Bridge Over Troubled Water: Recommendations of the Water Management District Review Commission*, Water Management District Review Commission, December 1995.

[10] Article VII, Section 1(a) of the Florida Constitution.

[11] Section 373.536(1), *F.S.*

The Executive Office of the Governor is required to review the districts' proposed budgets and may veto all or part of these proposed budgets. The office must report annually to the Legislature the results of its review of the districts' proposed budgets; the report also identifies those districts that do not comply with reporting requirements. State funds can be withheld from a water management district that fails to comply with these reporting requirements.

Water management district staff indicates that they have not received comments or objections on their proposed budgets from the Legislature in recent years. One possible reason is that the legislators are not in session during the comment period. Districts have made presentations on their budget to committees and legislative staff during the regular legislative sessions to assist in their review of water management district budgets. The Executive Office of the Governor and water management districts also indicate that the Governor has never vetoed a water management district budget. Instead, the districts receive and follow direction from the governor's office in developing their budgets.

Department of Environmental Protection oversight. The Department of Environmental Protection has general supervisory authority of the water management districts. The department carries out its oversight responsibilities in several ways including

- receiving copies of spending plans and budgets;
- auditing funds granted or contracted to the districts for water related projects;
- reviewing water management district rules for consistency with state water policy;
- monitoring the status, expenditures, and revenues for the Comprehensive Everglades Restoration Program; and
- administering trust funds used for land acquisition and management such as the Florida Forever Trust Fund.

The department's secretary also conducts monthly conference calls with district executive directors and meets quarterly with the governing board chairs and executive directors to enhance coordination and discuss concerns between the agencies.

Legislative modification of governing boards. Over the years, the Legislature has enacted legislation to revise the number of governing board members and associated residence requirements. For example, the 2007 Legislature provided for two additional members to be appointed to the Southwest Florida Water Management District Governing Board.[12] It also specified that one of the governing board members must reside in Polk County and revised the qualifications for the "at large" seats to specify that one member must reside in Hardee, DeSoto, or Highland counties and one must reside in Sarasota or Charlotte counties, and one member must reside in Marion or Hernando counties.

Options for Legislative Consideration

If the Legislature wishes to take additional actions to address the accountability concerns that have been raised regarding the current governance structure of the water management districts, it could consider several options, as discussed in Exhibit 2. These options include requiring the Legislative Budget Commission to review and comment on district budgets (Option 1), revising dates for the water management district budget review process to match the state fiscal year (Option 2), directing districts with basin boards to reduce the number of basins and associated boards (Option 3), eliminating the

[12] Ch. 2007-120, *Laws of Florida*.

authority of district governing boards to designate basin areas (Option 4), and providing for the election of governing board members (Option 5). The exhibit outlines the policy options and describes the advantages and disadvantages associated with each option.

Exhibit 1
The Legislature Could Consider Several Options to Enhance Water Management District Accountability Mechanisms

Option	Advantages	Disadvantages
Option 1 – Require the Legislative Budget Commission to Review Water Management District Budgets		
The Legislature would amend s. 373.536, *F.S.* to require the districts to provide a copy of their proposed budget to the Legislative Budget Commission. The commission would review the proposed budget and provide comments and objections to each district.	▪ Provides additional legislative review of water management district budgets.	▪ Would require a statutory change. ▪ Legislative Budget Commission does not always meet during the timeframe necessary to timely consider water management district budgets.
Option 2 – Revise the Water Management District Budget Review Process		
The Legislature would amend s. 373.536, *F.S.* to revise the water management district budget process. These changes would result in the actions described below. ▪ Revise the water management district fiscal year (October 1 through September 30) to run concurrent with the state fiscal year. ▪ Remove the requirement that the tentative budget be submitted to the governing board by July 15. ▪ Revise the date from August 1 to February 1 for the submittal of the district tentative budgets to the Governor, the President of the Senate, the Speaker of the House, and the chairs of all substantive and fiscal committees. ▪ Revise the date from September 5 to March 5 for the submittal of comments and objections on district proposed budgets by the House and Senate Appropriation chairs. ▪ Revise the date from December 15 to May 15 for the submittal of a report on its review of district budgets by the Executive Office of the Governor.	▪ Provides additional legislative review of water management district budgets. ▪ Provides the Legislature with information on district budgets prior to the legislative session, which would help facilitate state funding decisions related to district activities.	▪ Would require a statutory change. ▪ Would complicate local government taxation, as Florida law requires county property appraisers to provide certification of taxable values by July 1 of each year to the water management districts. The districts use this information in setting their millage rates and developing their budgets. If the submittal date of the districts' tentative budget is revised to February, then the district's governing board would not have certified taxable values to set their millage rates and develop their budgets. ▪ Changes to the water management district fiscal year could be disruptive to county property appraisers. Currently, the water management districts and local governments are on the same fiscal year. Florida law requires the county property appraisers to provide an estimate of the total assessed value of non-exempt property to each taxing authority by June 1 of each year. This estimate is provided for budget planning purposes. Changing the districts' budget submission date would result in having the county property appraiser provide this estimate to the districts and local governments at different times. ▪ Local governments and water management districts are partners in developing and funding projects, such as alternative water supply development projects. A change in the water management district fiscal year could be disruptive to the working relationship between local governments and the districts.

Option	Advantages	Disadvantages
Option 3 – Require Districts to Assess Value of Basin Boards		
The Legislature could direct the water management districts to periodically assess the costs and benefits of their basin boards to ensure that the boards provide adequate value to justify their continued existence and taxpayer support. This could lead to reducing the number of basins and associated boards through consolidation.	▪ Could identify opportunities to reduce the number of boards and/or reduce their expenses. ▪ Consolidated basin boards covering larger geographic areas may facilitate regional projects, rather than smaller projects. ▪ Larger basins could facilitate projects that would not normally be approved by smaller basins because of a desire to restrict tax levels or inability to raise funds due to their existing tax base.	▪ Consolidated or eliminated boards would reduce local decision making over the types of projects and funding levels. ▪ Spreading ad valorem taxes over larger area may result in higher tax rates for those areas that had lower tax rates. ▪ Potential opposition from basin residents who may feel that their interests are no longer represented. ▪ Hydrological considerations could be overlooked to the disadvantage of the area's water resources.
Option 4 – Eliminate Basin Boards		
The Legislature would repeal ss. 373.0693-373.0698, *F.S.*, thereby eliminating the ability for water management districts to create basin areas.	▪ Maximizes ad valorem revenues available for overall district purposes because the millage rate would no longer be divided between the district and basin boards. ▪ Reduces costs associated with supporting basin boards. ▪ Eliminates district staff time associated with supporting basin boards, which could facilitate staff reductions.	▪ Would require a statutory change. ▪ May reduce local feedback mechanism, thus limiting information available for funding and project decisions. ▪ Potential opposition from basin residents who may feel that their interests are no longer represented.
Option 5 – Require Governing Board Members to be Elected		
The Legislature would amend s. 373.073, *F.S.* to provide for the election of governing board members.	▪ Increased accountability over board members. ▪ Increased voter awareness of governing board member positions on water policy, due to information provided to the public during campaigning.	▪ Could require a constitutional amendment because the water management districts are under Department of Environmental Protection in the executive branch of government. ▪ Would require a statutory change. ▪ Would result in additional costs associated with establishing an election process. ▪ May require salaries and office expenses for elected board members. ▪ Elected officials would more likely be expected to represent the interests of a group of residents from one area rather than the entire region. Thus, elected officials may not collectively represent the range of stakeholders' interests that appointed board members could represent.

Source: OPPAGA analysis.

