

# State Requirements

## **Elections**

General, primary, Special, Bond, and Referendum Elections - Election preparation report; general election ([100.032](#))

1. Supervisor of Election post report  $\geq 3$  months before general election

General, primary, Special, Bond, and Referendum Elections - Initiatives; procedure for placement on ballot ([100.371 \(5\) \(e\) 5](#))

1. Summary from each initiative
2. URL for the information statements on the Secretary of State and Office of Economic and Demographic Research websites as required by 101.20

Voting Methods and procedure - Polling Place ([101.5612 \(2\)](#))

1. Time and place of tabulation equipment testing

Voting Methods and procedure - Polling Place ([101.71 \(2\)](#))

1. Change in polling location  $\geq 7$  and  $\leq 30$  days prior to election

Conducting Elections and Ascertaining the Results - County Canvassing board; Duties ([102.141 \(2\)](#))

1. Time and place of County Canvassing Board meeting  $\geq 48$  beforehand

## **Defined Benefit Retirement Plans**

Public officers and Employees: general Provisions - Reporting Standards for Defined benefit retirement plans or systems ([112.664 \(2\)](#))

1. Funded ratio of the plan in most recent actuarial valuation
2. Most recent financial statement and actuarial valuation (including link to Division of Retirement Actuarial Summary Fact Sheet for the plan)
3. Side-by-side comparison of the plan's assumed rate of return compared to actual rate of return, % of cash, equity, bond and alternative investments in plan portfolio for previous 5 years
4. Any charts and graphs of data above

## **County Government**

County Government - County Economic Development Powers ([125.045 \(4\)](#))

1. Report from Contracted entity doing economic development activities on behalf of the County detailing how County funds are spent

County Government - Enforcement and amendment of the Florida Building Code and the Florida Fire Prevention Code; Inspection fees; inspectors; etc. ([125.56 \(4\)\(b\)](#))

1. Each type of building permit application
  - i. must be able to submit electronically
    1. e-mail PDF
    2. Electronic Fill-in form

County Annual Budget - Preparation and adoption of Budget ([129.03 \(3\)\(c\)](#))



1. Tentative budget posted  $\geq$  2 days before public hearing
2. Final budget posted  $\leq$  30 days after adoption

County Annual Budget - Execution and amendment of budget ([129.06 \(2\)\(f\)2](#))

1. Posted  $\leq$  5 days after adoption of amendment

### **City Government**

Formation of Local Governments - Municipal Conversion of independent special districts upon elector-initiated and approved referendum ([165.0615 \(6\)\(b\)](#))

1. Elector-initiated municipal incorporation plan
2. Descriptive summary of plan
3. Reference to public places to view the plan
4. Posted on county website if independent district does not have one

Municipalities - Powers ([166.021 \(8\)\(d\)](#) )

1. Report from Contracted entity doing economic development activities on behalf of the City detailing how City funds are spent

Municipalities - Fiscal years, budgets, and budget amendments ([166.241](#))

1. Tentative budget must be posted  $\geq$  2 days before budget hearing ([166.241 \(3\)](#))
2. Final budgeted posted  $\leq$  30 days after adoption. ([166.241 \(3\)](#))
3. Amended budget posted  $\leq$  5 days after adoption ([166.241 \(5\)](#))
4. If agency has no website, county must post within reasonable amount of time

### **Pensions**

Firefighter Pensions - Board of trustees; members; term of office; meetings; legal entity; costs ([175.061 \(8\)\(a\)1](#))

1. Detailed accounting report (if the board has a website)

Municipal Police Pensions - Board of trustees; members; term of office; meetings; legal entity; costs ([185.05 \(8\)\(a\)1](#))

1. Detailed accounting report (if the board has a website)

### **Special Districts**

Uniform Special District Accountability Act - Reports; Budgets; Audits ([189.016](#))

1. Tentative budget posted  $\geq$  2 days before hearing and remain for  $\geq$  45 days (except WMDs) ([189.016 \(4\)](#))
2. Final adopted budget must be posted  $\leq$  30 days after adoption and remain for  $\geq$  2 years (except WMDs) ([189.016 \(4\)](#))
3. Amended budget must be posted  $\leq$  5 days after adoption and remain for  $\geq$  2 years ([189.016 \(7\)](#))

Uniform Special District Accountability Act - Special Districts; required reporting of information; web-based public access ([189.069](#))

1. After first full year of creation, must maintain an official website
  - i. Independent special districts maintain a separate website ([189.069 \(1\)\(a\)](#))



- ii. Dependent special districts shall be prominently displayed on agency home page ([189.069 \(1\)\(b\)](#))
- iii. Special district website must contain: ([189.069 \(2\)\(a\)](#))
  - 1. Full legal name of special district
  - 2. Public Purpose
  - 3. The name, official address, official e-mail address, and, if applicable, term and appointing authority for each member of the governing body of the special district.
  - 4. The fiscal year of the special district.
  - 5. The full text of the special district's charter, the date of establishment, the establishing entity, and the statute or statutes under which the special district operates, if different from the statute or statutes under which the special district was established. Community development districts may reference chapter 190 as the uniform charter but must include information relating to any grant of special powers.
  - 6. The mailing address, e-mail address, telephone number, and website uniform resource locator of the special district.
  - 7. A description of the boundaries or service area of, and the services provided by, the special district.
  - 8. A listing of all taxes, fees, assessments, or charges imposed and collected by the special district, including the rates or amounts for the fiscal year and the statutory authority for the levy of the tax, fee, assessment, or charge. For purposes of this subparagraph, charges do not include patient charges by a hospital or other health care provider.
  - 9. The primary contact information for the special district for purposes of communication from the department.
  - 10. A code of ethics adopted by the special district, if applicable, and a hyperlink to generally applicable ethics provisions.
  - 11. The budget of the special district and any amendments thereto in accordance with s. [189.016](#).
  - 12. The final, complete audit report for the most recent completed fiscal year and audit reports required by law or authorized by the governing body of the special district.
  - 13. A listing of its regularly scheduled public meetings as required by s. [189.015\(1\)](#).
  - 14. The public facilities report, if applicable.
  - 15. The link to the Department of Financial Services' website as set forth in s. [218.32\(1\)\(g\)](#) to view financial reports,
  - 16. At least 7 days before each meeting or workshop, the agenda of the event, along with any meeting materials available in an electronic format, excluding confidential and exempt information. The information must remain on the website for at least 1 year after the event.

Uniform Special District Accountability Act - Voluntary merger of independent special district ([189.074](#))

- 1. Proposed joint merger plan, Descriptive summary, Reference to public places to view the plan <= 5 days after bodies approve resolution endorsing the proposed merger ([189.074 \(2\) \(a\) 13 \(c\) 2](#))
- 2. Merger plan, Descriptive summary, Reference to public places to view the plan <= 5 days after bodies approve merger ([189.074 \(4\) \(c\) 12 \(e\) 2](#))

**Property Assessments**



Assessments - Certificates of Value Adjustment board and property appraiser; extensions on the assessment rolls ([193.122 \(2\)](#))

1. Post <= 1 week after certifying tax rolls

Administrative and Judicial Review of property taxes - Assessment notice; objections to assessments ([194.011 \(5\)\(a\)2\(b\)](#) )

1. Uniform policies and procedures manual on Clerks of Circuit Courts website

Property Assessment Administration and Finance - Property Appraiser and tax collectors to submit budgets to Department of Revenue ([195.087 \(6\)](#))

1. Property appraiser post final budget on official website <= 30 days after adoption
2. Tax collector post final budget on official website <= 30 days after adoption
3. County must have links to tax Collector and Property Appraiser websites
4. If Constitutional officer does not have a website, the County must post

### **Financial Reports**

Financial Matters pertaining to Political Subdivisions - Annual financial reports; local government entities ([218.32 \(1\)\(g\)](#))

1. Post a link to Department of Financial Services' website to view submitted annual financial reports
2. County must post link if City does not have a website

Financial Matters pertaining to Political Subdivisions - County fee officers; financial matters ([218.35 \(4\)](#))

1. Clerk of the circuit court budget posted on county website <= 30 days after adoption

### **Red Light Cameras**

State Uniform traffic Control - Mark Wandall Traffic Safety program; administration; report ([316.0083 \(1\)\(b\)1.c.](#) )

1. Information on a person's right to request a hearing, related court costs, form to request a hearing

### **Building Permits**

Building Construction Standards - permits; applications; issuance; inspections ([553.79 \(1\)\(b\)](#))

1. Each type of building permit application
  - i. must be able to submit electronically
    1. e-mail PDF
    2. Electronic Fill-in form

Liens, generally - Notice of Commencement and applicability of lien ([713.135 \(6\)\(c\)](#) )

1. If accept building permits electronically, access to building permit applications in searchable format

### **Website Public Records Notice**

Public Record Status of e-mail addresses; agency website notice ([668.6076](#))

1. If your agency operates a web site & uses e-mail, the agency must place conspicuously on the website:



- i. Under Florida law, e-mail addresses are public records. If you do not want your e-mail address released in response to a public records request, do not send electronic mail to this entity. Instead, contact this office by phone or in writing.

### **Animal Control**

Public Nuisances - Lost or Stray dogs and cats ([823.151](#))

1. Public notice of lost or stray dogs and cats <= 48 hours of admission ([823.151 \(2\)\(a\)3](#))
2. Shelter location, hours, fees, and return to owner process ([823.151 \(2\)\(a\)5](#))

### **Water Utility**

Florida DEP Consumer Confidence Report (CCR) ([62-550.824](#))

1. Community water system serving 100,000+ must post current CCR on Internet
2. Agency may have written agreement to require posting on website in lieu of mailing CCR to all customers.

=====

## **Federal Requirements**

### **Water Utility**

EPA Consumer Confidence Report (CCR) (Annual Drinking Water Quality Report) ([40 CFR 141.155](#) )

1. Community water system serving 100,000+ must post current CCR on Internet

### **Electronic Documents**

Rehabilitation Act of 1973 Section 504 (29 USC 794)

1. Applicable to recipients of federal funds

Americans with Disabilities Act ([28 CFR 35 & 36](#))

1. Title II for State and Local Governments ([28 CFR 35](#))
2. Title III for Public accommodations ([28 CFR 36](#))



## 2020 Preemptions

| Bill Number             | Title  | Sponsor        | Description of Preemption   | Vote Notes                                   | Party Line   | Final Action |
|-------------------------|--|----------------|---|--|--------------|--------------|
| <a href="#">SB 0272</a> | State Preemption of the Regulation of Hoisting Equipment | Rodriguez (I)  | hoisting equipment (Dade issue)   | never considered                             |              | Failed       |
| <a href="#">HB 0003</a> | Preemption of Local Occupational Licensing               | Grant (M)      | licensing of certain occupations  | 12-2<br>14-5<br>78-40                        | most         | Failed       |
| <a href="#">SB 1336</a> | Preemption of Local Occupational Licensing               | Perry          | licensing of certain occupations  | 4-0  | no           | Failed       |
| <a href="#">HB 31</a>   | Monuments and Memorials                                  | Hill           | cannot move war memorials   | never considered                             |              | Failed       |
| <a href="#">HB 65</a>   | Fireworks  | A.M. Rodriguez | regulatory void   | 7-5<br>10-1<br>17-5<br>82-34                 | Mixed        | Passed       |
| <a href="#">SB 140</a>  | Fireworks  | Hutson         | regulatory void   | unanimous                                    | No           | Passed       |
| <a href="#">HB 0537</a> | Home-Based Businesses                                    | Donalds        | Preempts local governments from licensing and regulating home-based businesses, prohibiting local governments from enacting or enforcing any ordinance, regulation, or policy, or take any action to license or otherwise regulate a home-based business.   | 7-3<br>13-7<br>17-7                          | Yes          | Failed       |
| <a href="#">SB 0778</a> | Home-based Businesses                                    | Perry          | Preempts local governments from licensing and regulating home-based businesses, prohibiting local governments from enacting or enforcing any ordinance, regulation, or policy, or take any action to license or otherwise regulate a home-based business.   | never considered                             |              | Failed       |
| <a href="#">HB 0305</a> | Preemption of Conditions of Employment                   | Rommel         | Preempts to the state the right to regulate conditions of employment; Voids all existing ordinances, regulations, or policies of a political subdivision related to conditions of employment  | 9-5<br>10-5                                  | Yes          | Failed       |
| <a href="#">SB 1126</a> | Employment Conditions                                    | Gruters        | Preempts to the state the right to regulate conditions of employment; Voids all existing ordinances, regulations, or policies of a political subdivision related to conditions of employment  | never considered                             |              | Failed       |
| <a href="#">HB 1039</a> | Transportation Network Companies                         | Rommel         | TNC advertisements; luxury ground transportation companies (luxury sedans)  | unanimous                                    | No           | Passed       |
| <a href="#">SB 1352</a> | Transportation Companies                                 | Brandes        | TNC advertisements; luxury ground transportation companies (luxury sedans)  | 37-2   | No           | Passed       |
| <a href="#">HB 1011</a> | Vacation Rentals   | Fischer        | Preempting the regulation of vacation rentals to the state; prohibiting a local law, ordinance, or regulation from allowing or requiring inspections or licensing of vacation rentals; preempting the regulation of advertising platforms for vacation rentals.                                   | 10-5<br>8-5<br>14-9                          | Yes, plus Rs | Failed       |
| <a href="#">SB 1128</a> | Vacation Rentals   | Diaz           | Preempting the regulation of vacation rentals to the state; prohibiting a local law, ordinance, or regulation from allowing or requiring inspections or licensing of vacation rentals; preempting the regulation of advertising platforms for vacation rentals.                                   | 8-2<br>3-2                                   | Mixed        | Failed       |
| <a href="#">SB 1638</a> | Nicotine Products  | Flores         | flavored nicotine   | never considered                             |              | Failed       |
| <a href="#">HB 101</a>  | Public Construction                                      | Andrade        | retainage   | 118-1  | No           | Passed       |
| <a href="#">SB 246</a>  | Public Construction                                      | Hooper         | retainage   | 40-0   | No           | Passed       |
| <a href="#">HB 113</a>  | Florida Drug and Cosmetic Act                            | Roach          | sunscreen and cosmetics   | 8-5<br>9-6<br>10-6<br>68-47                  | yes          | Passed       |
| <a href="#">SB 172</a>  | Florida Drug and Cosmetic Act                            | Bradley        | sunscreen and cosmetics   | 3-1<br>8-2<br>12-4<br>25-14                  | Mixed        | Passed       |
| <a href="#">HB 133</a>  | Towing and Immobilizing Vehicles and Vessels             | McClain        | Prevents local governments from imposing fees or charges on authorized wrecker operators and towing businesses except for general administrative fees that apply universally. (3 county carve out)  | 9-5<br>10-2<br>16-7<br>76-41<br>81-31        | Mixed        | Passed       |
| <a href="#">SB 1332</a> | Towing and Immobilizing Vehicles and Vessels             | Hooper         | Prevents local governments from imposing fees or charges on authorized wrecker operators and towing businesses except for general administrative fees that apply universally. (3 county carve out)  | unanimous<br>34-5                            | Mixed        | Passed       |
| <a href="#">HB 151</a>  | Use of Regulated Substances                              | Toledo         | Tobacco 21, flavored nicotine   | never considered                             |              | Failed       |
| <a href="#">SB 694</a>  | Nicotine and Tobacco Products                            | Mayfield       | Preempts to the state that the smoking and vaping age be raised to 21 and older.  | never considered                             |              | Failed       |
| <a href="#">SB 810</a>  | Tobacco and Nicotine Products                            | Simmons        | Preempts to the state that the smoking age be raised to 21 for tobacco. Also raises the vaping age to 21, and eliminates delivery sales of tobacco products directly to consumers. Includes raising the age of purchase for tobacco accessories such as hookahs, pipes, and rolling papers to 21. | 10-0<br>8-1<br>17-3<br>34-4<br>99-17<br>27-9 | Mixed        | Passed       |