The Florida Legislature

OFFICE OF PROGRAM POLICY ANALYSIS AND GOVERNMENT ACCOUNTABILITY

SUNSET MEMORANDUM

Report No. 07-S28

Florida's Water Management District Environmental Resource Permitting Options for Legislative and District Governing Board Consideration

February 8, 2008

Summary

To support the Sunset Review Process, the Legislature directed OPPAGA to examine the state's five water management districts.[1] This memo is part of a series that reviews the districts' operations, and focuses on their environmental resource permit programs including their purpose, organization, responsibilities, resources, and performance. While the Department of Environmental Protection also issues environmental resource permits, this memo will concentrate on the water management districts' programs.

The memo also presents three policy options for the Legislature and district governing boards to consider regarding the water management districts' environmental resource permitting activities. These options include mandating that districts increase efforts to educate permit applicants about regulatory requirements in order to expedite the permitting process (Option 1); adjusting permit fees to avoid the need to subsidize this activity with local ad valorem tax revenues (Option 2); and mandating that permitting agencies increase coordination and move towards a 'one-stop permitting' process (Option 3). The memo discusses the advantages and disadvantages of each option. A separate interim project being conducted by the Florida House of Representatives also examines opportunities to streamline the permitting process by better coordinating the districts' activities with those other governmental entities that also issue permits.

[1] Sections 11.901-11.920, *F.S.*

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Purpose, Organization, and Responsibilities

Florida's five water management districts are responsible for managing and protecting the state's water resources and related natural systems. The districts include Northwest Florida, Suwannee River, St. Johns River, Southwest Florida, and South Florida. The districts are responsible for water supply, water quality, flood protection, and natural systems (e.g., aquatic and wetland-dependent habitats).

A primary way the districts meet these responsibilities is through their regulatory programs. The districts are statutorily authorized to issue an environmental resource permit (ERP) to persons who seek to dredge and fill wetlands; construct drainage facilities, dams, or reservoirs; provide storm water containment and treatment; or undertake other activities that affect state waters. The permitting process is intended to ensure that these construction activities do not degrade water quality, cause flooding, or adversely affect wetlands. [2] State law exempts certain activities, such as some agriculture and silviculture activities from ERP requirements.

Depending on activity proposed by the applicant, either the Department of Environmental Protection or the water management districts processes the environmental resource permit. Operating agreements between the department and the districts dictate which agency processes a given permit application. The department processes permit applications related to solid and hazardous waste, wastewater facilities, mines, power plants, communication cables and lines, single-family dwellings and docking facilities that are not part of a larger plan of development. The water management districts review and take action on all other ERP applications. Applicants may also be required to obtain permits for development activities from federal and local government agencies. For example, an applicant seeking to build a structure that affects navigable waters may be required to obtain a permit from the U.S. Army Corps of Engineers, an environmental resource permit from a water management district, and review and approval from the local government.

The Legislature provided the statutory authority to four of the five water management districts to issue environmental resource permits in 1994. However, the Northwest Florida Water Management District did not begin implementing an ERP program until October 2007. [3] Prior to that time, the Legislature did not extend the authority for an ERP program to the district because it did not have sufficient funds to fully implement the program, and the Department of Environmental Protection issued environmental resource permits in the district's boundaries for dredge and fill and stormwater activities for non-agricultural projects while the district issued permits for agriculture and some non-agricultural facilities (e.g., construction or alteration of dams and levees). [4] During Fiscal Year 2006-07, the district issued 34 of these types of permits; the Department of Environmental Protection was not able to provide the number of permits issued within the Northwest Florida Water Management District's boundaries during this period. The Legislature appropriated $3.8 million to the district to implement the ERP program in Fiscal Year 2007-08, and the district expects to fully implement the program by July 2008.

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[2] The Environmental Resource Permit consolidated two former permits – the Wetland Resource Management Permit issued by the Department of Environmental and the Management and Storage of Surface Waters permit issued by the water management districts – in an effort to streamline the permitting process.

[3] The 2006 Legislature provided for a phased approach for implementing an environmental resource permitting program in the district (Ch. 2006-228, *Laws of Florida*).

[4] The water management districts are constitutionally authorized to levy ad valorem taxes to fund their operations. The district's ad valorem millage rate is constitutionally and statutorily capped at .05 mills.

Permit Types. There are three types of environmental resource permits: noticed general, standard general, and individual.

Noticed general permits are issued by rule for activities that have minimal or no impacts on the environment and do not have any wetland impacts. Due to the nature of noticed general permits, most applications require less staff time to review and fewer, if any, requests for additional information. District staff issue most noticed general permits.

Standard general permits are for projects that have minimal impacts on the environment, typically less than 100 acres of project area, and/or contain one acre or less of wetland or surface water impacts. District staff issue most standard general permits.

Individual environmental resource permits are required on projects at or over 100 acres, have significant impacts on water and land resources, and/or contain one or more acres of wetlands or surface water impacts. District governing boards issue individual permits.

As shown in Exhibit 1, the water management districts issued 8,483 Environmental Resource Permits in Fiscal Year 2006-07. General permits accounted for 80% of the permits issued, while individual permits represented 14%. The number of permits issued varied by district, with Southwest Florida Water Management District issuing the most permits, at 3,819. Differences in permit thresholds may account for differences in the number of permits across districts. For example, the South Florida Water Management District exempts projects that are less than 10 acres in size or contain less than 2 acres of impervious surface from environmental resource permit requirements. Other districts require permits for such activities.

Exhibit 1
Water Management Districts Issued 8,483 Environmental Resource Permits in Fiscal Year 2006-07 [1]

District	Individual	Standard General	Noticed General	Total
Southwest Florida	478	3,088	253	3,819
St. Johns River	346	2,086	83	2,515
South Florida	250	1,324	73	1,647
Suwannee River	40	266	196	502
Total	**1,114**	**6,764**	**605**	**8,483**

[1] Data for Northwest Florida Water Management District was not included in this exhibit because the district had not implemented its Environmental Resource Permitting Program during the fiscal year. The Department of Environmental Protection was not able to provide the number of permits issued within the Northwest Florida Water Management District's boundaries during this period.

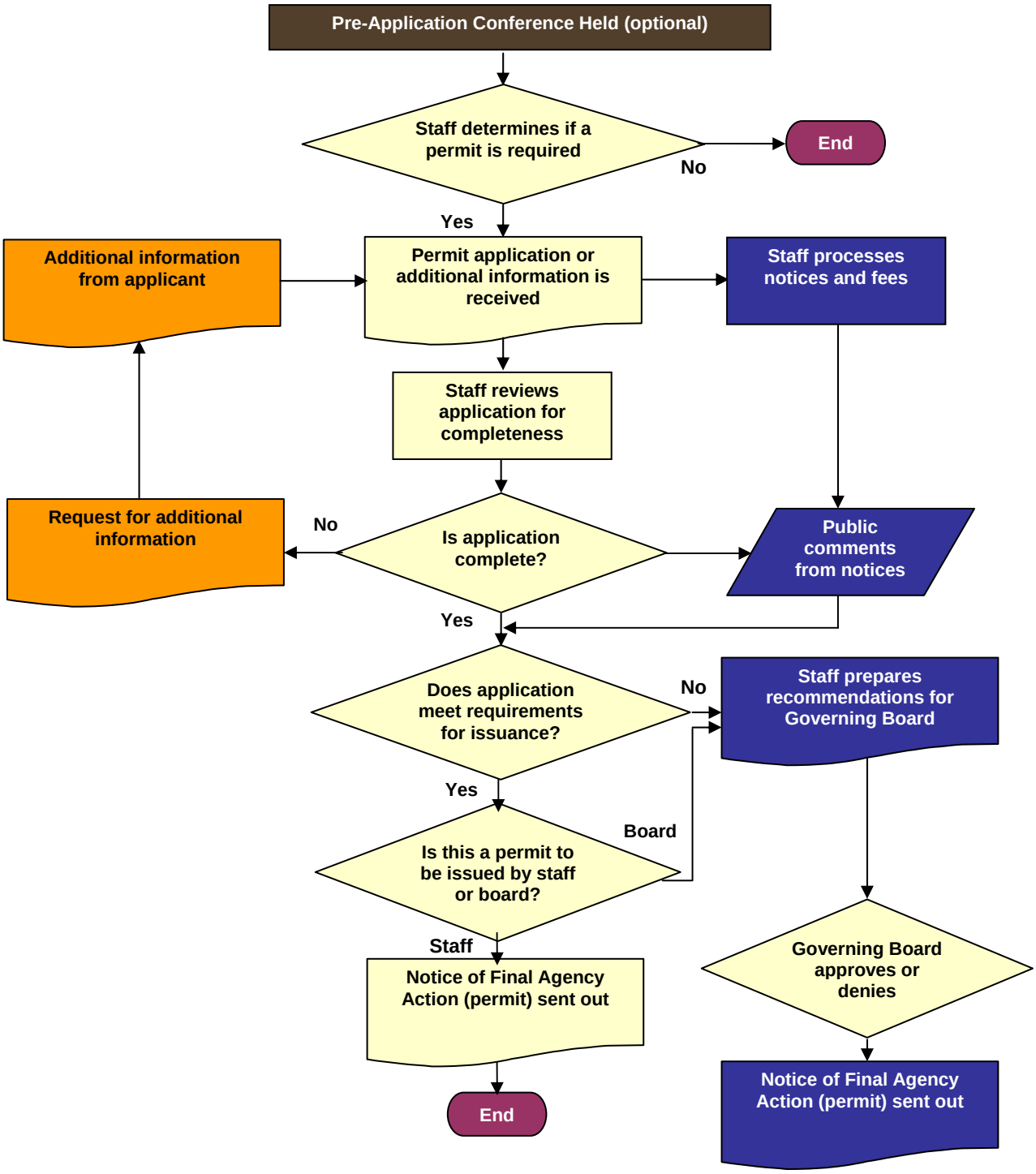
Source: Water Management Districts.

Permit Application Process

The districts follow a multi-step process for issuing environmental resource permits (see Exhibit 2). The process includes

- reviewing the permit application for completeness;
- requesting additional information from the applicant, if an application is not complete;
- deeming the application complete and determining whether the application meets requirements for issuance; and
- issuing the permit and ensuring proper public notice.

Exhibit 2
The Water Management Districts Use a Multi-Step Process to Issue Environmental Resource Permits



Source: OPPAGA analysis.

Through the application process, a permit applicant must demonstrate that a proposed activity will not be harmful to water resources or inconsistent with the overall objectives of the water management district. In addition, the applicant must provide reasonable assurance that state water quality standards will not be violated and such activity in, on, or over surface waters or wetlands is not contrary to the public interest. While not required, permit applicants can meet with district staff before submitting their application to discuss their proposed activity.

District staff must process environmental resource permit applications within time limits specified by law. [5] Once an applicant submits a permit application, the district has 30 days to review the application or request additional information; there is no limit on the number of requests for additional information. When the requested materials have been received, within 30 days district staff must review it and request only information needed to clarify or to answer new questions raised by or directly related to such additional information. Each district has established timeframes in their rules for applicants to respond to requests for additional information; these timeframes vary between 30 and 120 days. Applicants can request an extension to have additional time to respond to an information request; there is no limit on the number of extension requests. Final agency action, meaning either issuance or denial, must occur within 90 days after receipt of a completed application or the last submittal of additional requested information, whichever is the latter, or the permit is issued by default.

Permit Compliance and Enforcement

Once permits are issued, permittees must comply with permit conditions. The districts conduct numerous activities to ensure compliance, including reviewing monitoring reports submitted by permittees; conducting inspections during and after project completion; and investigating public complaints.

A permittee can be found non-compliant for several reasons, including failing to adhere to conditions specified in the permit. For example, a permittee may fail to submit a required monitoring report on the project, may violate district rules in carrying out the project, or may perform activities which have not been authorized by a permit and are not exempted. For example, if a developer's project affects five acres of wetlands while the permit only authorizes one acre of impact, the permittee is in violation of permit conditions.

The nature and severity of the non-compliance determines whether the district handles enforcement formally or informally. Informal enforcement actions are conducted by telephone call, courtesy letter, and/or warning letter before a compliance case is turned over for legal enforcement. Informal enforcement actions usually occur when the issue does not represent a danger to life, property or the environment, and the district believes the issue can be resolved with the applicant more expeditiously through informal means. District officials believe it is more advantageous for the applicant and district to try and settle issues informally.

Formal enforcement actions occur if the violation represents a danger to life, property or the environment and/or the permittee had prior non-compliance issues that could not be handled informally. For example, formal enforcement action would be taken if flooding or unauthorized impacts to wetlands occur because of a permittee's actions. The formal process involves issuing a notice of violation letter. If, after receiving the letter, the permittee remains out of compliance, the district may request litigation authority from its governing board and file an administrative

[5] Section 373.4141, *F.S.*

complaint and order. Continued non-compliance can lead to an administrative hearing and possible revocation of the permit.

Permittees that violate their permit conditions are liable for damages caused and for civil penalties. The districts are statutorily authorized to recover a civil penalty for each offense in an amount not to exceed $10,000 per offense, with each day constituting a separate offense. [6] The water management districts reported recovering approximately $3.35 million in penalties for Fiscal Year 2006-07. [7] It is the intent of the Legislature that the civil penalties imposed by the court are of such amount as to ensure immediate and continued compliance.

Most Compliance Cases Are Resolved by Informal Actions. Water management district officials report that most compliance cases are handled using informal enforcement actions. Due to the severity of enforcement actions that could be taken, each applicant, and the corresponding district tries to resolve compliance issues informally. Formal enforcement actions are usually taken for significant non-compliance issues. For example, significant non-compliance would occur when an applicant dredges and fills in 50 acres of wetlands when the permit called for only 5 acres of wetlands to be impacted.

District officials indicate that most non-compliance cases are resolved within 30 to 60 days. Typically, cases involving serious non-compliance issues or where the applicant refuses to cooperate with the district can take a substantial amount of time to resolve. Cases that cannot be resolved in an expeditious manner are handled by formal enforcement, which includes issuing a notice of violation letter. If, after receiving the letter, the permittee remains out of compliance, the district may issue an administrative complaint and order. Continued non-compliance can lead to an administrative hearing and possible revocation of the permit.

Resources

The water management districts reported allocating $42 million for their environmental resource permit programs in Fiscal Year 2007-08 (see Exhibit 3). The districts employ approximately 433 full-time equivalent employees to process permit applications and conduct compliance activities. Staffing for ERP activities has remained stable over the last several years, while the number of permits issued and associated compliance activities have increased. To meet this increased workload and ensure that permits are processed within statutory time limits, some of the districts have hired consultants to review permit applications and conduct compliance activities.

The districts charge fees for environmental resource permits, but these fees only cover a small fraction of ERP program costs, with other funds being used to subsidize permitting activities. For example, the Southwest Florida and South Florida Water Management Districts report that permit fees cover, about 20% and 25%, respectively, of program costs. The districts use other revenue sources, including ad valorem tax revenues and legislative appropriations (provided to the Northwest Florida and Suwannee River Water Management Districts) to fund the remaining program costs.

[6] Section 373.129, *F.S.*

[7] Penalty data is reported for all five water management districts. Data for the Northwest Florida Water Management District includes only penalties collected as part of the agriculture/silviculture surface water component of the environmental resource permit in Fiscal Year 2006-07 because the program was not fully implemented during this period.