|                         |  |           |   |                                   |                     |        |
|-------------------------|--|-----------|---|-----------------------------------|---------------------|--------|
| <a href="#">HB 195</a>  | Public Records   | Rodrigues | Prohibits an agency or local government from responding to a public records request by filing a civil action against the individual or entity making the request.   | unanimous<br>Never heard on Floor | no                  | Failed |
| <a href="#">SB 162</a>  | Public Records   | Perry     | Prohibits an agency or local government from responding to a public records request by filing a civil action against the individual or entity making the request.   | unanimous                         | No                  | Failed |
| <a href="#">HB 215</a>  | Firefighter Bill of Rights   | Casello   | Firefighter Bill of Rights  | never considered                  |                     | Failed |
| <a href="#">SB 620</a>  | Firefighter Bill of Rights   | Hooper    | Firefighter Bill of Rights  | 5-0<br>5-0                        | No                  | Failed |
| <a href="#">HB 225</a>  | Clean Energy Programs  | Zika      | PACE programs   | never considered                  |                     | Failed |
| <a href="#">SB 824</a>  | Clean Energy Programs  | Hooper    | PACE programs   | never considered                  |                     | Failed |
| <a href="#">HB 459</a>  | Building Design  | Overdorf  | Provides that local governments may apply building design elements to single- and two- family dwellings located in historic districts instead of only dwellings that contribute to historic districts.<br>Provides that local governments may apply building design elements to single- and two- family dwellings located in community redevelopment areas. | 13-0<br>9-2<br>22-0               | No                  | Failed |
| <a href="#">SB 954</a>  | Building Design  | Perry     | Prevents one and two family dwellings from being subject to aesthetic design zoning requirements such as color, shape, and orientation of homes except in certain circumstances such as historical preservation.  | never considered                  |                     | Failed |
| <a href="#">HB 1193</a> | Deregulation of Professions and Occupations                                    | Ingoglia  | deregulates certain professions; food truck preemption  | 12-3, 10-2, 23-0, 88-25, 103-11   | No                  | Passed |
| <a href="#">SB 474</a>  | Deregulation of Professions and Occupations                                    | Albritton | deregulates certain professions (compare) food truck preemption   | 8-0, 4-0, 20-1,38-0               | No                  | Passed |
| <a href="#">HB 477</a>  | Supermajority Vote Required to Impose, Authorize, or Raise Local Taxes or Fees | Rommel    | amendment to constitution for supermajority vote for tax increases  | never considered                  |                     | Failed |
| <a href="#">HB 519</a>  | Private Property Rights Protection   | J. Grant  | Bert Harris Act revisions   | 10-5, 13-8, 11-5, 83-46           | Yes                 | Failed |
| <a href="#">SB 1766</a> | Growth Management  | Lee       | Bert Harris Act revisions   | 6-0, 5-0                          |                     | Failed |
| <a href="#">HB 637</a>  | Impact Fees  | DiCeglie  | impact fee reporting requirements   | 13-1, 12-2, 20-0                  |                     | Passed |
| <a href="#">SB 1066</a> | Impact Fees  | Gruters   | impact fee reporting requirements   | 36-0, 81-37                       | Mixed               | Passed |
| <a href="#">HB 647</a>  | Recreational Vehicle Parks   | Drake     | preempting to the Department of Health the regulatory authority for permitting standards  | 14-0, 11-1, 18-0                  | No                  | Failed |
| <a href="#">SB 772</a>  | Recreational Vehicle Parks   | Hutson    | preempting to the Department of Health the regulatory authority for permitting standards  | 5-0, 10-0                         | No                  | Failed |
| <a href="#">HB 707</a>  | Legislative Review of Occupational Regulations                                 | Renner    | sunsets occupational regulations  | 22-1, 12-4, 85-29                 | Mixed               | Failed |
| <a href="#">SB 1124</a> | Legislative Review of Occupational Regulations                                 | Diaz      | sunsets occupational regulations  | 3-1                               | Yes                 | Failed |
| <a href="#">HB 611</a>  | Local Government Accountability  | Sabatini  | local lobbyist registration   | never considered                  |                     | Failed |
| <a href="#">SB 766</a>  | Local Government Accountability  | Perry     | local lobbyist registration; linked SB 768  | never considered                  |                     | Failed |
| <a href="#">HB 1155</a> | Legislative Review of Proposed Regulation of Unregulated Functions             | Hage      | Requires that certain requirements must be met before adoption of regulation of unregulated profession/occupation or substantial expansion of regulation of regulated profession/occupation   | 13-0, 10-2, 20-1, 98-13           | No                  | Failed |
| <a href="#">SB 1614</a> | Legislative Review of Proposed Regulation of Unregulated Functions             | Perry     | Requires that certain requirements must be met before adoption of regulation of unregulated profession/occupation or substantial expansion of regulation of regulated profession/occupation   | never considered                  |                     | Failed |
| <a href="#">HB 1199</a> | Environmental Protection Act   | Ingoglia  | preempt local governments ability from recognizing or granting legal rights to plant, body of water or any other part of the natural environment that is not a person or political subdivision  | 14-1, 12-0, 13-2                  | amended into SB 712 | Passed |
| <a href="#">SB 1382</a> | Environmental Resource Management  | Albritton | preempt local governments ability from recognizing or granting legal rights to plant, body of water or any other part of the natural environment that is not a person or political subdivision  | 4-0                               | amended into SB 712 | Passed |
| <a href="#">HB 1209</a> | Dissolution of Municipalities  | Fischer   | referendum to dissolve cities   | 13-0, 15-1                        | No                  | Failed |
| <a href="#">SB 1522</a> | Dissolution of Municipalities  | Broxson   | referendum to dissolve cities   | never considered                  |                     | Failed |



|   |   |             |  |                       |    |        |
|---|---|-------------|--|-----------------------|----|--------|
| <a href="#">HB 1237</a>   | Regulation of Pet Stores                              | Avila       | preempts regulation of stores to the state/DBPR; establishes regulatory framework  | never considered      |    | Failed |
| <a href="#">SB 1698</a>   | Regulation of Pet Stores                              | Diaz        | preempts regulation of stores to the state/DBPR; establishes regulatory framework  | TPd twice             |    | Failed |
| <a href="#">SB 1578</a>   | Education   | Hutson      | Charter schools: pages 37-39 adds teeth to existing preemption on us permitting charter schools, creates shot clock, preempts further  | 5-1                   | No | Failed |
| <b>Uniform Regulations Supported by Majority Florida Counties</b> |   |             |  |                       |    |        |
| <a href="#">SB 0182</a>   | Preemption of Recyclable and Polystyrene Materials    | Stewart     | allows local ordinances on plastic and foam  | never considered      |    | Failed |
| <a href="#">SB 1674</a>   | Legislative Preemption                                | Farmer      | proposes amendment that preemptions be passed with 2/3rds majority   | never considered      |    | Failed |
| <a href="#">HB 6009</a>   | Preemption of Firearms and Ammunition                 | Daley       | repeals firearm preemption   | never considered      |    | Failed |
| <a href="#">HB 6043</a>   | Preemption of Recyclable and Polystyrene Materials    | Grieco      | allows local ordinances on plastic and foam  | never considered      |    | Failed |
| <a href="#">SB 0134</a>   | Preemption of Firearms and Ammunition                 | Taddeo      | repeals firearm preemption   | never considered      |    | Failed |
| <a href="#">HB 6077</a>   | Preemption of Tree Pruning, Trimming, and Removal     | Eskamani    | repeals tree preemption  | never considered      |    | Failed |
| <a href="#">SB 0592</a>   | Identification of Underground Facilities              | Pizzo       | paint or marking device or the removal of such marks that are used to identify underground facilities  | never considered      |    | Failed |
| <a href="#">HB 6039</a>   | Underground Facilities                                | Duran       | paint or marking device or the removal of such marks that are used to identify underground facilities  | never considered      |    | Failed |
| <a href="#">HB 0885</a>   | State Preemption of Firearm and Ammunition Regulation | Polo        | repeals preemption of firearms on county property  | never considered      |    | Failed |
| <a href="#">HB 547</a>  | Advanced Well Stimulation Treatment                   | Fitzenhagen | fracking   | never considered      |    | Failed |
| <a href="#">SB 200</a>  | Advanced Well Stimulation Treatment                   | Montford    | fracking   | unanimous, 5-0        | No | Failed |
| <a href="#">HB 209</a>  | Emotional Support Animals                             | Killebrew   | bars discrimination, allows licensing  | unanimous, 116-0      | No | Passed |
| <a href="#">SB 1084</a>   | Emotional Support Animals                             | Diaz        | bars discrimination, allows licensing  | 4-1, 10-0, 16-0, 40-0 | No | Passed |
| <a href="#">SB 250</a>  | Development Orders                                    | Berman      | Deletes entitlement for a prevailing party to recover attorney fees and costs incurred in challenging or defending an enforcement of a local comprehensive plan through development orders.                                  | never considered      |    | Failed |
| <a href="#">HB 6019</a>   | Development Orders                                    | Casello     | Deletes entitlement for a prevailing party to recover attorney fees and costs incurred in challenging or defending an enforcement of a local comprehensive plan through development orders.                                  | never considered      |    | Failed |
| <a href="#">SB 906</a>  | Prohibited Reptiles                                   | Farmer      | Prohibiting a person, party, firm, association, or corporation from keeping, possessing, importing, selling, bartering, trading, or breeding for personal use or sale for personal use green iguanas or black and white tegu | 4-0, 5-0              | No | Failed |
| <a href="#">HB 1415</a>   | Prohibited Reptiles                                   | Daley       | Prohibiting a person, party, firm, association, or corporation from keeping, possessing, importing, selling, bartering, trading, or breeding for personal use or sale for personal use green iguanas or black and white tegu | never considered      |    | Failed |
| <a href="#">SB 910</a>  | Rent Control Measures                                 | Torres      | Deletes provision/preemption prohibiting local governments from adopting ordinances or rules imposing price controls upon rents.   | never considered      |    | Failed |
| <a href="#">HB 6013</a>   | Rent Control Measures                                 | Eskamani    | Deletes provision/preemption prohibiting local governments from adopting ordinances or rules imposing price controls upon rents.   | never considered      |    | Failed |



# 2019 Preemptions

| Bill Number             | Title                                   | Sponsor        | Description of Preemption  | Vote Notes                                       | Party Line | Final Action |
|-------------------------|---|----------------|--|--|------------|--------------|
| <a href="#">HB 453</a>  | Micromobility Devices                   | Rep. Toledo    | e-scooters   | 115-0<br>32-1                                    | no         | Passed       |
| <a href="#">SB 542</a>  | Mobility Devices and Motorized Scooters | Sen. Brandes   | e-scooters   | 115-0<br>32-1                                    | no         | Passed       |
| <a href="#">HB 693</a>  | Communications Services                 | Rep. Fischer   | Small Cell Infrastructure  | companion passed<br>13-0<br>14-1<br>21-1         | no         | Passed       |
| <a href="#">HB 829</a>  | Attorney Fees and Costs                 | Rep. Sabatini  | entitles a party to attorney fees and costs if the party prevails in an action challenging a local government ordinance as preempted   | 77-34<br>25-14                                   | yes        | Passed       |
| <a href="#">SB 1000</a> | Communications Services                 | Sen. Hutson    | Small Cell Infrastructure  | 9-0<br>4-1<br>5-2<br>18-1<br>34-3<br>96-16       | no         | Passed       |
| <a href="#">HB 5</a>    | Discretionary Sales Tax                 | Rep. DiCeglie  | 2/3rds requirement for raising taxes via referenda   | Passed<br>9-3<br>12-5<br>14-7<br>69-44<br>67-43  | yes        | Passed       |
| <a href="#">HB 207</a>  | Impact Fees                             | Rep. Donalds   | Revises minimum requirements for adoption of impact fees by specified local governments; exempts water & sewer connection fees from Florida Impact Fee Act.  | Passed<br>14-0<br>22-0<br>22-0<br>101-12<br>39-1 | no         | Passed       |
| <a href="#">SB 144</a>  | Impact Fees                             | Sen. Gruters   | Revises minimum requirements for adoption of impact fees by specified local governments; exempts water & sewer connection fees from Florida Impact Fee Act.  | 5-0<br>8-0<br>19-0                               | no         | Passed       |
| <a href="#">HB 311</a>  | Autonomous Vehicles                     | Rep. Fischer   | line 202   | 14-0<br>9-0<br>20-1<br>110-0                     | no         | Passed       |
| <a href="#">HB 905</a>  | Department of Transportation            | Rep. Andrade   | prohibiting local governments from adopting standards or specifications that are contrary to the department standards or specifications for permissible use of aggregates and materials that have been certified for use | Passed<br>14-0<br>11-0<br>23-0<br>114-1<br>38-0  | no         | Passed       |
| <a href="#">SB 1044</a> | Department of Transportation            | Sen. Albritton | prohibiting local governments from adopting standards or specifications that are contrary to the department standards or specifications for permissible use of aggregates and materials that have been certified for use | Companion Passed<br>6-0<br>8-0<br>20-0           | no         | Passed       |
| <a href="#">HB 7103</a> | Community Development and Housing       | Rep. Fischer   | affordable housing   | 11-7<br>14-8<br>72-37                            | almost     | Passed       |
| <a href="#">SB 1730</a> | Community Development and Housing       | Sen. Lee       | affordable housing (compare)   | 5-0<br>7-1<br>10-6                               | no         | Passed       |
| <a href="#">HB 771</a>  | Environmental Regulation                | Rep. Overdorf  | plastic straw preemption   | passed and vetoed<br>87-23<br>24-15              | no         | Passed       |