Exhibit 3
The Water Management Districts Reported Budgeting $42 Million for Environmental Resource Permit Programs in Fiscal Year 2007-08 [1]

District	Budget, Fiscal Year 2007-08	Full Time Equivalents
South Florida	$13,007,115	129
St. Johns River	12,460,556	144.45
Southwest Florida	10,049,165	117.64
Northwest Florida[1]	4,943,713	26.8
Suwannee River	1,667,000	15
Total	**$42,127,549**	**432.89**

[1] Northwest Florida Water Management District is phasing in its Environmental Resource Permitting program during Fiscal Year 2007-08. The district expects to fully implement its program by July 2008.

Source: Water Management Districts, Fiscal Year 2007-08, which is from October 1 to September 30.

Timeliness of Permit Reviews

Over the years, stakeholders have raised concerns about excessive delays caused by the districts' application review processes and requests for additional information. A related concern is that district requests for additional information are excessive and unnecessary. Stakeholders have also raised concerns about the lack of coordination between permitting agencies at the federal, state and local levels. The primary concern has been that individuals may be required to obtain permit approvals from federal, state, and local agencies for the same project. (The Florida House of Representatives is conducting a separate interim study on current federal, state, and local regulations regarding environmental resource permitting to determine whether state regulatory standards provide adequate protections of wetlands and the impacts of a multi-tiered regulatory system.)

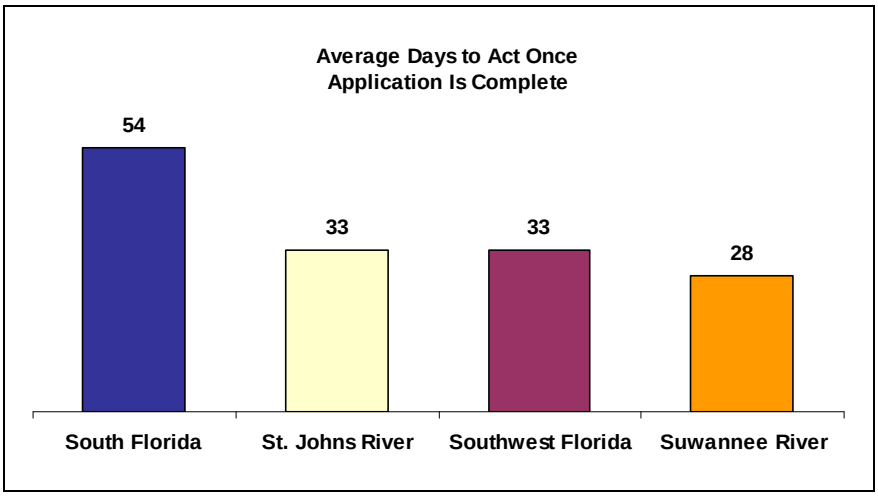
Our analysis of district permitting data concluded that districts are meeting their statutory timeframes for permit issuance. Requests for additional information are the major cause for permit delays. While the districts have taken some steps to expedite the permitting process by offering pre-application meetings and an appeals process to challenge the legality of information requests, these processes are not always used by applicants and additional steps to educate applicants about permit requirements would be beneficial.

Districts Are Meeting Their Statutory Timeframes for Permit Issuance. The water management districts have established a performance measure that reflects how long, on average, it takes staff to issue a permit once all required materials are submitted and the application is deemed complete. According to state law, final agency action must occur within 90 days after receipt of a completed application or the last submittal of additional requested information, whichever is the latter, or the permit is issued by default.

Performance data reported by the districts to the Legislature shows that in Fiscal Year 2006-07, the districts met their statutory time limits for environmental resource permits issued (see Exhibit 4). According to this data, the districts, on average, took between 28 days (Suwannee River) and 54 days (South Florida) to issue a permit once the application was deemed complete. [8]

[8] The amount for South Florida was calculated by averaging the number of days to issue individual (61 days) and general permits (47.6 days).

Exhibit 4
Water Management Districts Generally Are Meeting Statutory Timeframes to Issue Environmental Resource Permits [1, 2]



[1] Data for Northwest Florida Water Management District was not included in this exhibit because the district had not implemented its Environmental Resource Permitting Program during the fiscal year.

[2] The amount for South Florida was calculated by averaging the number of days to issue individual (61 days) and general permits (47.6 days).

Source: Water Management Districts August 1 Tentative Budget Submission, Fiscal Year 2006-07, which is from October 1 to September 30.

While this measure is useful for determining whether the districts have met their statutory timeframes for issuing permits, it provides limited information about the overall time it takes to issue a permit since it does not account for the time between application submittal to when it is deemed complete. This is an important consideration because our analysis of permits issued during Fiscal Year 2006-07 found that 80% of permit applications were submitted incomplete. Thus, most applications required at least one request for additional information to prepare them for staff review and final action (e.g., issuance or denial).

Our analysis of permits issued in Fiscal Year 2006-07 found that it typically takes three to four months from the time an environmental resource permit application is initially submitted until the permit is issued (see Exhibit 5). The amount of time varies significantly by type of permit issued. For example, it typically took the districts an average of less than 30 days to issue noticed general permits, while individual permits took over 7 months (222 days) on average. Noticed general permits are generally issued in less time than individual permits because the proposed activities involve minimal or no wetland impacts and permits can be issued by district staff after their review. Conversely, applications for individual permits require more extensive staff review due to the complexity of the proposed development, and district governing boards, which meet only monthly, must approve or deny individual permits.

Exhibit 5
Water Management Districts Typically Take 3-4 Months to Issue Environmental Resource Permits, Counting Time for Submitting Additional Information [1]

District	Total Number of Permits	Median Days to Issue Noticed General Permits	Median Days to Issue Standard General Permits	Median Days to Issue Individual Permits	Median Days to Issue for All Permits
South Florida	1,647	29	117	305.5	127
St. Johns River	2,515	38	106	272.5	118
Southwest Florida	3,819	28	102	172	104
Suwannee River	502	10	48	140.5	28
All Districts	**8,483**	**28.5**	**104**	**222.25**	**111**

[1] Data for Northwest Florida Water Management District was not included in this exhibit because the district had not implemented its Environmental Resource Permitting Program during the fiscal year.

Source: OPPAGA analysis of Water Management District data, Fiscal Year 2006-07.

Water management districts are implementing electronic permitting programs to help expedite the timely issuance of permits. For example, the St. Johns River and South Florida Water Management Districts have implemented an electronic permitting program that allows applicants to complete, submit, and track applications on-line as well as to submit compliance reports via the Internet. The program is expected to help streamline operations by eliminating the need for paper documents and reducing the need to input application information into data systems. The Northwest Florida and Southwest Florida districts are in the process of implementing similar electronic permitting programs.

The districts also report encouraging applicants to attend pre-application meetings with district staff. These meetings allow permit applicants an opportunity to discuss proposed activities and obtain district feedback. While the pre-application meetings are voluntary, district staff reports that they save time in the permitting process because they result in more complete permit application submittals. According to district staff, most applicants do not participate in these meetings.

Requests for Additional Information Are the Major Cause for Permit Delays, But Applicants Rarely Challenge These Requests. Several factors affect the time necessary to issue permits. The most significant factor affecting timeliness is requests for additional information due to incomplete applications. [9] Our analysis found that on average, each request for additional information added 85 days to the time it took to issue a permit. The presence of wetlands and larger parcel sizes added to the complexity of the project and required additional staff review time. In addition, district staff indicates that third-party challenges also increase the time to issue permits.