|                         |  |                      |   |   |             |        |
|-------------------------|--|----------------------|---|---|-------------|--------|
| <a href="#">HB 1159</a> | Private Property Rights                    | Rep. La Rosa         | tree trimming/removal   | 77-36<br>22-16                                | No          | Passed |
| <a href="#">SB 1400</a> | Private Property Rights                    | Sen. Albritton       | tree trimming/removal   | substituted, passed<br>22-16                  | almost      | Passed |
| <a href="#">HB 3</a>    | Preemption of Local Occupational Licensing | Rep. M. Grant        | licensing of occupations  | 88-24, died in messages                       | no          | Failed |
| <a href="#">HB 101</a>  | Public Construction                        | Rep. Andrade         | retainage   | 14-1<br>13-1<br>18-1                          | no          | Failed |
| <a href="#">HB 141</a>  | Water Quality Improvements                 | Rep. Fine            | wastewater discharges   | passed 2 committees<br>14-0<br>11-0           | no          | Failed |
| <a href="#">SB 216</a>  | Water Quality Improvements                 | Sen. Gruters         | wastewater discharges   | passed 1 committee<br>5-0                     | no          | Failed |
| <a href="#">SB 246</a>  | Public Construction                        | Sen. Hooper          | retainage   | passed 2 committees<br>4-0<br>5-0             | no          | Failed |
| <a href="#">SB 154</a>  | Medical Marijuana Retail Facilities        | Sen. Thurston        | retail medical marijuana facilities   | never heard                                   | no          | Failed |
| <a href="#">HB 167</a>  | Local Government Public Construction Works | Rep. Andrade         | cost accounting principles; total costs of project  | passed floor<br>13-0<br>13-0<br>19-0<br>105-3 | no          | Failed |
| <a href="#">HB 303</a>  | Luxury Ground Transportation Companies     | Rep. Rommel          | taxes, fees, licenses of LGTC   | never heard                                   | no          | Failed |
| <a href="#">SB 432</a>  | Employment Conditions                      | Sen. Gruters         | conditions of employment  | Passed 1 committee<br>3-2                     | Yes         | Failed |
| <a href="#">SB 660</a>  | Transportation                             | Sen. Bradley         | line 302  | never heard                                   | no          | Failed |
| <a href="#">HB 407</a>  | Public Records                             | Rep. R. Rodrigues    | Prohibits an agency or local government from responding to a public records request by filing a civil action against the individual or entity making the request. | unanimous                                     | no          | Failed |
| <a href="#">HB 461</a>  | Medical Marijuana Retail Facilities        | Rep. Thompson        | Medical Marijuana Retail Facilities   | never heard                                   | no          | Failed |
| <a href="#">SB 588</a>  | Preemption of Local Regulations            | Sen. Hutson          | straw regulations<br>Preempts the regulation of over-   | Passed 2 Committees<br>3-1<br>5-0             | No          | Failed |
| <a href="#">HB 603</a>  | Single-Use Plastic Straws                  | Reps. Sabatini, Fine | full preemption amended to grandfather, moratorium and environmental impact study   | Passed 1 committee<br>12-4                    | yes, 4 of 5 | Failed |
| <a href="#">SB 622</a>  | Traffic Infraction Detectors               | Sen. Brandes         | red light cameras   | Agendaed<br>Temporarily Postponed             | no          | Failed |
| <a href="#">HB 715</a>  | Florida Building Code Enforcement          | Rep. Robinson        | Prohibits local government from carrying forward more than specified amount of unexpended revenue   | 11-1<br>14-0<br>TP in last committee          | no          | Failed |
| <a href="#">SB 1036</a> | Florida Building Code Enforcement          | Sen. Gruters         | Prohibits local government from carrying forward more than specified amount of unexpended revenue   | passed 1 committee<br>5-0                     | no          | Failed |



|                          |  |                                     |   |   |            |        |
|--------------------------|--|-------------------------------------|---|---|------------|--------|
| <a href="#">SB 812</a>   | Vacation Rentals   | Sen. Simmons                        | homestead vacation rentals  | never heard   | no         | Failed |
| <a href="#">SB 824</a>   | Private Property Rights of Homeowners                                      | Sen. Diaz                           | inspection, licensing, and occupancy limits   | On Agenda, TP   | no         | Failed |
| <a href="#">HB 847</a>   | Preemption of Conditions of Employment                                     | Rep. Rommel                         | voids existing conditions of employment   | Passed 2 committees<br>9-5<br>10-5                              | yes        | Failed |
| <a href="#">SB 932</a>   | Autonomous Vehicles  | Sen. Brandes                        | Autonomous Vehicles   | passed unanimous  | no         | Failed |
| <a href="#">HB 973</a>   | Water Quality Improvements   | Rep. Payne                          | biosolids and   | Passed 3 committees<br>12-0<br>29-0<br>23-0                     | no         | Failed |
| <a href="#">HB 987</a>   | Public Lodging Establishments  | Rep. Grant                          | vacation rentals  | passed 3 committees<br>10-5<br>9-2<br>13-11                     | yes and no | Failed |
| <a href="#">HJR 1273</a> | Legislative Preemption   | Rep. Goff-Marcil                    | supermajority amendment   | never heard   | no         | Failed |
| <a href="#">HB 1299</a>  | Governmental Powers  | Rep. Roach                          | various preemptions: plastic straws, sunscreen, cosmetics, alternate power supplies, tobacco            | companion passed, passed floor<br>10-4<br>18-6<br>15-7<br>70-41 | yes        | Failed |
| <a href="#">SB 1364</a>  | Comprehensive Emergency Management Planning for Assisted Living Facilities | Sen. Gruters                        | emergency management planning for assisted living facilities  | never heard   | no         | Failed |
| <a href="#">HB 1383</a>  | Property Rights  | Rep. J. Grant                       | Bert Harris revision  | Died on Calendar<br>10-5<br>21-2<br>15-3                        | no         | Failed |
| <a href="#">SB 1720</a>  | Property Rights  | Sen. Lee                            | Bert Harris revision  | TP, not considered  | no         | Failed |
| <a href="#">SB 1618</a>  | Tobacco and Nicotine Products  | Sen. Simmons                        | Tobacco 21  | died in messages<br>9-1<br>8-2<br>14-2<br>33-6                  | no         | Failed |
| <a href="#">SJR 1698</a> | Legislative Preemption   | Sen. Berman                         | supermajority amendment   | never heard   | no         | Failed |
| <a href="#">SB 1748</a>  | Preemption of Local Regulations  | Sen. Perry                          | local governments adopting new regulations  | never heard   | no         | Failed |
| <a href="#">HB 6003</a>  | Traffic Infraction Detectors   | Rep. Sabatini                       | red light cameras   | passed 1 committee<br>12-1                                      | no         | Failed |
| <a href="#">HB 7119</a>  | Use of Regulated Substances  | Health and Human Services Committee | preemption of tobacco age limit, nicotine products, dispensing devices and marketing                    | passed 1 committee<br>27-2                                      | no         | Failed |
| <a href="#">HB 27</a>    | Deregulation of Professions and Occupations                                | Rep. Ingolia                        | building code and professions   | Died on Calendar,<br>11-4<br>8-3<br>18-4                        | no         | Failed |
| <a href="#">SB 1640</a>  | Deregulation of Professions and Occupations                                | Sen. Albritton                      | building code and professions   | Died on Special Order<br>6-4<br>amended, 5-0<br>18-0            | yes        | Failed |
| <a href="#">HB 1333</a>  | Building Construction Procedures   | Rep. Payne                          | prohibits local government from carrying forward more than specified amount of certain unexpended funds | Died on Calendar<br>unanimous 3 committees                      | no         | Failed |
| <a href="#">HB 97</a>    | Monuments and Memorials  | Rep. Hill                           | Monument removal  | never heard   | no         | Failed |



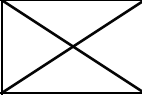
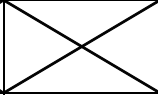
|   |  |                                      |  |   |     |        |
|---|--|--------------------------------------|--|---|-----|--------|
| <a href="#">SB 288</a>  | Monuments and Memorials                            | Sen. Baxley                          | Monument removal   | never heard                                       | No  | Failed |
| <a href="#">HB 847</a>  | Preemption of Conditions of Employment             | Rep. Rommel                          | voids existing conditions of employment  | 9-5<br>10-5<br>Died in Commerce                   | Yes | Failed |
| <a href="#">SB 432</a>  | Preemption of Conditions of Employment             | Sen. Gruters                         | voids existing conditions of employment  | passed 1 committee, 3-2                           | yes | Failed |
| <a href="#">HB 723</a>  | Fire Protection Systems                            | Rep. Donalds                         | fire inspections   | passed 2 committees, 13-2<br>9-3                  | no  | Failed |
| <a href="#">HB 157</a>  | Fertilizers  | Rep. Thompson                        | fertilizer, estuary runoff   | never heard                                       | no  | Failed |
| <a href="#">SB 1716</a>   | Fertilizers  | Sen. Bracy                           | fertilizer, estuary runoff   | never heard                                       | no  | Failed |
| <a href="#">HB 1169</a>   | Displacement of Private Waste Companies            | Rep. McClure                         | Revising the process for a local government to displace a private waste company in a county or municipality  | 11-2<br>14-0<br>21-0<br>107-9<br>Died in Messages | no  | Failed |
| <a href="#">SB 1572</a>   | Displacement of Private Waste Companies            | Sen. Albritton                       | Revising the process for a local government to displace a private waste company in a county or municipality; | TP, not considered                                | no  | Failed |
| <a href="#">SB 908</a>  | Fire Protection Systems                            | Sen. Hooper                          | fire inspections   | Died in returning messages                        | no  | Failed |
| <a href="#">SB 806</a>  | Local Government Public Construction Works         | Sen. Perry                           | cost accounting principles; total costs of project   | passed 1 committee<br>5-0                         | no  | Failed |
| <b>Uniform Regulations Supported by Majority Florida Counties</b> |  |                                      |  |   |     |        |
| <a href="#">SB 88</a>   | Preemption of Recyclable and Polystyrene Materials | Sen. Stewart                         | repeals plastic/foam bans  | never heard                                       | no  | Failed |
| <a href="#">SB 394</a>  | Criminal History Records in Applications           | Sen. Farmer                          | felon employment requirement   | never heard                                       | no  | Failed |
| <a href="#">HB 667</a>  | Criminal History Records in Applications           | Rep. Alexander                       | felon employment requirement   | never heard                                       | no  | Failed |
| <a href="#">SB 1532</a>   | Local Regulation of Firearms and Ammunition        | Sen. Rouson                          | allows local gun ordinances  | never heard                                       | no  | Failed |
| <a href="#">SB 1662</a>   | Preemption of Firearms and Ammunition              | Sen. Taddeo                          | allows local gun ordinances  | never heard                                       | no  | Failed |
| <a href="#">HB 6033</a>   | Preemption of Recyclable and Polystyrene Materials | Rep. Grieco, Eskamani                | repeals plastic/foam bans  | never heard                                       | no  | Failed |
| <a href="#">HB 6061</a>   | Local Regulation of Firearms and Ammunition        | Rep. Diamond                         | allows local gun ordinances  | never heard                                       | no  | Failed |
| <a href="#">HB 6069</a>   | Preemption of Firearms and Ammunition              | Rep. Stark                           | allows local gun ordinances  | never heard                                       | no  | Failed |
| <a href="#">SB 7012</a>   | Vaping   | Innovation, Industry, and Technology | allows more restrictive local law  | became law, unanimous                             | no  | Passed |



## 2018 Preemptions

| Bill Number             | TITLE  | Sponsor                                    | Description of Preemption                     | Progress  | Floor Vote    | Party Line    | Final Action |
|-------------------------|--|--|---|---|---------------|---------------|--------------|
| <a href="#">HB 545</a>  | Prohibition Against Contracting with Scrutinized Companies | Rep. Fine, Moskowitz                       | BDS boycott                                   | 20-2  | 109-3         | no            | Passed       |
| <a href="#">HB 553</a>  | Department of Agriculture and Consumer Services            | Rep. Raburn                                | department bill; seed preemption              | companion passed; 14-0<br>13-0<br>21-3          |               |               | Passed       |
| <a href="#">SB 740</a>  | Department of Agriculture and Consumer Services            | Sen. Stargel                               | department bill; seed preemption              | 6-0<br>7-0<br>20-0                              | 34-0<br>116-0 | no            | Passed       |
| <a href="#">SB 780</a>  | Prohibition Against Contracting with Scrutinized Companies | Sen. Brandes                               | BDS boycott                                   | 6-0<br>8-2<br>16-0                              | 35-1          | no            | Passed       |
| <a href="#">SB 134</a>  | Concealed Weapons or Firearms                              | Sen. Steube                                | courthouse firearms                           | Failed, 4-6                                     |               | no            | Failed       |
| <a href="#">SB 176</a>  | Traffic Infraction Detectors                               | Sen. Hutson                                | red light cameras                             | never heard                                     |               |               | Failed       |
| <a href="#">HB 353</a>  | Autonomous Vehicles  | Appropriations Committee, Fischer, Brodeur | AV preemption                                 | 13-0<br>20-0                                    |               |               | Failed       |
| <a href="#">HB 383</a>  | Concealed Weapons or Firearms                              | Reps. Byrd, White                          | courthouse firearms                           | withdrawn                                       |               |               | Failed       |
| <a href="#">SB 548</a>  | Traffic Infraction Detectors                               | Sen. Campbell                              |   | never heard                                     |               |               | Failed       |
| <a href="#">HB 773</a>  | Vacation Rentals   | Rep. La Rosa                               |   | passed 1 committee, no floor hearing, 13-1      |               |               | Failed       |
| <a href="#">HB 1033</a> | Bicycle Sharing  | Rep. Toledo                                | cannot limit or prevent bike share            | 13-1<br>23-0                                    | 114-0         | no            | Failed       |
| <a href="#">HB 1053</a> | Medical Marijuana Retail Facilities                        | Rep. DuBose                                |   | never heard                                     |               |               | Failed       |
| <a href="#">SB 1262</a> | Election Dates for Municipal Office                        | Sen. Hutson                                | municipal election dates                      | 4-3<br>4-3<br>7-6<br>companion died on calendar |               |               | Failed       |
| <a href="#">SB 1304</a> | Bicycle Sharing  | Sen. Young                                 | cannot limit or prevent bike share            | heard in one committee, 8-2                     |               |               | Failed       |
| <a href="#">SB 1336</a> | Medical Marijuana Retail Facilities                        | Sen. Thurston                              |   | never heard                                     |               |               | Failed       |
| <a href="#">SB 1400</a> | Vacation Rentals   | Sen. Steube                                | grandfather, preemption, uniform regulations` | passed 2 committee, 4-2<br>9-1                  |               | yes before CS | Failed       |



|   |  |                      |   |                  |   |   |        |
|---|--|----------------------|---|------------------|---|---|--------|
| <a href="#">HB 1433</a>   | Racing Animals   | Rep. Byrd            | greyhound racing                              | never heard      |   |   | Failed |
| <a href="#">SB 1534</a>   | Government Integrity   | Sen. Mayfield        | lobbyist registration                         | never heard      |   |   | Failed |
| <a href="#">SB 1640</a>   | Vacation Rentals   | Sen. Simmons         | grandfather, preemption, uniform regulations` | 4-2 as CS        |   | yes before CS   | Failed |
| <a href="#">SB 1774</a>   | Greyhound Racing   | Sen. Rader           | greyhound racing                              | never heard      |   |   | Failed |
| <a href="#">SB 1856</a>   | Beverage Container Deposits  | Sen. Rader           | local recycling redemption program preemption | never heard      |   |   | Failed |
| <a href="#">HB 6001</a>   | Traffic Infraction Detectors   | Rep. Avila, Ingoglia | red light cameras                             | 16-10            | 83-18   | yes in committee, no on floor   | Failed |
| <a href="#">HB 7003</a>   | Local Government Ethics Reform   | Rep. Metz            | lobbyist registration                         | Died in Senate   | 100-2   | no  | Failed |
| <b>Uniform Regulations Supported by Majority Florida Counties</b> |  |                      |   |                  |   |   |        |
| <a href="#">SB 562</a>  | Regulation of Smoking  | Sen. Mayfield        | allows county to regulate parks               | died in messages | 6-0<br>8-0<br>10-1<br>36-1  | no  | Failed |
| <a href="#">HB 627</a>  | Regulation of Smoking  | Rep. Altman          | allows county to regulate parks               | never heard      |  |  | Failed |
| <a href="#">SB 1014</a>   | Recyclable Materials   | Sen. Stewart         |   |                  |   |   | Failed |
| <a href="#">HB 6039</a>   | Auxiliary Containers, Wrappings, and Disposable Plastic Bags Used by Retail Establishments | Rep. Richardson      |   |                  |   |   | Failed |



## 2017 Preemptions

| Bill Number             | TITLE   | Sponsor                              | Description of Preemption   | Progress                                 | Floor Vote     | Party Line         | Final Action |
|-------------------------|---|--------------------------------------|---|--|----------------|--------------------|--------------|
| <a href="#">HB 221</a>  | Transportation Network Companies                    | Government Accountability Committee  | Uber/Lyft   | passed; 14-1<br>21-1                     | 115-0<br>36-1  | no                 | Passed       |
| <a href="#">SB 330</a>  | Local Business Taxes                                | Rep. Steube                          | exemption from local business taxes for veterans, active servicemembers spouses, individuals who receive public assistance, low income individual, business owners of the above classes |  |                |                    | Passed       |
| <a href="#">SB 340</a>  | Transportation Network Companies                    | Sen. Brandes                         | Uber/Lyft   | 7-2<br>9-0<br>10-1                       | 115-0          | no                 | Passed       |
| <a href="#">HB 1021</a> | Construction  | Rep. Avila                           | corporate logos and gas station signs; painting permits   | became law;<br>13-0<br>23-0<br>29-0      | 119-0<br>116-0 |                    | Passed       |
| <a href="#">SB 1312</a> | Construction  | Sen. Perry                           | corporate logos and gas station signs; painting permits   | 6-0<br>7-1<br>17-0                       | 34-2           | no                 | Passed       |
| <a href="#">HB 17</a>   | Local Regulation Preemption                         | Careers and Competition Subcommittee |   | died in commerce;<br>9-6                 |                | yes, plus 1 R      | Failed       |
| <a href="#">SB 178</a>  | Traffic Infraction Detectors                        | Sen. Artilles                        | red light cameras   | died in committee                        | 2-2            | no                 | Failed       |
| <a href="#">SB 188</a>  | Vacation Rentals                                    | Sen. Steube                          |   | 7-3<br>5-3<br>11-1                       |                | mostly             | Failed       |
| <a href="#">SB 320</a>  | Dogs in Vehicles                                    | Sen. Steube                          | dogs in vehicles; tethering   | never heard                              |                |                    | Failed       |
| <a href="#">SB 406</a>  | Compassionate Use of Low-THC Cannabis and Marijuana | Sen. Bradley                         | marijuana and med. Marijuana treatment centers  | 7-0<br>6-1<br>15-1                       | 31-7           | no's on both sides | Failed       |
| <a href="#">HB 425</a>  | Vacation Rentals                                    | Commerce Committee                   |   | died on calendar;<br>9-6<br>9-6<br>17-11 | 63-56          | yes plus some Rs   | Failed       |
| <a href="#">HB 627</a>  | Dogs in Vehicles                                    | Rep. Moskowitz                       | dogs in vehicles; tethering   | never heard                              |                |                    | Failed       |
| <a href="#">SB 630</a>  | Traffic Infraction Detectors                        | Sen. Campbell                        | red light cameras   | never heard                              |                |                    | Failed       |
| <a href="#">SB 1158</a> | Regulation of Commerce, Trade, and Labor            | Sen. Passidomo                       | super preemption on trade   | never heard                              |                |                    | Failed       |
| <a href="#">SB 1388</a> | Medical Cannabis                                    | Sen. Artilles                        | medical cannabis for MMTCS  | never heard                              |                |                    | Failed       |
| <a href="#">HB 1397</a> | Medical Use of Marijuana                            | Rep. Rodrigues                       | Regulation of cultivation, processing, and delivery of marijuana by medical marijuana treatment centers   | 14-1<br>16-8<br>14-4<br>105-9            | 99-16          | no                 | Failed       |
| <a href="#">SB 1666</a> | Medical Use of Marijuana                            | Sen. Braynon II                      | marijuana mmtc  | never heard                              |                |                    | Failed       |
| <a href="#">SB 1758</a> | Medical Use of Marijuana                            | Sen. Grimsley                        | marijuana mmtc  | never heard                              |                |                    | Failed       |
| <a href="#">HB 6007</a> | Traffic Infraction Detectors                        | Rep. Avila, Ingoglia                 | red light cameras   | 13-1<br>20-7<br>16-3                     | 91-22          | no                 | Failed       |



| Uniform Regulations Supported by Majority Florida Counties |                  |                 |   |             |  |        |
|--|------------------|-----------------|---|-------------|--|--------|
| <a href="#">SB 1516</a>                                    | Vacation Rentals | Sen. Rader      | expressly allows regulation of vacation rentals | never heard |  | Failed |
| <a href="#">HB 6003</a>                                    | Vacation Rentals | Rep. Richardson | expressly allows regulation of vacation rentals | never heard |  | Failed |



## 2016 Preemptions

| Bill Number            | Title                                     | Sponsor             | Description of Preemption  | Vote Notes                           | Party Line | Final Action |
|------------------------|---|---------------------|--|--------------------------------------|------------|--------------|
| <a href="#">HB 59</a>  | Agritourism                               |                     |  | 113-0                                | Yes        | Passed       |
| <a href="#">SB 86</a>  | Scrutinized Companies                     | Sen. Negron         |  | 112-2                                | No         | Passed       |
| <a href="#">HB 221</a> | Health Care Services                      | Rep. Trujillo       | Balance Billing  | 118-1                                | No         | Passed       |
| <a href="#">SB 304</a> | Agritourism                               | Sen. Stargel        |  | 35-0                                 | No         | Passed       |
| <a href="#">HB 307</a> | Medical Use of Cannabis                   | Rep. Gaetz, Edwards | cultivation and processing of medical cannabis or low-THC cannabis by dispensing organizations   | 28-11<br>99-16                       | No         | Passed       |
| <a href="#">SB 460</a> | Medical Use of Cannabis                   | Sen. Bradley        | cultivation and processing of medical cannabis or low-THC cannabis by dispensing organizations   | substituted companion passed         | No         | Passed       |
| <a href="#">SB 516</a> | Special Districts                         | Sens. Ring, Gaetz   |  | Companion passed (compare)           | No         | Passed       |
| <a href="#">HB 589</a> | Environmental Control                     | Rep. Pigman         |  | 118-0<br>38-0                        | No         | Passed       |
| <a href="#">HB 691</a> | Retail Sale of Dextromethorphan           | Rep. Broxson        | sale of dextromethorphan   | 17-0<br>Substituted                  | No         | Passed       |
| <a href="#">SB 704</a> | Building Codes                            | Sen. Hutson         | Prohibits local enforcement agencies from requiring payment of any additional fees, charges, or expenses associated with providing proof of licensure as a contractor, recording a contractor license, or providing or recording evidence of workers' compensation insurance covered by a contractor | substituted companion passed, HB 535 | No         | Passed       |
| <a href="#">HB 745</a> | Special Districts                         | Rep. Nunez          |  | Companion passed (compare)           | No         | Passed       |
| <a href="#">HB 749</a> | Agriculture                               | Rep. Raburn         | feed or feedstuff  | 37-0<br>115-0                        | No         | Passed       |
| <a href="#">HB 773</a> | Special Assessments on Agricultural Lands | Rep. Albritton      | Prohibits counties & municipalities from levying special assessments on certain agricultural lands for fire protection services  | 37-0<br>114-0                        | No         | Passed       |
| <a href="#">SB 938</a> | Retail Sale of Dextromethorphan           | Sen. Benacquisto    | sale of dextromethorphan   | 115-2<br>39-1                        | No         | Passed       |



|                         |   |  |  |   |       |        |
|-------------------------|---|--|--|---|-------|--------|
| <a href="#">SB 1010</a> | Department of Agriculture and Consumer Services | Sen. Montford                                  | polystyrene; feed and feedstuffs   | Substituted companion passed, HB 7007         | No    | Passed |
| <a href="#">SB 1052</a> | Environmental Control                           | Sen. Hays                                      |  | Substituted companion passed, HB 589          | No    | Passed |
| <a href="#">SB 1310</a> | Agriculture                                     | Sen. Hutson                                    | feed or feedstuff  | Companion passed HB 535, HB 431               | No    | Passed |
| <a href="#">HB 1361</a> | Growth Management                               | Rep. La Rosa                                   | DRIs   | 113-0 34-2                                    | No    | Passed |
| <a href="#">SB 1442</a> | Balance Billing                                 | Sen. Garcia                                    |  | Substituted companion passed, HB 221, HB 1175 | No    | Passed |
| <a href="#">SB 1664</a> | Special Assessments on Agricultural Lands       | Sen. Stargel                                   | Prohibiting counties and municipalities from levying special assessments on certain agricultural lands for the provision of fire protection services | Substituted companion passed, HB 773          | No    | Passed |
| <a href="#">HB 7007</a> | Department of Agriculture and Consumer Services | Agriculture and Natural Resources Subcommittee | polystyrene; feed and feedstuffs   | 110-4, HB 749 passed                          | No    | Passed |
| <a href="#">HB 63</a>   | Medical Use of Low-THC Cannabis                 | Rep. Steube                                    | matters regarding the licensure and regulation of cultivation and processing facilities, including the location of such facilities                   | withdrawn                                     | No    | Failed |
| <a href="#">HB 79</a>   | Local Tax Referenda                             | Rep. Artiles                                   |  | 92-22   | Mixed | Failed |
| <a href="#">HB 165</a>  | County Officers                                 | Sen. Artiles                                   | remove county's authority to choose certain county officers  | Died on Calendar                              | No    | Failed |
| <a href="#">SB 168</a>  | Traffic Infraction Detectors                    | Sen. Brandes                                   |  | 4-3   | Yes   | Failed |
| <a href="#">HB 175</a>  | Transportation Network Companies                | Rep. Gaetz                                     |  | Withdrawn                                     | No    | Failed |
| <a href="#">HB 181</a>  | Public Works                                    | Reps. Van Zant, Tobia                          | contractor seeking bid   | TP on Floor                                   | Yes   | Failed |
| <a href="#">HB 191</a>  | Regulation of Oil and Gas Resources             | Rep. Rodrigues, Pigman                         | fracking   | 73-45   | Yes   | Failed |



|                        |                                     |                        |   |                                   |            |        |
|------------------------|-------------------------------------|------------------------|---|-----------------------------------|------------|--------|
| <a href="#">HB 315</a> | Medical Examiners Fee               | Rep. Roberson          | prohibition of fees   | Died in Returning Messages        | No         | Failed |
| <a href="#">SB 318</a> | Regulation of Oil and Gas Resources | Sen. Richter           | fracking  | 9-10 failed in approps            | Yes and Rs | Failed |
| <a href="#">SB 348</a> | Vacation Rentals                    | Sen. Altman            |   | Never heard                       | No         | Failed |
| <a href="#">HB 509</a> | Transportation Network Companies    | Rep. Gaetz, Grant      |   | 108-10                            | No         | Failed |
| <a href="#">HB 517</a> | COPCNs                              | Reps. Renner, Campbell |   | Died on Calendar                  | No         | Failed |
| <a href="#">SB 544</a> | Nonresidential Farm Buildings       | Sen. Dean              |   | Died in Committee                 | No         | Failed |
| <a href="#">SB 598</a> | Public Works                        | Sen. Brandes           |   | Died 2-3                          | No         | Failed |
| <a href="#">SB 620</a> | Medical Examiners                   | Sen. Grimsley          | Medical Examiners Fee   | Died in returning Messages 102-15 | No         | Failed |
| <a href="#">SB 648</a> | County Officers                     | Sen. Hutson            |   | 4-1 Died in committee             | No         | Failed |
| <a href="#">HB 675</a> | Federal Immigration Enforcement     | Rep. Metz              | mandates local government compliance with “voluntary” ICE detainer requests; creates new causes of action against government officials; requires jails to absorb costs associated with incarcerating detainees. | Died in Messages 80-38            | Yes        | Failed |
| <a href="#">SB 742</a> | COPCNs                              | Sen. Hutson            |   | Died in Rules                     | Almost     | Failed |
| <a href="#">HB 841</a> | Nonresidential Farm Buildings       | Rep. Van Zant          |   | Never heard                       | No         | Failed |
| <a href="#">SB 852</a> | Medical Marijuana                   | Sen. Brandes           | licensure and regulation of cultivation, processing, and cultivation and processing facilities  | Never heard                       | No         | Failed |
| <a href="#">SB 872</a> | Federal Immigration Enforcement     | Sen. Bean              | mandates local government compliance with “voluntary” ICE detainer requests; creates new causes of action against government officials; requires jails to absorb costs associated with incarcerating detainees. | Never heard                       | No         | Failed |







|                         |                       |                 |  |  |  |
|-------------------------|-----------------------|-----------------|--|--|--|
| <a href="#">SB 1554</a> | Regulation of Smoking | Sen. Altman     | repeals preemption on smoking regulations            |  |  |
| <a href="#">SB 1598</a> | Vacation Rentals      | Sen. Margolis   | allows local regulations on vacation rentals         |  |  |
| <a href="#">HB 4045</a> | Vacation Rentals      | Rep. Richardson | allows local regulations on vacation rentals         |  |  |
| <a href="#">HB 4063</a> | Regulation of Smoking | Rep. Moraitis   | Repeals preemption to state of regulation of smoking |  |  |