Florida law establishes that the water management districts may only request information needed to clarify the application or to answer new questions raised by previously sent information. However, there are no statutory limits regarding how many times a district can request additional information from an applicant. A concern frequently raised by applicants is that districts

[9] We conducted a regression analysis to determine how several factors affect the time to issue a permit. The regression analysis was conducted using available data from three water management districts: St. Johns River, Southwest Florida, and South Florida. Data was not available for the Suwannee River and Northwest Florida Water Management Districts. Factors included in our regression analysis included permit type, parcel size, the presence of wetlands, and whether the district requested additional information. These factors explained 47% of the variation in the time to issue a permit.

repeatedly ask for additional information. Our analysis found that 86% of permit applications have two or less requests for additional information, although some had as many as 13 information requests.

Florida law has established a 30-day timeframe for districts to respond to or request additional information, and our analysis showed that districts were meeting this time limit (see Exhibit 6). In addition, each district has established timeframes in their rules for applicants to respond to requests for additional information, with the times varying between 30 and 120 days. Districts may deny an application if a permittee fails to respond to a request for additional information within a timely manner. However, district officials reported applicants often ask for an extension to respond to a request for additional information, resetting the time clock and thus delaying permit approval.

Exhibit 6
Water Management Districts Met Deadlines for Requesting Additional Information [1]

District	Average days for WMD to request RAI	Average days for Permittee to respond to RAI
St. Johns River	27	53
Southwest Florida	27.5	31.5
South Florida	28.5	46.75

[1] Information on requests for additional information could only be provided by South Florida, Southwest Florida, and St. Johns River Water Management districts. Suwannee River and Northwest Florida did not track requests for additional information in their databases during the time period covered by our analysis.

Source: OPPAGA analysis of Water Management District data.

Florida statutes provide applicants the ability to request a hearing if they believe the request for additional information is unwarranted or not authorized by law or rule. [10] According to the water management districts, no hearings were requested during Fiscal Year 2006-07. In addition, the applicant may request that the district proceed to process the permit application without providing the requested information. The districts reported that since most applicants are seeking a timely resolution, they usually pursue less formal means to address issues with requests for additional information. For example, applicants may request a meeting with district permitting staff to discuss the permit application and information request. District officials reported that this process typically resolves any issues an applicant might have with a request for additional information.

Options for Legislative and District Governing Board Consideration

Through their regulatory programs, Florida's five water management districts work to fulfill their responsibilities for water supply, water quality, flood protection, and natural systems. Issuing environmental resource permits (ERP) is a primary activity within the districts' regulatory programs, with this activity allocated $42 million in Fiscal Year 2007-08. However, permit fees do not cover program costs, and the districts use other funds to subsidize permitting activities. In addition, over the years, stakeholders have raised concerns about the districts' ERP process, including concerns about excessive delays caused by the application review process and requests for additional information. Our analysis of district permit data found that requests for additional information are the major cause for permit delays. Moreover, district staff reports that

[10] Section 373.4141, *F.S.*

applicants often request extensions for more time to respond to information requests, which lengthens the permitting process. Based on these findings, we determined that there are additional steps that the Legislature and district governing boards could consider to help improve the process.

Exhibit 7 presents three policy options for the Legislature and governing boards to consider for streamlining the environmental resource permitting process and increasing program self-sufficiency. These options include mandating district to increase outreach efforts to applicants to help ensure that they understand permit requirements, (Option 1); increasing permit fees to reduce the need to subsidize this activity with local ad valorem tax revenues (Option 2); and increasing coordination among permitting agencies (Option 3). The exhibit outlines the policy options and describes the advantages and disadvantages associated with each option.

Exhibit 7
The Legislature and District Governing Boards Could Consider Three Options to Improve and Streamline the Environmental Resource Permitting Process

Option	Advantages	Disadvantages
Option 1 – Mandate increased outreach efforts to educate applicants about permit requirements		
The Legislature would direct water management districts to increase efforts to educate applicants about regulatory requirements by holding periodic workshops for applicants and consultants on permitting processes and criteria as well as by advertising and encouraging applicants to participate in pre-application meetings.	▪ It might decrease the number of incomplete applications submitted and expedite the permitting process because applicants would better understand regulatory requirements and resolve issues prior to application submittal	▪ It could increase staff time and costs to conduct educational workshops and meetings with applicants
Option 2 – Modify permit fees avoid relying on local ad valorem tax revenues		
The Legislature would direct the water management districts to set permit fees at a level to support district environmental resource permitting programs. This would avoid the need to subsidize these activities with property tax revenues.	▪ It would eliminate need to subsidize program activities using taxpayer's dollars (a portion of district ad valorem revenues are currently supplementing program costs) ▪ The regulated entity would bear regulatory program costs, which is consistent with the Legislature's general intent regarding regulatory programs (s. 216.0236, *Florida Statutes*) [1]	▪ It would increase the costs of obtaining regulatory permits ▪ It could increase un-permitted activities because individuals might be unwilling to pay increased fees
Option 3 – Increase coordination among permitting agencies		
The Legislature would direct the water management districts to establish a working group to develop strategies to increase coordination among permitting agencies at the federal, state, and local level. Working group members could include staff from the Department of Environmental Protection, water management districts, the U.S. Army Corps of Engineers, and local government representatives. The working group would submit a report proposing any statutory changes that would be necessary to implement the strategies to the Speaker of House and Senate President by January 1, 2009.	▪ It could provide a more efficient delivery of government services ▪ It could reduce costs to the public and private sector by reducing the need to obtain approvals from multiple agencies ▪ It could avoid permitting processing delays	▪ It could increase staff time and costs to conduct working group meetings

[1] The section of law provides that "It is the intent of the Legislature that all costs of providing a regulatory service or regulating a profession or business be borne solely by those who receive the service or who are subject to regulation. It is also the intent of the Legislature that the fees charged for providing a regulatory service or regulating a profession or business be reasonable and take into account the differences between the types of professions or businesses being regulated."

Source: OPPAGA analysis.

The Florida Legislature

OFFICE OF PROGRAM POLICY ANALYSIS AND GOVERNMENT ACCOUNTABILITY

SUNSET MEMORANDUM

Report No. 07-S35

Florida Water Management District Budgets
Options for Legislative and Governing Board Consideration

February 15, 2008

Summary

To support the Sunset Review process, the Legislature directed OPPAGA to examine Florida's water management districts. [1] This memo is part of a series that reviews district operations and focuses on district budgets and options for legislative consideration. We identified 15 policy options for the Legislature and district governing boards to consider for reducing water management district reliance on ad valorem tax revenues and state funding. For each option, we describe the associated advantages and disadvantages.

[1] Sections 11.901-11.920, *F.S.*

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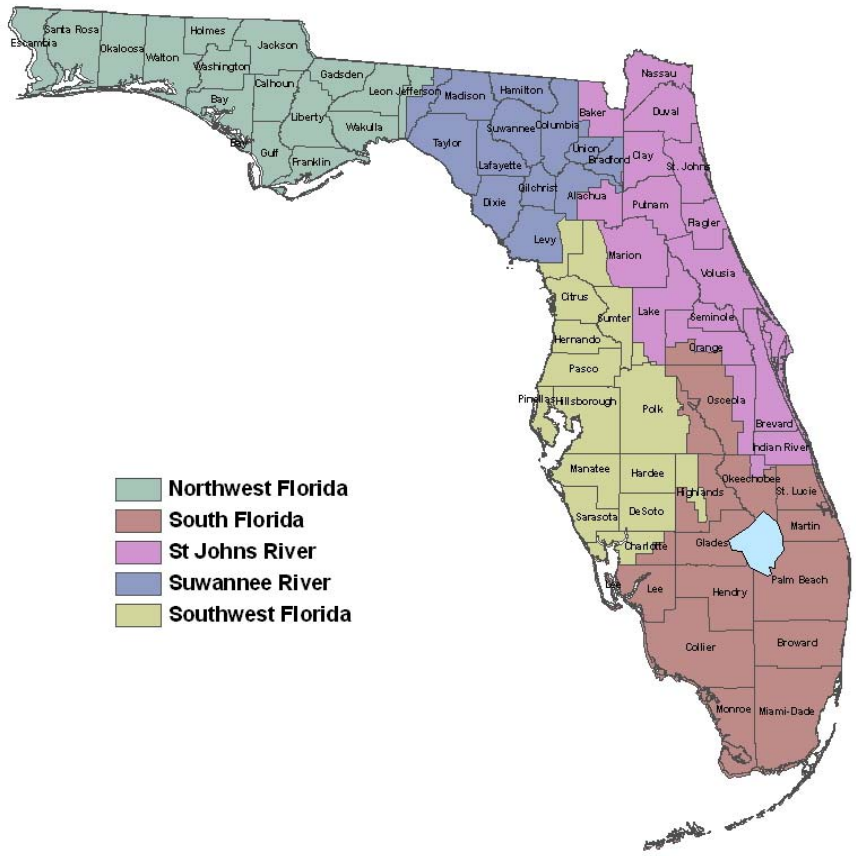
Purpose, Organization, and Responsibilities