### 2015 Preemptions

| Bill Number   | Title   | Sponsor                                       | Description of Preemption   | Vote Notes                            | Party Line | Final Action |
|---|---|---|---|---------------------------------------|------------|--------------|
| <a href="#">SB 7002</a>   | Workforce Services  | Commerce and Tourism                          | repealed working group to study preemption of employment benefits                                   | Substituted companion passed, HB 7019 | No         | Passed       |
| <a href="#">HB 7019</a>   | Workforce Services  | Economic Development and Tourism Subcommittee | repealed working group to study preemption of employment benefits                                   | 111-0<br>38-0                         | No         | Passed       |
| <a href="#">SB 528</a>  | Medical Use of Marijuana  | Sen. Brandes                                  | licensure and regulation of cultivation and processing facilities, including locations of marijuana | Never heard                           | No         | Failed       |
| <a href="#">HB 583</a>  | Single-Sex Public Facilities  | Rep. Artilles                                 | single-sex public facilities  | passed 2 committees                   | Yes        | Failed       |
| <a href="#">HB 683</a>  | Medical Use of Marijuana  | Rep. Steube, Wood                             | licensure and regulation of cultivation and processing facilities, including locations of marijuana | Never heard                           | No         | Failed       |
| <a href="#">HB 735</a>  | Vacation Rentals  | Rep. Moraitis, Mayfield                       | minimum stay requirement  | Never heard                           | No         | Failed       |
| <a href="#">HB 817</a>  | Transportation Network Companies                                    | Rep. Gaetz                                    | prohibition on local tax, fees, licenses  | Died on calendar                      | Yes        | Failed       |
| <a href="#">SB 1344</a>   | Vacation Rentals  | Sen. Altman                                   | minimum stay requirement  | Never heard                           | No         | Failed       |
| <a href="#">SB 1510</a>   | Regulation of Weapons   | Sen. Altman                                   | weapons and ammunition  | Never heard                           | No         | Failed       |
| <a href="#">HB 4025</a>   | Traffic Infraction Detectors  | Rep. Artilles                                 | red light cameras   | Never heard                           | No         | Failed       |
| <a href="#">HB 4047</a>   | Regulation of Firearms and Ammunition                               | Rep. Williams                                 | repeals state preemption of firearms  | Never heard                           | No         | Failed       |
| <a href="#">SB 7066</a>   | Low-THC Cannabis  | Regulated Industries                          | cultivation and processing facilities   | Died on calendar                      | No         | Failed       |
| <a href="#">HB 7111</a>   | Conscience Protection for Actions of Private Child-Placing Agencies | Health and Human Services Committee           | child-placing agency's exercise of authority  | Died in messages, 75-38               | Yes        | Failed       |
| <b>Uniform Regulations Supported by Majority Florida Counties</b> |   |   |   |                                       |            |              |
| <a href="#">HB 385</a>  | Public Lodging and Public Food Service Establishment Inspections    | Rep. Antone                                   | ?   |                                       |            |              |
| <a href="#">SB 470</a>  | Public Food Service Establishment Inspections                       | Sen. Sobel                                    | ?   |                                       |            |              |
| <a href="#">HB 4015</a>   | Public Lodging Establishments & Public Food Service Establishments  | Rep. Campbell                                 | removes preemption of lodging and food establishments   |                                       |            |              |



## 2014 Preemptions

| Bill Number             | Title                                       | Sponsor  | Description of Preemption  | Vote Notes                            | Party Line | Final Action |
|-------------------------|---|--|--|---------------------------------------|------------|--------------|
| <a href="#">HB 169</a>  | Tobacco and Nicotine Product Regulation     | Rep. Artiles, Renuart                          | tobacco and nicotine products  | Companion passed                      | no         | Passed       |
| <a href="#">HB 185</a>  | Gasoline Stations                           | Rep. Danish                                    | fueling assistance to motor vehicle operators  | Companion passed, HB 7005             | no         | Passed       |
| <a href="#">SB 224</a>  | Tobacco and Nicotine Product Regulation     | Sen. Benacquisto                               | tobacco and nicotine products, advertising   | 117-0<br>37-0                         | no         | Passed       |
| <a href="#">SB 1012</a> | Financial Services                          | Sen. Richter                                   | financial lending activities including lending interest rates, reporting requirements    | 118-0<br>38-0                         | No         | Passed       |
| <a href="#">SB 1184</a> | Gasoline Stations                           | Sen. Brandes                                   | fueling assistance to motor vehicle operators  | companion passed, HB 7005             | No         | Passed       |
| <a href="#">HB 1237</a> | Special Districts                           | Rep. Metz                                      | revises the local government requirements for overseeing and reviewing special districts | companion passed, SB 1632             | No         | Passed       |
| <a href="#">SB 1632</a> | Special Districts                           | Sen. Stargel                                   | revises the local government requirements for overseeing and reviewing special districts | 38-0<br>115-0                         | No         | Passed       |
| <a href="#">HB 7005</a> | Transportation                              | Transportation and Highway Safety Subcommittee | air or vacuum supply/pricing   | 37-0<br>106-3                         | No         | Passed       |
| <a href="#">SB 458</a>  | Regulation of Knives and Weapons            | Sen. Altman                                    | knives and weapons   | never heard                           | no         | Failed       |
| <a href="#">HB 553</a>  | Traffic Control Devices                     | Rep. McBurney                                  | intersection tickets?  | never heard                           | no         | Failed       |
| <a href="#">HB 571</a>  | Residency of Candidates and Public Officers | Rep. Rodrigues                                 | elected officials residences   | passed 1 committee                    | no         | Failed       |
| <a href="#">SB 612</a>  | Government Contracting                      | Sen. Hays                                      | bid vendor preferences; florida businesses   | Died in Appropriation s               | no         | Failed       |
| <a href="#">HB 703</a>  | Environmental Regulation                    | Rep. Patronis                                  | water well construction permitting regulations   | Companion passed (without preemption) | yes        | Failed       |
| <a href="#">SB 926</a>  | Wage Theft                                  | Sen. Simpson                                   | wage theft ordinances after 1/1/14   | Died on Calendar                      | Yes        | Failed       |



|   |   |               |  |                   |     |        |
|---|---|---------------|--|-------------------|-----|--------|
| <a href="#">HB 957</a>  | Local Regulation of Wage Theft                | Rep. Combee   | wage theft ordinances after 1/1/14   | Died in committee | Yes | Failed |
| <a href="#">HB 1129</a>   | Special Districts                             | Rep. Caldwell | prohibit local laws granting additional powers to a CDD created under part II except those codifying powers approved by the voters | Died on Calendar  | No  | Failed |
| <a href="#">SB 1464</a>   | Environmental Regulation                      | Sen. Simpson  | Development of Regional Impact?  | Died in committee | No  | Failed |
| <a href="#">SPB 7052</a>  | Gaming  | Gaming        | all matters of gaming, except occupational licenses  | Workshopped       | No  | Failed |
| <b>Uniform Regulations Supported by Majority Florida Counties</b> |   |               |  |                   |     |        |
| <a href="#">HB 305</a>  | Regulation of Firearms and Ammunition         | Rep. Waldman  | allowing ordinances on county property   |                   |     |        |
| <a href="#">HB 309</a>  | Florida Clean Indoor Air Act                  | Rep. Edwards  | playgrounds and restricted smoking zones   |                   |     |        |
| <a href="#">SB 342</a>  | Florida Clean Indoor Air Act                  | Sen. Bradley  | playgrounds and restricted smoking zones   |                   |     |        |
| <a href="#">SB 492</a>  | Regulation of Firearms and Ammunition         | Sen. Margolis | allowing ordinances on county property   |                   |     |        |
| SB 578  | Domestic Partners                             | Sen. Sobel    |  |                   |     |        |
| <a href="#">HB 1303</a>   | Public Food Service Establishment Inspections | Rep. Edwards  | allows nutritional content and marketing of foods regulation   |                   |     |        |



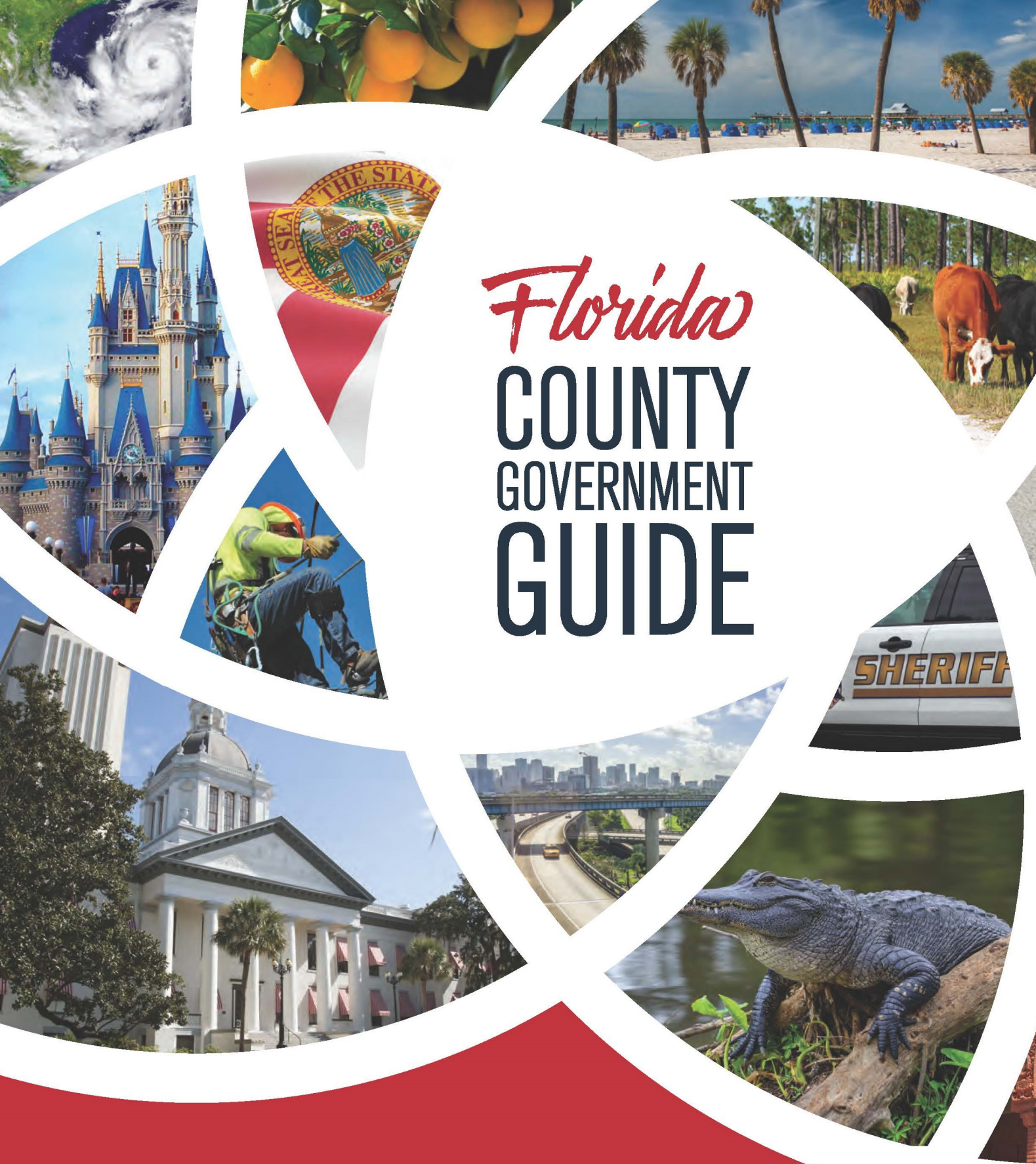
### 2013 Preemptions

| Bill Number             | Title  | Sponsor               | Description of Preemption   | Vote Notes   | Party Line | Final Action |
|-------------------------|--|-----------------------|---|--|------------|--------------|
| <a href="#">HB 155</a>  | Prohibition of Electronic Gambling Devices                   | Trujillo and Patronis | sweepstakes   | 108-7<br>36-4  |            | Passed       |
| <a href="#">HB 655</a>  | Employment Benefits  | Rep. Precourt         | study to determine preemption of employment benefits  | 76-41  | yes        | Passed       |
| <a href="#">SB 726</a>  | Regulation of Family or Medical Leave Benefits for Employees | Sen. Simmons          | Prohibiting a political subdivision from requiring or otherwise regulating family or medical leave benefits for employees   | Substituted, companion passed<br>6-3<br>6-3<br>13-6      | yes        | Passed       |
| <a href="#">HB 303</a>  | Communications Services Tax                                  | Rep. Grant            | repeals local CST, legislative offset   | never heard  | no         | Failed       |
| <a href="#">HB 307</a>  | Preference in Award of Governmental Contracts                | Rep. Tobia            | local ordinances on bids  | 11-2<br>died   | no         | Failed       |
| <a href="#">SB 684</a>  | Preference in Award of State Contracts                       | Sen. Hays             | local ordinances on bids  | 6-2  | no         | Failed       |
| <a href="#">HB 861</a>  | Health Care  | Rep. Van Zant         | prohibits state or political subdivisions from implementing health care exchange under PPACA or imposing penalties that violate public policy set forth in this act | never heard  | no         | Failed       |
| <a href="#">SB 966</a>  | Health Care  | Sen. Bean             | regulation of the licensure, activity, and operation of pharmacies and pharmacists  | died on calendar, companion passed                       | no         | Failed       |
| <a href="#">HB 1125</a> | Employers and Employees                                      | Rep. Goodson          | wage theft  | died in messages<br>71-45                                | yes        | Failed       |
| <a href="#">SB 1192</a> | Provision of Health Care with Controlled Substances          | Sen. Grimsley         | regulation of the licensure, activity, and operation of pharmacies and pharmacists  | Died in House Messages<br>37-0                           | no         | Failed       |
| <a href="#">SB 1216</a> | Employers and Employees                                      | Sen. Bradley          | wage theft  | Died on Calendar<br>5-1<br>moved to calendar             | no         | Failed       |
| <a href="#">HB 1245</a> | Building Construction  | Rep. Davis            | prohibits adopting any mandatory sprinkler provisions   | 13-0<br>26-0<br>17-0<br>113-0<br>Died in Senate Messages | no         | Failed       |



|   |  |                 |  |             |    |        |
|---|--|-----------------|--|-------------|----|--------|
| <a href="#">SB 1422</a>   | Communications Services Tax                          | Sen. Richter    | repeals local CST, legislative offset  | never heard | no | Failed |
| <b>Uniform Regulations Supported by Majority Florida Counties</b> |  |                 |  |             |    |        |
| <a href="#">HB 97</a>   | Concealed Weapons and Firearms                       | Rep. Powell     | allowing local governments to regulate firearms at public/government facilities  | never heard | no | Failed |
| <a href="#">HB 141</a>  | Florida Clean Indoor Air Act                         | Rep. Cummings   | Authorizes municipalities & counties to restrict smoking on certain properties   | withdrawn   | no | Failed |
| SB 196  | Domestic Partners                                    | Sen. Sobel      |  |             |    | Failed |
| <a href="#">SB 258</a>  | Florida Clean Indoor Air Act                         | Sen. Bradley    | Authorizes municipalities & counties to restrict smoking on certain properties   | 10-0<br>6-3 |    | Failed |
| <a href="#">SB 374</a>  | Concealed Weapons and Firearms                       | Sen. Braynon II | allowing local governments to regulate firearms at public/government facilities  | never heard | no | Failed |
| <a href="#">HB 439</a>  | Regulation of Smoking by Municipalities and Counties | Rep. Hager      | allowing local governments to regulate smoking on outdoor property   | never heard | no | Failed |
| <a href="#">HB 993</a>  | Regulation of Firearms and Ammunition                | Rep. Waldman    | county or municipality may regulate possession of firearms on property owned by such municipality or county.   | never heard | no | Failed |
| <a href="#">SB 1018</a>   | Regulation of Firearms and Ammunition                | Sen. Ring       | municipalities and counties of this state may regulate the field of firearms and ammunition, including the purchase, sale, transfer, taxation, manufacture, ownership, possession, storage, and transportation of firearms and ammunition, | never heard | no | Failed |





# *Florida* COUNTY GOVERNMENT GUIDE

*Your Guide to  
County Government*



**UF** | **IFAS Extension**  
UNIVERSITY of FLORIDA



# *Florida* COUNTY GOVERNMENT GUIDE





# **Florida County Government Guide**

## **Third Edition**

### **2018 Update**

*a publication of the*  
**Florida Association of Counties**

*sponsored by the*  
**Florida Counties Foundation**  
**University of Florida/IFAS Extension**

*with assistance from the*  
**John Scott Dailey**  
**Florida Institute of Government**

*This is the most updated version of the Florida County Government Guide. Every two years the Guide is reviewed and updated for content; this version will be updated in 2018. A full revision of the Guide is completed every four years, the fourth edition will be published in 2020.*

*The mission of the Florida Association of Counties helps counties effectively serve and represent Floridians by strengthening and preserving county home rule through advocacy, education and collaboration.*



***Published by the Florida Association of Counties © 2018***

Office Location: 100 South Monroe Street, Tallahassee, Florida 32301

Telephone: (850) 922-4300

FAX: (850) 488-7501

To order this guide or for more information about FAC including the latest legislative updates, dates for our upcoming events, and contact information for the entire FAC staff go to:  
[www.fl-counties.com](http://www.fl-counties.com).