Florida's five water management districts are responsible for managing and protecting the state's water resources and related natural systems. As shown in Exhibit 1, the districts' boundaries are based on major watersheds or hydrologic basins and include Northwest Florida, Suwannee River, St. Johns River, Southwest Florida, and South Florida.

The districts are governed by boards whose members are appointed by the Governor and confirmed by the Florida Senate.[2] District governing boards, which meet on a monthly basis, oversee district operations, establish policy, hire an executive director, issue orders to implement or enforce regulations, and approve contracts. Governing boards are also authorized by the Florida Constitution and state law to levy ad valorem taxes to fund district operations. As specified by the Florida Constitution, four districts are limited to a maximum property tax rate of 1.00 mill, which is $1 for every $1,000 of taxable property value; the remaining district, Northwest Florida, is limited to 0.05 mill.

Exhibit 1
Florida's Water Management Districts



Source: OPPAGA analysis.

Governing boards in two water management districts have designated sub-districts, which are represented by basins boards.[3] Specifically, the Southwest Florida Water Management District has established eight basin boards with 44 members. There are two basins in the South Florida Water Management District; the Big Cypress Basin has a six-member board and the Okeechobee Basin is overseen by the district's governing board.

Basin boards assist districts in implementing their mission within a hydrological area. The basin boards do not have regulatory authority but are statutorily responsible for planning and developing water resources and water control facilities that connect to and complement the primary engineering works in the basin. The basin boards may also request the district governing board to levy ad valorem taxes within a basin to finance functions.[4]

[2] The governing board of each district is composed of nine members, except the Southwest Florida Water Management District, which has 13 members. Chapter 2007-120, *Laws of Florida*, revised the composition of the Southwest Florida Water Management District's Governing Board from 11 to 13 members.

[3] The basins are represented by boards composed of at least one member from each county in the basin. Basin board members are appointed to three-year terms by the Governor and must be confirmed by the Florida Senate. A governing board member serves as the ex-officio chair of each basin board.

[4] These taxes are not in addition to the water management district taxes, but represent an allocation of the total authorized millage rate. Specifically, the total authorized millage rate is divided for district and basin purposes and cannot exceed the statutory maximum total millage rate. For example, the statutory

The districts must submit their proposed annual budgets to several entities, including the Governor, the President of the Senate, the Speaker of the House of Representatives, and the chairs of all substantive and fiscal committees by August 1 of each year.[5] The House and Senate appropriation committee chairs may submit comments and objections to each district on their proposed budgets by September 5. In adopting their final budget, the district governing board must include a written response to any comments and objections of the appropriation chairs.

The Executive Office of the Governor is required to review the districts' proposed budgets and may veto all or part of these proposed budgets. The office must report annually to the Legislature the results of its review of the districts' proposed budgets; the report also identifies those districts that do not comply with reporting requirements. State funds can be withheld from a water management district that fails to comply with these reporting requirements.

The Florida Department of Environmental Protection has general supervisory authority of the water management districts. The department carries out its oversight responsibilities in several ways including receiving copies of district spending plans and budgets; administering trust funds used for land acquisition and management (e.g., Florida Forever Trust Fund); and auditing funds granted or contracted to the districts for water related projects.

The districts' activities are organized among six major programs.

- **District Management and Administration** includes executive direction, ombudsman services, budgeting, the inspector general, and governing board support.
- **Acquisition, Restoration and Public Works** includes developing and constructing capital projects; land acquisition; and restoring lands and water bodies.
- **Regulation** includes water use permitting; water well permitting and contractor licensing; environmental resource and surface water management permitting; and permit administration and enforcement.
- **Operation and Maintenance of Lands and Works** includes operating and maintaining facilities, flood control and water supply structures, lands, and other works.
- **Water Resources Planning and Monitoring** includes water management planning (e.g., water supply planning and protecting water resources); research, data collection, analysis, and monitoring of hydrologic and meteorological data; and technical assistance.
- **Outreach** includes environmental and water conservation education; governmental affairs; and public relation activities, such as public service announcements.

Resources

The total budget for the water management districts is $2.3 billion for Fiscal Year 2007-08 (see Exhibit 2). The districts receive revenue from six major sources including ad valorem taxes, state appropriations, local revenues, federal revenues, permit fees, and miscellaneous revenues.[6] Staffing for the districts includes 3,388 full-time equivalent positions and 103 temporary positions.

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maximum millage rate in the Southwest Florida Water Management District is one mill, with the maximum millage assessed for district purposes not to exceed 50% of the total authorized millage when there are one or more basins in the district, and the maximum millage assessed for basin purposes not to exceed 50% of the total authorized millage.

[5] Section 373.536(1), *F.S.*

[6] Miscellaneous revenues include interfund transfers, interest from investments, and sales of assets.

Exhibit 2
The Water Management District Budgets Total $2.3 Billion for Fiscal Year 2007-08

District	Non-Dedicated Revenue	Dedicated Revenues	Total Revenues	FTE
South Florida	$549,349,672	$734,034,414	$1,283,384,086	1,808
St. Johns River	210,418,929	189,709,629	400,128,558	715
Southwest Florida	301,930,174	88,093,496	390,023,670	736
Northwest Florida	33,122,669	86,802,739	119,925,408	61
Suwannee River	9,014,696	72,888,579	81,903,275	68
Total Funds	**$1,103,836,140**	**$1,171,528,857**	**$2,275,364,997**	**3,388**

Source: Water Management Districts. Data reported for Fiscal Year 2007-08 (October 1, 2007, to September 30, 2008).

The districts' receive both dedicated and non-dedicated funding. Dedicated funding is reserved for specified projects such as Everglades restoration. The districts' Fiscal Year 2007-08 dedicated funding of $1.2 billion includes $675.8 million in state funding (see Exhibit 3). [7] Other sources of dedicated funding include local revenues, federal revenues, and permit and license fees. The districts have not generally received state general revenue appropriations. [8] The districts allocate most state funds ($574 million or 85%) to acquisition, restoration, and public works programs that fund the districts' land acquisition, water supply, and surface water restoration projects. For example, the districts reported $152.9 million in dedicated state revenue from the Florida Forever Trust Fund, which primarily funds land acquisition projects.

Exhibit 3
The Water Management District Budgets Include $675.8 Million in State Funds for Fiscal Year 2007-08

Program Area	Southwest Florida	South Florida	St. Johns River	Suwannee River	Northwest Florida	Total
Water Resource Planning and Monitoring	$1,440,503	$33,262,888	$525,620	$2,775,900	$3,302,189	**$41,307,100**
Acquisition, Restoration and Public Works	62,341,004	255,926,107	162,657,661	36,422,137	56,471,505	**573,818,414**
Operation and Maintenance of Lands and Works	11,237,903	22,501,404	8,249,795	5,588,294	6,704,233	**54,281,629**
Regulation	816,100	0	162,216	923,550	3,816,000	**5,717,866**
Outreach	133,233	0	0	384,972	127,576	**645,781**
Management and Administration	0	0	720	0	0	**720**
Total Funds	**$75,968,743**	**$311,690,399**	**$171,596,012**	**$46,094,853**	**$70,421,503**	**$675,771,510**

Source: Water Management Districts. Data reported for Fiscal Year 2007-08 (October 1, 2007, to September 30, 2008).