---

# Preface

---

For over 80 years, the Florida Association of Counties (FAC) has represented the diverse interests of Florida's counties, emphasizing the importance of protecting home rule – the concept that communities and their local leaders should make the decisions that impact their community.

FAC is the only association representing Florida's counties – bringing together the collective experience and knowledge of 377 county commissioners and supported by thousands of county professional staff. FAC provides the cohesive platform that enables county officials and staff to speak with a unified voice on behalf of all Floridians. Through FAC, counties are better able to serve not only their communities, but the entire state of Florida.

Throughout the state, Florida's counties perform vital public services such as public safety, fire and emergency medical services, jails, parks, libraries, healthcare, growth management, economic development, and road to name a few. To better understand these services FAC has put together the *Florida County Government Guide*, to serve as a handbook that will explain the basic elements of county governance, administration, policy making, and budgeting to elected officials, staff, students and scholars, the media and the public.

This *Guide* includes chapters on all aspects of Florida county government, including Florida's history, county government structure, leadership and management, budgeting methods and strategies, economic development and growth management, human resources, purchasing and contracting, health and safety, and infrastructure.

FAC would foremost like to express appreciation to the Florida Counties Foundation (FCF) and the University of Florida Institute of Food and Agricultural Sciences (IFAS) Extension Services for sponsoring this project. It has been a desire for a long time to publish this type of book, and FAC is so grateful for their support. FAC would also like to thank its partner in creating this *Guide*, the John Scott Dailey Florida Institute of Government at Florida State University. The Institute worked with FAC to select expert contributors for each of the chapters and provided the editing and layout services. The Institute has been serving governments and related organizations in Florida since 1981, and has worked diligently to link the expertise and resources of the state university system as well as the private sector to meet the needs of government and non-profit organizations.

FAC is so grateful for each of the contributing authors to this *Guide*, without whom this collection of technical and practical wisdom would not have been possible. Contributors came from across the state, and included faculty, county government leaders, department managers, attorneys, and FAC staff. Please see the full listing of the authors on the following pages.

A publication like this cannot come together without a good plan and much guidance from our county experts. Our sincere thanks goes out to the Florida County Government Guide Steering Committee who provided insight into the design and content of the *Guide* and who reviewed to ensure its accuracy and relevance.

Throughout the process of writing, compiling and editing these chapters, all involved were reminded of the complexity in which county leaders must function. It is our hope that this explanation of the fundamentals of county government is a critical resource that helps leaders and others more fully understand the importance of a well-managed county government. It is also our hope that this manual provides insight on the changing political environment in Florida.







---

# *Contributing Authors*

---

## **The following experts contributed to the 2018 update of the Florida County Government Guide:**

**Rodney L. Clouser** is Professor and Associate Chair, Food and Resource Economics Department, University of Florida. Dr. Clouser received his Ph.D. in agricultural economics from Purdue University in 1979 and prior to joining the University of Florida faculty in 1981 served two years as the state economist in Indiana during the terms of governors Bowen and Orr. In Florida, Dr. Clouser has served as staff to Governor Bob Graham's Taskforce on the "Future of Agriculture in Florida", advised state agencies, and testified on numerous occasions to Florida Senate and House Committees. Clouser also is a Senior Fellow with the Florida Association of Counties (FAC) and conducts local government training for county commissioner certification programs.

**Virginia "Ginger" Delegal** is the Executive Director of the Florida Association of Counties and is an honors graduate of the Mercer University School of Law and a summa cum laude graduate of Salem College in North Carolina. She spent the first 10 years of her legal career in private practice with Nabors, Giblin & Nickerson where she was a shareholder and a member of the General Governmental Law Group. As a part of that group, Ms. Delegal's practice represented local governments primarily on issues of finance and tax, home rule, and other constitutional matters. Ms. Delegal continued her close relationship with local governments by joining the team at the Florida Association of Counties as General Counsel in April of 2003. At the Association, Ms. Delegal continued her advocacy on matters of home rule, governance structures, finance and tax, constitutional law, and ethics in the legislative and judicial arenas. In 2017, Ms. Delegal became the Association's Executive Director. Ms. Delegal is a frequent speaker and author on topics of interest to the local government community in Florida and has taught a fundamental class on the U.S. Constitution at Tallahassee Community College. Ms. Delegal is a member of the Florida Bar and the State Bar of Georgia.

**Ed Dion** is a graduate of the University of Miami's College of Law and a graduate of the University of Pennsylvania. After serving as the General Counsel of the Broward County Sheriff's Office since 2004, Mr. Dion joined Nabors, Giblin & Nickerson, P.A. as a shareholder in October 2007. Mr. Dion previously served as Broward County Attorney from 1999 through 2004; as General Counsel for the Florida Department of Labor from 1994 through 1999; as Deputy General Counsel for the Florida Department of Labor from 1987 through 1994; and was in private practice specializing in real estate and litigation from 1979 through 1987. Mr. Dion has represented and advised state and local government entities since 1987, including before the Florida Legislature, state and federal courts, and administrative agencies. Mr. Dion's area of practice includes employment law, legislative consulting, local government law, and litigation and appellate law. He is admitted to practice in the Courts of Florida and in the United States District Courts for the Middle and Southern Districts of Florida, the United States Court of Appeals for the Eleventh Circuit, and the United States Supreme Court. Mr. Dion is a former Executive Counsel Member of the City, County and Local Government Law Section of the Florida Bar, and received the Section's Legal Ethics and Professionalism Award in 2006. He has often lectured on the subject of ethics before the Florida Association of County Attorneys and the City, County, Local Government Section of the Florida Bar.

**Dena Hurst** provides technical assistance and training for local governments through the Florida Institute of Government. Dena also teaches social and political philosophy at Florida State University,



where she has been nominated for an excellence in teaching award. She writes, consults, lectures, and provides individual coaching and guidance in the areas of leadership, governance, process improvement, performance management, and change. She has compiled and edited several books on local government, including *Florida Politics: Ten Media Markets, One Powerful State*. Dena recently published her first book on leadership (with co-author Ray Jorgensen): *Oracle of the Obvious: Secrets of Common Sense Leadership* (2010). Dena has a Ph.D. in philosophy from Florida State University and a B.A. in economics from Stetson University. She also volunteers for the Florida Association for Volunteer Action in the Caribbean and Americas (FAVACA); in May 2009, she was named FAVACA's Volunteer of the Year and currently serves as the organization's treasurer.

**Aubrey Jewett** received his Ph.D. from Florida State University. He is currently Associate Professor of Political Science at the University of Central Florida. His main research and teaching interests are in American national, state and local politics with a special emphasis on Florida. Dr. Jewett has published numerous journal articles, book chapters and scholarly books. Professor Jewett is coauthor of *Politics in Florida* (now in its 4<sup>th</sup> edition) and of *Political Rules of the Road*. He authored the chapter on Central Florida politics in the edited volume *Florida Politics: Ten Media Markets, One Powerful State*. Jewett's research on Florida's 2012 redistricting can be found in *The Political Battle over Congressional Redistricting* and in *Jigsaw Puzzle Politics in the Sunshine State*. Professor Jewett received the Leon Weaver Award for his study of ballot invalidation in Florida during the 2000 presidential election. He was selected and served as an American Political Science Association Congressional Fellow in Washington DC, is former President and current Treasurer of the Florida Political Science Association, and is co-founder of the Lou Frey Institute of Politics and Government at UCF. Dr. Jewett has won numerous awards for teaching, advising and service excellence and has helped to secure over \$1 million in state and federal grants, primarily to promote civic education. Dr. Jewett is an internationally recognized expert on American and Florida politics. Jewett's quotes have appeared over 20,000 times in print, over the air, and online throughout Florida, the United States, and worldwide on every continent except Antarctica.

**Mariana Llansó** is general manager for policy and performance management in the Hillsborough County Public Works Department. Her responsibilities include strategic planning, process improvement, performance measurement, professional development, and policy analysis. Prior to moving to the public sector, Mariana worked in the areas of quality management and customer service for Gulf and Western Industries and the Dow Chemical Company. Mariana holds a Juris Doctor degree from University of Miami School of Law, a Masters in Public Administration from University of South Florida, and a Bachelor's in Politics and Public Affairs from University of Miami. She is a member of Phi Alpha Alpha and the Florida Bar. Ms. Llansó serves on the USF Graduate Public Administration Program Advisory Board and on the executive boards of the American Society for Public Administration (ASPA) Suncoast Chapter and the American Public Works Association (APWA) Florida Chapter. She is a certified Accreditation evaluator for the APWA.

**Robert E. Lee (Bob)** is an Assistant Professor in the Graduate School of Political Science and Public Administration at Florida Gulf Coast University (FGCU). Bob also serves as the Executive Director of the Center for Florida Local Government Excellence and previously served as a member of the graduate faculty at Florida State University (FSU). Bob developed a Graduate Certificate in Local Government Management at both FSU and FGCU as part of their Master of Public Administration programs. An ICMA Credentialed Manager, Bob, before joining academia, had a rewarding 26-year career in city management serving in the Florida cities of Naples, Gulfport, and Lauderhill and in Bellevue, Pennsylvania. Bob is also a Past President of the Suncoast Chapter of the American Society of Public Administration (ASPA) and past recipient of ASPA's Picot B. Floyd Award for Public Leadership. In addition, Bob is a Past President of the Florida City and County Management Association (FCCMA) and is a recipient of the Michael J. Roberto Award for Career Development and recipient of three President's awards for contributions to FCCMA. Bob most recently authored and co-authored articles on Florida local government in the following academic journals: **State and Local Government Review**,



**Journal of Compensation and Benefit Review**, and the **Journal of Public Affairs Education**. Bob has a B.A. and M.P.A. from the University of Pittsburgh and a D.P.A. from Nova Southeastern University in Ft. Lauderdale.

**Vincent Long** is the County Administrator for Leon County, Florida, and he has worked for the County since 1995. As the County Administrator, he is appointed by, and serves at the pleasure of, the Leon County Board of County Commissioners. He has a Masters of Public Administration (MPA) from the Askew School of Public Administration and Policy at Florida State University (FSU) where he has served on the adjunct faculty teaching graduate courses in local government since the mid 1990's. He is also a graduate of the Harvard University, JFK School of Government Institute for Senior Executives in State and Local Government. A long-time member of the FAC Certified County Commissioner faculty, Vince has provided training sessions to county commissioners on general county government, intergovernmental relations and public safety. Vince is recognized as a "Credentialed Manager" by the International City/County Managers Association (ICCMA). He is currently on the Board of Directors for the Florida City/County Managers Association (FCCMA) and the North Florida Chapter of the American Society of Public Administration (ASPA). He has served on advisory committees to the Legislature on local government issues. Vince is also a graduate of Leadership Florida Class XXVIII.

**Cragin Mosteller** has spent the past 13 years in the communications business working in every aspect of communications with a focus on political/strategic communications. For the last eight years Cragin has focused specifically on government communications working with the Florida Speaker, Environmental Protection and most recently the Florida Association of Counties. For the Florida Association of Counties, she coordinates issues of statewide importance and other priority legislative issues, while also overseeing FAC's publications and communications to members and collaborative partners. Since coming to FAC, Mosteller has launched a successful daily clipping service sent to 700 daily, new publications and website and implemented a successful social media strategy.

As Communications Director and Press Secretary for the Florida Department of Environmental Protection, Mosteller directed some of the most volatile communications in the state from tainted communities, water pollution, contaminated sites and restoration of America's Everglades. Mosteller is an expert in Florida's communication field with media relationships throughout the state and with the Capitol Press Corps. Her knowledge of promoting good news and limiting negative exposure is exceptional.

**Ellie Neiberger** is an associate with Bryant Miller Olive, P.A. Since joining the firm, she has worked on a variety of matters within the firm's extensive local government practice. She received her Juris Doctorate with highest honors from the Florida State University College of Law in May 2009, where she graduated first in her class. While in law school, she was a member of the Honor Code Revision Committee, a volunteer for the Volunteer Income Tax Assistance Program, a research assistant on Employment Law, and the recipient of numerous book awards and the B.K Roberts Academic Merit Scholarship. After graduating and passing the bar, Ms. Neiberger was elected to the Florida State University Chapter of the Order of the Coif and recognized by the Florida Supreme Court for high performance on the July 2009 bar examination. In May 2006, she received a Bachelor of Arts in linguistics with honors from the University of Florida.

**Denise M. Nieman**, after ten years with the Palm Beach County, was appointed County Attorney in 1996. Ms. Nieman earned her law degree from Nova University in 1986, following a B.A. in Criminal Justice from Florida Atlantic University. She is active in various professional organizations, including the Florida Association of County Attorneys, The Florida Bar, and the Palm Beach County Bar Association. She recently completed a term on the 15<sup>th</sup> Circuit Judicial Nominating Commission. Ms. Nieman has been named The Florida Bar 2002 Claude Pepper Outstanding Government Lawyer, 2003 Alumnus of Distinction by Broward Community College, and a South Florida Legal Guide Top Government Attorney since 2004. She has been recognized by her peers through receipt of the 2002 and 2006 Ethics Awards from the Florida Association of County Attorneys.



**Amy Taylor Petrick** is an Assistant County Attorney in the Palm Beach County Attorney's Office. As a member of the Litigation Division, Ms. Petrick represents the county in state and federal court on a broad range of matters, including inverse condemnation claims, zoning challenges, first amendment and religious land use disputes, and regulatory civil rights cases. Ms. Petrick also represents the county in administrative hearings on topics ranging from comprehensive plan amendment challenges to environmental and water resource permitting. Additionally, Ms. Petrick serves as a member of the County's Appellate Team, handling appeals of administrative, state, and federal decisions. In addition to her work at the Palm Beach County Attorney's Office, Ms. Petrick serves as an Adjunct Graduate Professor at Florida Atlantic University. Ms. Petrick earned a Bachelor of Arts degree from the University of Florida in 1994, and a Juris Doctor from the University of Florida in 2000.

**Eric Poole** is the Executive Director of the Florida Counties Foundation. Prior to assuming this role, Eric was the Assistant Director of FAC's Public Policy Department and has been with FAC since 2002. Prior to joining FAC, Eric worked as a Senior Planner with PBS&J Engineering, working primarily on Developments of Regional Impact (DRIs), land use entitlements, and related land use issues.

Eric has also worked in both county and city planning, where he focused on comprehensive planning, zoning, and transportation concurrency issues. Eric also spent more than six years with the Florida Division of Emergency Management administering its disaster mitigation programs and was the designated Governor's representative for mitigation for twelve separate disaster declarations. He has been a guest instructor at FEMA's Emergency Management Institute (EMI) and has represented the State of Florida in disaster response exercises in Quito, Ecuador and Santiago, Chile under the auspices of the Department of Defense. Eric has also done community development work internationally in Belize and Chile, where he served as a Peace Corps Volunteer. Eric has Masters in Urban and Regional Planning, a Masters in Public Administration and is a member of the American Institute of Certified Planners (AICP).

**Clark R. Scott** is the Finance Manager for the Pinellas County Health and Human Services Department (PCHHS). In this role, Mr. Scott is responsible for financial and operational activities critical to the department's strategic success. In his role, Mr. Scott leads the preparation of the department's \$50 million annual budget, monitors financial and programmatic activity, and coordinates procurement and contracting activities. Among other responsibilities, he manages all medical/health services financing contracts including all current Low Income Pool and previous Upper Payment Limit program related contracts. He is the county fiscal liaison to the local county health department, local hospitals, and the local federally qualified community health center. In September 2009, Clark was appointed by the Secretary of the Florida Agency for Health Care Administration to the Low Income Pool Council as one of two council members representing local governments which contribute funding. He is a Certified Public Accountant (CPA, not currently licensed), a Certified Public Finance Officer (CPFO), and a Certified Government Finance Officer (CGFO). He is a member of the American Institute of Certified Public Accountants, the Government Finance Officers Association of the United States and Canada, and the Florida Government Finance Officers Association. Clark received a B.S. degree in Accounting from Nicholls State University in Thibodaux, Louisiana. He has more than 20 years of experience in the accounting profession.

**Diane Scholz** joined the John Scott Dailey Florida Institute of Government (IOG) at Florida State University in August 2010. As Director of Rural Economic Development Services, Ms. Scholz is involved in community projects include preparing grants, coordinating with state and federal funding organizations, state and federal environmental air-quality permitting, Water Management District permitting, organizing and conducting multi-jurisdictional meetings, monitoring grant funding reports and timelines, working closely with local government elected officials, and the ability to assess local community needs and the political environment.,

Previous to Ms. Scholz joining the IOG, she worked in the Governor's Office of Tourism, Trade and Economic Development (OTTED) starting in May 2001 as the Assistant Coordinator, Rural Issues for the State of Florida. She became the Senior Analyst for Rural and Economic Development Programs



in 2008. Her responsibilities involved the Rural Economic Development Initiative (REDI), the Rural Areas of Critical Economic Concern (now known as RAOs), the Rural Infrastructure Fund Grant Program, Florida's Small Business Emergency Bridge Loan Program, Economic Assistance Recovery Grants through the U.S. Department of Commerce, Economic Development Administration, the Alternate to the Primary contact for the State Emergency Operations Center - Emergency Support Function 18, and the Florida Resource Directory. Diane co-managed Florida's Expedited Permitting Program to assist projects in moving through the permitting of both state and federal permits.

**Robert J. Sniffen** is the founder and managing partner of **Sniffen & Spellman, P.A.** and the General Counsel of the Florida Association of Counties. Mr. Sniffen practices in all areas of Labor and Employment Law, as well as Local Government Law; Education Law, Constitutional Litigation and Administrative Law. He is Board Certified by the Florida Bar as a specialist in Labor and Employment Law. Mr. Sniffen represents employers statewide in federal and state court and before administrative tribunals, and also provides advice to employers regarding personnel and workplace issues. Mr. Sniffen and his Firm also serve as general and special counsel to several statewide and national associations, as well as numerous public entities around the state.

In his role as General Counsel to FAC, he provides advice on governance and corporate matters. FAC's Office of the General Counsel provides support services to the Florida Association of County Attorneys, Inc., a separate corporation formed by the county attorneys in Florida. The Office of General Counsel also advocates county issues at the state and federal levels through direct participation in litigation and through the researching, drafting and filing of amicus curiae ("friend of the court") briefs in the appellate courts.

Mr. Sniffen has been active in the Labor and Employment Law Section of the Florida Bar and served as its Chair from 1999-2000. He is a member of the Academy of Florida Management Attorneys, the Florida Defense Lawyers Association and the Defense Research Institute. Mr. Sniffen received his B.A. in political science from the University of Florida and his J.D. from Stetson University College of Law.

**Herbert W.A. Thiele** has served as County Attorney for Leon County, Florida, since 1990. Previously, Mr. Thiele was the City Attorney for the City of Delray Beach, Florida, for over eight years, and an Assistant City Attorney in Delray Beach, as well as in private practice, for the three years preceding. Mr. Thiele graduated from the University of Notre Dame with a B.A. in government and international studies and received his Juris Doctor degree from the University of Florida. He is admitted to practice before numerous state and federal courts, and has actively participated as an officer and committee chairman in several Florida Bar sections, including Chairman of the City, County & Local Government Law Section, and other professional organizations, such as the Florida Association of County Attorneys, where he served as its President for three terms, and the International Municipal Lawyers Association, of which he is presently serving on the Board of Directors.

Mr. Thiele was chosen to be the Florida Municipal Attorney of the Year for 1987-1988, and in 1991 was awarded the Ralph A. Marsicano Award by the Florida Bar Local Government Law Section for significant contributions to the development of local government law in Florida. In addition, Mr. Thiele was honored to receive the Ethics in Government Award in 1998 and in 2001, as well as The President's Award in 2004 from the Florida Association of County Attorneys, and The Chair Service Award from the City, County & Local Government Law Section of the Florida Bar in 2005. In 2000, Mr. Thiele received the Paul S. Buchman Award for outstanding contributions in the area of legal public service from the City, County and Local Government Law Section of The Florida Bar. He is a member of numerous American Bar Association committees, including the Environmental Law Committee; Ethics Committee; and Land Use, Planning & Zoning Committee. He is an Adjunct Professor at the Florida State University College of Law, and he has lectured and written numerous articles on Florida and national local government issues, including honest services and misuse of office, local lobbyist regulation, annexations, public records and sunshine laws, personnel matters, public finance, and zoning, land use, and comprehensive planning.



**Claudia Tuck** is the Director of the Alachua County Department of Community Support Services. Ms. Tuck previously served as the Director of the Palm Beach County Division of Human Services and was formerly employed at the Oakwood Center of the Palm Beaches (NKA Jerome Golden Center of the Palm Beaches), where she was the Associate Director. She represents the Florida Association of Counties on the Council on Homelessness as well as on the National Association of Counties Human Services and Education Steering Committee. She serves as a Vice Chair of the National Association of Counties Education, Children and Families Subcommittee. She is a board member of the National Association of County Human Services Administrators and is a Past President of the Florida Association of County Human Services Administrators. Ms. Tuck is a current member of the National Association of Social Workers and the Academy of Certified Social Workers. She is a Licensed Clinical Social Worker and a Licensed Health Care Risk Manager. She received a Bachelor of Arts degree in International Relations and Sociology from the University of Delaware, and a Master of Social Work degree from Florida State University. Ms. Tuck has been a Field Instructor at Barry University for MSW students as well as an adjunct faculty member at Palm Beach Community College.

*Many staff members from the Department of Environmental Protection, Department of Economic Opportunity, and CareerSource Florida also participated in updating this guide in 2014, 2016, and 2018.*

**In addition, the Florida Association of Counties would like to express its appreciation for the work of the following original authors who contributed their time and talent to develop the first edition of this guide published in 2010:**

**Ann Arnall  
Tony A. Arrant, AICP  
Shaina Brenner  
Susan Churuti  
Letreze Gooding  
Liefke (Cox) Meyers  
Michael Mattimore  
Terry Meek  
Pauline Tracy  
Jason E. Vail  
Jean Vleming  
Heather (Wildermuth) Youmans**



---

# Table of Contents

---

|   |            |
|---|------------|
| <b>1. Florida and Florida County History .....</b>  | <b>1</b>   |
| <i>Rodney L. Clouser</i>  |            |
| <b>2. County Government Structure in the Sunshine State .....</b>   | <b>5</b>   |
| <i>Aubrey Jewett</i>  |            |
| <b>3. Sources and Limits of County Powers .....</b>   | <b>25</b>  |
| <i>Virginia “Ginger” Delegal</i>  |            |
| <b>4. County Commissioners: Powers and Duties.....</b>  | <b>31</b>  |
| <i>Virginia “Ginger” Delegal</i>  |            |
| <b>5. Other County Officials, Boards, and Authorities .....</b>   | <b>35</b>  |
| <i>Virginia “Ginger” Delegal</i>  |            |
| <b>6. Liability of Counties and Public Officials .....</b>  | <b>43</b>  |
| <i>Amy Taylor Petrick</i>   |            |
| <b>7. Ethics, Conflicts of Interest, and Abuse of Office .....</b>  | <b>57</b>  |
| <i>Herbert W.A. Thiele and Denise M. Nieman</i>   |            |
| <b>8. Human Resources .....</b>   | <b>73</b>  |
| <i>Robert J. Sniffen, Jeffrey D. Slanker and Jarrett B. Davis</i>   |            |
| <b>9. Contracting, Purchasing, and Sale of County Property .....</b>  | <b>91</b>  |
| <i>Ellie Neiberger</i>  |            |
| <b>10. Economic Development .....</b>   | <b>107</b> |
| <i>Diane Scholz and Contributing Authors from Enterprise Florida, Workforce Florida,<br/>and the Florida Department of Economic Opportunity</i> |            |
| <b>11. Planning and Growth Management .....</b>   | <b>125</b> |
| <i>Diane Scholz</i>   |            |
| <b>12. Natural Resources Management .....</b>   | <b>141</b> |
| <i>Contributing Authors from the Florida Department of Environmental Protection</i>   |            |



|  |            |
|--|------------|
| <b>13. Public Works and Public Utilities .....</b>   | <b>149</b> |
| <i>Mariana Llansó</i>  |            |
| <b>14. Emergency Management .....</b>  | <b>163</b> |
| <i>Joseph F. Myers</i>   |            |
| <b>15. Public Safety and Courts .....</b>  | <b>175</b> |
| <i>Vincent Long and Ed Dion</i>  |            |
| <b>16. Health and Human Services .....</b>   | <b>187</b> |
| <i>Terry Meek, Clark Scott, Claudia Tuck, and the Florida Association of Counties<br/>Human Services Administrators (FACHSA)</i> |            |
| <b>17. Understanding County Finance .....</b>  | <b>201</b> |
| <i>Robert E. Lee</i>   |            |
| <b>18. Operations Budgeting .....</b>  | <b>209</b> |
| <i>Robert E. Lee</i>   |            |
| <b>19. County Revenue Sources.....</b>   | <b>217</b> |
| <i>Virginia “Ginger” Delegal</i>   |            |
| <b>20. Capital Budgeting.....</b>  | <b>245</b> |
| <i>Robert E. Lee</i>   |            |
| <b>21. County Indebtedness .....</b>   | <b>249</b> |
| <i>Robert E. Lee</i>   |            |
| <b>22. Intergovernmental Relationships .....</b>   | <b>253</b> |
| <i>Rodney L. Clouser and Dena Hurst</i>  |            |
| <b>23. Government in the Sunshine and Open Records Laws .....</b>  | <b>259</b> |
| <i>Herbert W.A. Thiele</i>   |            |
| <b>24. Meetings Procedure, Organization, and Public Participation .....</b>  | <b>273</b> |
| <i>Dena Hurst and Robert E. Lee</i>  |            |
| <b>25. Community and Media Relations .....</b>   | <b>283</b> |
| <i>Cragin Mosteller</i>  |            |
| <b>26. The Florida Association of Counties.....</b>  | <b>293</b> |
| <b>Publication Sponsors .....</b>  | <b>297</b> |
| <b>Glossary .....</b>  | <b>299</b> |
| <b>Index .....</b>   | <b>311</b> |



## LIST OF TABLES

|  |     |
|--|-----|
| Table 1.1. Florida Counties, Date of Establishment and Current Charter Counties .....  | 3   |
| Table 2.1. Florida’s Charter Counties and the Dates Chartered .....  | 7   |
| Table 2.2. Basic Differences between Charter and Non-Charter Counties .....  | 10  |
| Table 2.3. Three Forms of County Government in Florida with<br>Date of Adoption of New Form .....  | 11  |
| Table 2.4. Form of Government by Average County Population (2016) .....  | 20  |
| Table 2.5. County Commission Elections Districts: Type and Number .....  | 21  |
| Table 10.1. Enterprise Florida County and Regional Partners .....  | 108 |
| Table 10.2. Economic Development Incentives Granted by.<br>County Governments in 2015-2016 .....   | 109 |
| Table 13.1. Florida Counties Infrastructure Expenditures in 2016 .....   | 159 |
| Table 14.1. Florida Counties Emergency Management Expenditures.....<br>Emergency and Disaster Relief .....   | 168 |
| Table 16.1. County Medicaid Allocation.....  | 187 |
| Table 16.2. Assumed Adjusted Percent of the Percentage Change in the .....   | 188 |
| State Medicaid Expenditures as Determined by the Social Services Estimating<br>Conference Starting in 2020-2021 .....  |     |
| Table 19.1. County Revenues 2011-2016 .....  | 218 |
| Table 19.2. County Expenditures 2011-2016 .....  | 222 |
| Table 19.3. History of Local Discretionary Sales Surtax Levies: Summary of.<br>Impositions, Expirations, Extensions, Rate Changes, and Imposition Attempts ..... | 232 |

## LIST OF FIGURES

|   |     |
|---|-----|
| Figure 2.1a. Orange County Charter.....   | 8   |
| Figure 2.1b. Wakulla County Charter .....   | 9   |
| Figure 2.2. Traditional Commission Form of Government, Union County, Florida .....      | 13  |
| Figure 2.3. Commission-Administrator Form of Government, Suwannee County, Florida ..... | 15  |
| Figure 2.4. Council-Executive Form of Government, Orange County, Florida .....          | 19  |
| Figure 5.1. Map of Florida's Five Water Management Districts .....                      | 39  |
| Figure 10.1. Map of Florida’s 24 CareerSource Local Areas .....                         | 118 |
| Figure 11.1. Expedited State Review Amendment Process.....                              | 136 |
| Figure 11.2. State Coordinated Review Amendment Process.....                            | 137 |



|   |     |
|---|-----|
| Figure 12.1. Florida’s Estimated Population Growth, 2010-2016 ..... | 141 |
| Figure 12.2. Map of Florida’s Five Water Management Districts.....  | 142 |
| Figure 12.3. Official Beach Warning Flags .....                     | 146 |
| Figure 14.1. Emergency Management 1980s - Present.....              | 163 |



---

# *1. Florida and Florida County History*

---

*Rodney L. Clouser*

## **GENERAL HISTORY**

---

Florida's history is well documented and somewhat unique. Ponce de Leon discovered the state in 1513 and laid claim to the land for Spain. The assertion is that he made landfall somewhere near St. Augustine maybe in search of the mythical fountain of youth. A permanent Spanish colony was established in 1565 in St. Augustine. To put this in perspective, de Leon's claim of the state for Spain occurred a full century ahead of the Pilgrims landing at Plymouth Rock in 1620 and the permanent Spanish settlement in St. Augustine was established 55 years ahead of the landing at Plymouth Rock. According to history, France also laid claim to a portion of the state in an area north of Jacksonville's current location. At one point in time the state was relinquished to England only to end back up under Spanish claim in the mid to late 1760's.