[7] The reported amount includes funds carried over from prior years for multiple-year projects.
[8] The 2007 Legislature appropriated $3,840,000 in general revenue to the Northwest Florida Water Management District for implementation of its Environmental Resource Permitting Program.

Non-dedicated funding can be used for a wide range of activities, and totaled $1.1 billion for Fiscal Year 2007-08. Sources of non-dedicated funds primarily include ad valorem taxes and funds carried over from prior years. Ad valorem taxes accounted for $869.6 million (see Exhibit 4). The districts decreased their millage rates for Fiscal Year 2007-08 to comply with tax reform legislation passed by the 2007 Legislature.[9] Ad valorem tax revenues for the districts slightly decreased from the prior year ($128,288).

Exhibit 4
The Water Management Districts Levied $869.6 Million in Ad Valorem Taxes in Fiscal Year 2007-08

District	Millage Rate Fiscal Year 2006-07	Ad Valorem Tax Revenue Fiscal Year 2006-07	Millage Rate Fiscal Year 2007-08	Ad valorem Tax Revenue Fiscal Year 2007-08
South Florida[1]	0.5265 to 0.6970	$553,009,838	0.4814 to 0.6240	$549,484,359
Southwest Florida[1]	0.4220 to 0.8220	236,160,294	0.3866 to 0.7567	237,527,258
St. Johns River	0.462	142,470,000	0.4158	144,678,000
Suwannee River	0.4914	6,100,000	0.4399	6,100,000
Northwest Florida	0.05	5,196,632	0.041	5,018,859
Total		**$942,936,764**		**$942,808,476**

[1] The district has basins that levy ad valorem taxes at different rates.

Source: Water Management Districts. Data reported for Fiscal Year 2007-08 (October 1, 2007, to September 30, 2008).

State Funding for Water Management Districts Has Been Reduced, and They Have Taken Steps to Address these Reductions

In addition to rolling back district ad valorem tax rates, during 2007 Special Session C the Legislature reduced state funding for some district programs.[10] This legislation reduced funds distributed to districts from the Water Protection and Sustainability Program Trust Fund by $18 million: a reduction of $8 million from district programs that provide financial assistance to local governments for alternative water supply projects and $10 million from surface water restoration activities.

The districts have taken several actions to address reductions in ad valorem tax rates and state funding. These actions include using funds in reserve accounts and other trust funds to supplement revenues; reducing funds available for alternative water supply development and surface water restoration projects; and reducing travel, conferences, training, and centralized fleet expenditures. For example, St. Johns River reduced its budget by $7.8 million, including $4.1 million for the St. Johns River Basin nutrient reduction program, $2.5 million for storm water treatment projects, and $1.2 million in contracted services for scientific research activities. Similarly, the Southwest Florida Water Management District reduced funds allocated to two alternative water supply projects by $2 million. The South Florida Water Management District reduced expenditures for agency-wide travel by $259,425, employee training by $519,500, and centralized fleet costs by $656,950.

[9] House Bill 1B required a change to the millage rate for independent special districts including water management districts for the Fiscal Year 2007-08 to 3% below the rolled-back rate. The rolled-back rate is the millage that would provide the same amount of tax revenue for the taxing authority as it received in the prior fiscal year.

[10] Chapter 2007-335, *Laws of Florida*.

Options for Legislative and Governing Board Consideration

In addition to the reductions described above, Florida's five water management districts face potential additional reductions due to state budget shortfalls and the recent property tax constitutional amendment.[11] The districts have taken some actions to address these budget reductions, but there are other strategies that the Legislature and district governing boards could consider to address ongoing funding concerns. The fiscal impact of these options will depend on implementation timeframes and the number of options adopted. To determine precise fiscal impact estimates, district budget staff should consult with Senate and House appropriations committee staff.

Exhibit 5 below presents 15 policy options for the Legislature and district governing boards to consider for reducing water management district reliance on ad valorem tax revenues and state funding. The exhibit summarizes the policy options and describes the advantages and disadvantages of each option.

Exhibit 5
The Legislature and District Governing Boards Could Consider Several Options to Reduce Reliance on Ad Valorem and State Trust Funds

Option	Advantages	Disadvantages
Option 1 – Increase Less-than-fee Acquisitions		
District governing boards could direct district staff to increase less-than-fee acquisitions. This allows the district to acquire the right to preserve and protect a property's resources at a reduced cost because the land remains in private ownership.	▪ Would reduce land acquisition costs ▪ Land management costs would be borne by the land owner ▪ Land would remain on county tax rolls	▪ Districts would increase their monitoring activities due to additional conservation easements, which may result in additional costs ▪ Would reduce public access to district-owned lands because private landowners would likely not allow visitors
Option 2 – Lease District-owned Lands		
District governing boards could lease lands for purposes including agriculture, silviculture, livestock grazing, and hunting.	▪ Would reduce reliance on state trust funds currently used for land management ▪ Would reduce land management costs because the leasing entity would have responsibility for such expenses ▪ Existing process for establishing and monitoring conservation easements could be used as a model for such leases	▪ Districts would have to establish a process for identifying lands that are appropriate for such uses ▪ Districts would have to expand monitoring system currently used for conservation easements, which may result in increased costs ▪ Would reduce public access to district-owned lands
Option 3 – Limit District Land Management to Mission Critical Activities		
District governing boards could limit land management activities to only mission critical functions such as prescribed burning and restoring natural water flow. This would reduce funding for expanding public access and recreational activities such as improving access roads and recreational facilities (e.g. campgrounds and trails).	▪ Would reduce land management costs associated with constructing and maintaining district recreational facilities ▪ Would allow districts to reallocate land management staff to other priority areas	▪ May reduce public access and use, if infrastructure is not maintained ▪ Could lead to higher long-term costs if infrastructure or land conditions deteriorate

[11] The constitutional amendment approved by voters in January 2008 increases the homestead exemption by $25,000, allows homestead property owners to transfer up to $500,000 of their Save-Our-Homes benefits to their next homestead, provides a $25,000 exemption for tangible personal property, and limits the assessment increases for specified nonhomestead real property to 10% each year.

Option	Advantages	Disadvantages
Option 4 – Maximize Opportunities to Increase Cooperative Agreements with Other Agencies		
District governing boards could increase cooperative land management agreements to shift land management activities to other agencies (e.g., Department of Agriculture and Consumer Services, Department of Environmental Protection, Fish and Wildlife Conservation Commission, local governments, federal agencies).	▪ Could reduce district land management costs for activities assumed by another agency, if the agency had local infrastructure (such as adjoining parcels) that allowed economies of scale ▪ Could shift costs to federal or local governments that assumed responsibility for land management ▪ Would allow districts to reallocate land management staff to other priority areas ▪ May facilitate the reduction of district staff	▪ Districts would lose control of land management activities ▪ Federal or local governments may not have adequate funding to take on additional land management activities
Option 5 – Increase Volunteer and Inmate Labor Use for Land Management Activities		
District governing boards could increase use of volunteers and inmate labor for land management activities (e.g., trail development, trash removal, and removal of invasive nonnative plants)	▪ Would reduce reliance on state trust funds currently used for land management ▪ Would allow activities such as land management to continue in the absence of paid staff ▪ Would increase community involvement	▪ Would require district staff time to coordinate volunteer activities ▪ Would require districts to develop procedures to protect themselves from liability associated with volunteer injury ▪ Would require district staff to coordinate with law enforcement agencies to ensure proper supervision of inmates
Option 6 – Increase Delegation for Permit Approval		
District governing boards could review permitting criteria, including project size thresholds, to consider delegating additional authority to staff in taking final action on permit applications. Staff would refer any denials of permit applications to the governing board for final action.	▪ Would allow district staff to issue more permits, which reduces the time and costs associated with governing board approval (e.g., preparing a staff report to the governing board, using board meeting time to consider permit applications) ▪ Would decrease the time to issue permits because permit applications would no longer need to wait for the governing board to approve or deny at their monthly meeting	▪ Would reduce the opportunity for the public to provide feedback regarding permit applications
Option 7 – Reprioritize Compliance Activities		
District governing boards could direct district staff to reprioritize compliance activities, which may result in reducing the amount of regulatory compliance activities conducted (e.g., inspections). For example, district staff could establish a risk-based approach that would emphasize public safety and protection of environmentally sensitive areas.	▪ Would reduce regulatory program costs ▪ Would reduce workload for compliance staff ▪ May facilitate the reduction of district staff	▪ District staff would have to revise compliance activity procedures ▪ Reduced oversight may increase non-compliance, which may result in reduced water quality, increased negative environmental impacts, and decreased public safety

Option	Advantages	Disadvantages
Option 8 – Reduce Land Acquisition		
District governing boards could delay or eliminate land acquisition projects; the districts annually receive $105 million in Florida Forever Trust Funds, which are used for land acquisition. For example, districts could institute a one-year acquisition moratorium or could permanently discontinue their acquisition programs.	▪ Would reduce reliance on state trust funds currently used for land acquisition ▪ Would reduce long-term debt obligation and acquisition-related expenditures ▪ Would reduce management costs for lands not acquired ▪ Would enable district staff to concentrate on the management of previously acquired lands ▪ May facilitate the reduction of district staff	▪ New conservation lands would not be acquired ▪ Some conservation lands may not be available for purchase at a later date ▪ Price of land may increase during the acquisition moratorium ▪ May result in negative environmental impacts (e.g., loss of threatened and endangered species; diminished water quality; growth of exotic, invasive species)
Option 9 – Sell District Lands		
District governing boards could sell lands that are no longer needed for the purposes for which they were acquired or are considered relatively low priority. Florida law authorizes the governing board to surplus conservation lands and dispose of them by a two-thirds vote. For all other lands, the governing board can make a determination that such lands are no longer needed and may dispose of them by majority vote.	▪ Would reduce reliance on state trust funds currently used for land management ▪ If properties were sold to a private entity, land would likely be placed back on local property tax rolls ▪ May facilitate the reduction of district staff	▪ May negatively affect the state's preservation of natural resources ▪ Prior to sale or transfer, would require determination of compliance with Florida Forever bond covenants
Option 10 – Reduce Water Supply and Water Restoration Project Funding and Activities		
District governing boards could delay or eliminate funding for water supply and water restoration projects. For example, the districts could reduce the amount of cost share funds available to local governments to implement alternative water supply projects.	▪ Would reduce reliance on state funding ▪ Would reduce district expenditures on water supply projects ▪ Would allow district funds and staff to be redirected to other priority areas ▪ Would reduce workload for district staff in planning, managing, and monitoring projects ▪ May facilitate the reduction of district staff	▪ Would create additional stress to existing water supply sources, especially under drought conditions ▪ Would increase costs for alternative water supplies and restoration projects over time ▪ May result in the loss of matching funding from local and federal government for projects ▪ Local governments would incur additional costs to develop alternative water supplies and restore water bodies ▪ Would limit growth in areas that are not financially able to develop alternative water supplies on their own ▪ Could result in litigation over existing water supplies ▪ Would result in fewer environmental restoration efforts and loss of the associated benefits (e.g., water quality, recreation, public health, and habitat restoration)

Option	Advantages	Disadvantages
Option 11 – Modify Water-Related Tax Structures to Reduce Reliance on Ad Valorem Tax Revenue		
The Legislature could revise the tax structures for some water-related products or services and use the revenues to offset ad valorem taxes. For example, it could eliminate the sales tax exemption on bottled water (s. 212.08(4)(a), *F.S.*); currently sales tax is not collected for bottled water sold in retail outlets. Another option would be to apply the gross receipts tax to water utilities (s. 203.01, *F.S.*); currently gross receipts are imposed on the sellers of electricity, natural or manufactured gas, and sellers of communication services.	▪ Would reduce reliance on ad valorem taxes ▪ Would provide a funding source that is directly tied to water supply, which is consistent with districts' mission	▪ Would require a statutory change ▪ Would increase business taxes and consumer costs ▪ Could decrease sales of bottled water, which would reduce revenue for water vendors
Option 12 – Charge Fees for Access to and Use of District-owned Lands		
District governing boards could charge fees to access district-owned recreational areas. Currently, fees are charged to access state parks. Districts could also charge fees for the use of some recreational infrastructure, such as campsites and boat launches.	▪ Would reduce reliance on state trust funds currently used for land management ▪ Users would help support resource management and recreational activities	▪ Would increase cost for users ▪ Fees may reduce overall visitation on district-owned lands ▪ May face potential opposition from users
Option 13 – Institute a Re-inspection Fee for Continued Non-Compliance with Permit Conditions and District Regulations		
District governing boards could institute a re-inspection fee for multiple inspections resulting from non-compliance. For example, permittees found to be non-compliant after the first site inspection would have one opportunity to address the specific issue. The district would charge a fee to re-inspect if the permittee remains non-compliant.	▪ Would reduce reliance on ad valorem revenues that are currently used to subsidize regulatory program activities ▪ Regulated entity would bear a higher portion of program costs ▪ Would encourage permittees to address compliance issues immediately rather than risking a re-inspection fee ▪ May reduce re-inspection workload	▪ District would have to establish a fee schedule and mechanism to collect fees ▪ May increase administrative costs and workload associated with fee collection
Option 14 – Merge Northwest FL and Suwannee River Water Management Districts		
The Legislature could reduce the number of water management districts by merging Northwest Florida and Suwannee River Water Management Districts	▪ Would reduce state general revenue that is currently used to subsidize Northwest Florida's regulatory activities ▪ Would increase operational efficiency (e.g., one governing board, eliminate or consolidate staff, share information technologies) ▪ Would increase economies of scale for land acquisition, water supply projects, contracted services, and administration ▪ Would allow developers that have projects in both districts to interact with a single district	▪ Would require a constitutional amendment ▪ Would increase taxes for residents within Northwest Florida Water Management District boundaries ▪ May face potential resistance from the affected districts ▪ May incur costs in establishing operations in new locations (e.g., transferring personnel, equipment, office space, and titles to land holdings to the consolidated district offices) ▪ Developing new working relationships with stakeholders could result in short-run disruption of activities

Option	Advantages	Disadvantages
Option 15 – Modify Permit Fees to Avoid Reliance on Local Ad Valorem Tax Revenues		
The Legislature could direct the water management districts to set permit fees at a level to support district environmental resource permitting programs. This would avoid the need to subsidize these activities with property tax revenues.	▪ Would eliminate the need to subsidize program activities using taxpayer dollars (a portion of district ad valorem revenues are currently supplementing the district regulatory program costs) ▪ The regulated entity would bear regulatory program costs, which is consistent with the Legislature's general intent regarding regulatory programs (s. 216.0236, *F.S.*)	▪ Would increase the costs of obtaining regulatory permits ▪ Could increase un-permitted activities because individuals might be unwilling to pay increased fees

Source: OPPAGA analysis.