Jump forward now over three centuries from de Leon's claim of the land for Spain. The year is 1821 and the territory encompassing modern day Florida was transferred to the United States. Provisional Governor Andrew Jackson by ordinance created Escambia and St. Johns Counties on July 21, 1821. The ordinance established the county form of government in Florida. A county judicial system and appointment of county judges, clerks and sheriffs were also established in the ordinance with administration of government in the two counties "through the court system and five justices of the peace."<sup>1</sup>

## **HISTORY OF FLORIDA COUNTIES**

---

Florida became the 27<sup>th</sup> state and was admitted to statehood in 1845. In the interim, the state was organized and governed by an 1838 State Constitution adopted by a territorial council. Counties, although in existence in Florida, were not provided for in the 1838 document. However, the 1838 State Constitution did establish county commissioners in Article V, section 19: "The General Assembly shall have power to establish in each County, a Board of Commissioners for the regulation of the County business therein."<sup>2</sup>

Counties (and cities) were formally recognized constitutionally in a separate article in the state's 1885 Constitution. However, the process for selection of county commissioners was by appointment established in Article VIII, section 5: "There shall be appointed by the Governor, by and with the consent of the Senate, in and for each county, five County Commissioners. Their terms of office shall be two years, and their powers, duties and compensation shall be prescribed by law."<sup>3</sup> The 1885 State Constitution remained the basis for Florida state and local government, with various amendments added throughout the years, until adoption of the 1968 State Constitution.

Florida's modern day or contemporary constitution was approved by the state electorate in November 1968.<sup>4</sup> Some of the significant differences in the 1968 state constitution relative to 1885 were:



- Counties could be “created, abolished or changed by law, with provision for payment or apportionment of the public debt” (Article VIII, section 1(a) 1968 Florida Constitution).
- County governments could be established by charter by vote of the electors (Article VIII, section 1(c) 1968 Florida Constitution).
- Non-charter counties had the “power of self-government as is provided by general or special law” (Article VIII, section 1(f) 1968 Florida Constitution).
- Charter counties had the “powers of local self-government not inconsistent with general law, or with special law approved by the vote of the electors” (Article VIII, section 1(g) 1968 Florida Constitution).
- County commissioners were elected, and county commission boards consisted of five members unless otherwise provided by the county charter (Article VIII, section 1(e) 1968 Florida Constitution).

It should be remembered that Florida’s Constitution is a constantly changing document, maybe even more so than in other states and especially since the citizen amendment process has been adopted. Changes have occurred and will continue to occur over time. For example, the 1968 Constitution has been amended so that the number of commissioners elected can be “five or seven members” unless otherwise provided by the county charter.

Since the initial establishment of Escambia and St. Johns Counties in 1821 an additional 65 counties have been established. By 1844, the year prior to Florida’s admittance to statehood, 25 counties had already been established in the state. A current list of Florida counties and the year they were established can be found in Table 1.1. The last county founded in the state was Gilchrist County in 1925. There have been five attempts to establish four new counties in the state between 1917 and 2000 (proposed: Bloxham, 1917; Call, 1928; Kennedy, 1965; and Hialeah, 1999 and 2000), but none have been successful.<sup>5</sup> Additionally, only one county in Florida has ever been eliminated (Fayette, 1834).<sup>6</sup> At present 20 Florida counties are charter counties (see Table 1.1).<sup>7</sup>

## COUNTY COMMISSIONS AND CONSTITUTIONAL OFFICERS

---

The concept of a board of county commissioners can be found in Florida’s 1838 Constitution in Article V, Section 19, which gives the territorial General Assembly the power to establish a Board of Commissioners. The 1838 Constitution also contained a reference to “Clerks of the Circuit Courts” who were to be elected as prescribed by law. By the time the state’s 1868 Constitution was adopted, the number of “county officials” had increased significantly. The 1868 Constitution is referred to as the “Reconstruction Constitution” and returned control of the state to its citizens after Florida seceded from the Union. Article V, section 19, identified the following county officers to be appointed by the Governor with the consent of the Florida Senate: “an assessor of taxes and a collector of revenue, ... a county treasurer, county surveyor, superintendent of common schools, and five county commissioners, ...”<sup>8</sup> Article VI, section 19, also gave the Governor, with consent of the Senate, the authority to appoint “a sheriff and a clerk of the circuit court, who shall also be clerk of the county court and of the board of county commissioners, recorder, and *ex officio* auditor of the county...”<sup>9</sup>



**Table 1.1. Florida Counties, Date of Establishment and Current Charter Counties.**

| County                 | Date Established | County        | Date Established | County                  | Date Established |
|------------------------|------------------|---------------|------------------|-------------------------|------------------|
| Alachua*               | 12/29/1824       | Hardee        | 4/23/1921        | Okeechobee              | 5/8/1917         |
| Baker                  | 2/8/1861         | Hendry        | 5/11/1923        | Orange* <sup>10</sup>   | 12/29/1824       |
| Bay                    | 4/24/1913        | Hernando      | 2/23/1843        | Osceola*                | 5/12/1887        |
| Bradford <sup>11</sup> | 12/21/1858       | Highlands     | 4/23/1921        | Palm Beach*             | 4/30/1909        |
| Brevard* <sup>12</sup> | 1844             | Hillsborough* | 1/25/1834        | Pasco                   | 6/2/1887         |
| Broward*               | 4/30/1915        | Holmes        | 1/8/1848         | Pinellas*               | 5/23/1911        |
| Calhoun                | 1/26/1838        | Indian River  | 5/30/1925        | Polk*                   | 2/8/1861         |
| Charlotte*             | 4/23/1921        | Jackson       | 8/12/1822        | Putnam                  | 1/13/1849        |
| Citrus                 | 6/2/1887         | Jefferson     | 1/20/1827        | St. Johns               | 7/21/1821        |
| Clay*                  | 12/31/1858       | Lafayette     | 12/23/1856       | St. Lucie <sup>13</sup> | 1844             |
| Collier                | 5/8/1923         | Lake          | 5/27/1887        | Santa Rosa              | 2/18/1842        |
| Columbia*              | 2/4/1832         | Lee*          | 5/13/1887        | Sarasota*               | 5/14/1921        |
| De Soto                | 5/19/1887        | Leon*         | 12/29/1824       | Seminole*               | 4/25/1913        |
| Dixie                  | 4/25/1921        | Levy          | 3/10/1845        | Sumter                  | 1/8/1853         |
| Duval*                 | 8/12/1822        | Liberty       | 12/15/1855       | Suwannee                | 12/21/1858       |
| Escambia               | 7/21/1821        | Madison       | 12/26/1827       | Taylor                  | 12/23/1856       |
| Flagler                | 4/28/1917        | Manatee       | 12/15/1855       | Union                   | 5/20/1921        |
| Franklin               | 2/8/1832         | Marion        | 3/14/1844        | Volusia*                | 12/29/1854       |
| Gadsden                | 6/24/1823        | Martin        | 5/30/1925        | Wakulla*                | 3/11/1843        |
| Gilchrist              | 12/4/1925        | Miami-Dade*   | 2/4/1836         | Walton                  | 12/29/1824       |
| Glades                 | 4/23/1921        | Monroe        | 7/3/1823         | Washington              | 12/9/1825        |
| Gulf                   | 6/6/1925         | Nassau        | 12/29/1824       |                         |                  |
| Hamilton               | 12/26/1827       | Okaloosa      | 6/13/1915        |                         |                  |

Source: Florida House of Representatives, "The Local Government Formation Manual," August 2007-2008. Tallahassee, FL: <http://www.myfloridahouse.gov>; Florida State Genealogical Society: <http://www.rootsweb.ancestry.com/~flsgs/flcoformations.htm>; Florida Legislative Committee on Intergovernmental Relations: <http://www.floridalcir.gov/UserContent/docs/File/data/countyformation.xls>

\* indicates charter form of government

Further development of county officials transpired in the 1885 Constitution. Article V, section 15, states the "Sheriff, and a Clerk of the Circuit Court, who shall also be Clerk of the County Court, except in counties where there are Criminal Courts, and of the Board of County Commissioners, and Recorder and *ex-officio* Auditor of the County,"<sup>14</sup> will be elected rather than appointed as in the 1868 Constitution. Article VIII, section 6, also stated in each county the following county officials would be elected: "A Clerk of the Circuit Court, a Sheriff, Constables, a County Assessor of Taxes, a Tax Collector, a County Treasurer, a Superintendent of Public Instruction, and a County Surveyor."<sup>15</sup>

Changes were made to county officers again in the 1968 Constitution. Article V, section 6(7), reinforced that the elected clerk of the circuit court will be the clerk to the county board of commissioners, recorder, and *ex-officio* auditor. Article VIII, section 1(d), defined elected county officers as "a sheriff, a tax collector, a tax assessor, a supervisor of elections, and a clerk of the circuit court."<sup>16</sup> County offices of constables, treasurer, superintendent of public instruction, and surveyor were dropped from the constitution and the county office of supervisor of elections was added. Therefore, the five county officers currently in existence in addition to county commissioners were established in the 1968 Florida Constitution.

One other important aspect related to county officials also appeared in the 1968 Constitution. Charter counties were recognized in the 1968 Constitution, which specified "when provided by county charter or special law approved by vote of the electors of the county, any county officer may be chosen in another manner therein specified, or any county office may be abolished when all the duties of the office prescribed by general law are transferred to another office."<sup>17</sup> This change allowed charter counties to alter the manner of choosing and eliminating county officers as long as the duties to be performed were fulfilled by another office in the county.



## REFERENCES

- Dauer, Manning J. "Introduction." In *Florida's Politics and Government*, Second Edition. Manning J. Dauer, Editor. University of Florida Press. 1984.
- Gannon, Michael V. "A History of Florida to 1900." In *Florida's Politics and Government*, Second Edition. Manning J. Dauer, Editor. University of Florida Press. 1984.

## NOTES

- <sup>1</sup> Florida House of Representatives. *The Local Government Formation Manual*. August 2007-2008. Tallahassee, FL. Internet: <http://www.myfloridahouse.gov>.
- <sup>2</sup> Florida State Constitution of 1838. <http://www.law.fsu.edu/crc/conhist/1838con.html>.
- <sup>3</sup> Florida Memory, State Library and Archives of Florida.) [http://www.floridamemory.com/Collections/Constitution/1885\\_index.cfm](http://www.floridamemory.com/Collections/Constitution/1885_index.cfm).
- <sup>4</sup> Florida State Constitution of 1968. <http://www.law.fsu.edu/crc/conhist/1968con.html>.
- <sup>5</sup> Florida House of Representatives. "The Local Government Formation Manual." August 2007-2008. Tallahassee, FL. Internet: <http://www.myfloridahouse.gov>.
- <sup>6</sup> *Ibid.*
- <sup>7</sup> Florida Association of Counties. [http://www.fl-counties.com/Pages/About\\_Floridas\\_Counties/Charter\\_County\\_Info.aspx](http://www.fl-counties.com/Pages/About_Floridas_Counties/Charter_County_Info.aspx).
- <sup>8</sup> Florida Memory, State Library and Archives of Florida. [http://www.floridamemory.com/Collections/Constitution/1868\\_index.cfm](http://www.floridamemory.com/Collections/Constitution/1868_index.cfm).
- <sup>9</sup> *Ibid.*
- <sup>10</sup> Formed in 1824 but known as Mosquito County until 1/30/1845.
- <sup>11</sup> Formed in 1858 but known as New River until 12/6/1861.
- <sup>12</sup> Formed in 1844 as St. Lucie County and took name of Brevard County on 1/6/1855.
- <sup>13</sup> Name was first used in 1844 (see endnote 3). Common formation date 5/24/1905, but date of 5/24/1917 also identified as date of formation.
- <sup>14</sup> Florida Memory, State Library and Archives of Florida. [http://www.floridamemory.com/Collections/Constitution/1885\\_index.cfm](http://www.floridamemory.com/Collections/Constitution/1885_index.cfm).
- <sup>15</sup> *Ibid.*
- <sup>16</sup> Florida State Constitution of 1968. <http://www.law.fsu.edu/crc/conhist/1968con.html>.
- <sup>17</sup> *Ibid.*



---

## 2. *County Government Structure in the Sunshine State*

---

*Aubrey Jewett*

A county government's structure refers to the political institutions and processes created by the state to legally operate a county, the formal role and authority of the various county officials who must abide by those processes and operate within those institutions, and the methods used to select those officials. The structure of county government sets the level of independence a county has from the state in making and implementing policy. The structure delineates who is responsible for making policy in a county (the legislative function) and who is responsible for overseeing the implementation of policy (the executive function). The structure also affects how well county residents are represented by their elected county officials, whether or not they are allowed to exercise local direct democracy (voting on initiatives, referenda and recall), the types of services provided by their county, and how efficiently those county services are delivered.

In Florida there are three basic structures affecting county government: charter status; form of government; and districting plan. The first question is whether a county has decided to adopt a charter or not. Florida's 20 charter counties have more freedom in making decisions than the 47 non-charter counties.<sup>1</sup> Charter status also affects the form of county government that can be chosen, the districting plan that can be chosen and how the form and plan can be changed. The second structure is the actual form of government used to organize a county. Florida has three options for form of government: the traditional county commission used in some variation by nine counties; the commission-administrator (or manager) used by 55 counties; and the commission-executive used by three counties. Two of the executive counties, Duval and Miami-Dade, have additional unique county structures: consolidated city-county government and federated government respectively. The third structure is the districting plan used to select county commissioners including the number of commission seats. In Florida counties use three basic schemes for elections: single member districts in operation in 23 counties; at-large district residency systems employed by 38 counties, and mixed systems found in the other six counties. After a brief review of the evolution of county government structure in the US and in Florida, the chapter examines each of these three basic county government structures in Florida.

---

### THE EVOLUTION OF COUNTY GOVERNMENT STRUCTURE

---

All states but Connecticut and Rhode Island have operational county governments, although Alaska calls their county-type government boroughs and Louisiana calls them parishes.<sup>2</sup> Historically rural county government was the most important type of local government in the southern, Midwestern and western United States (New England relied more heavily on town government). By the early to mid-1800s counties acted as the primary administrative arm of state government in these areas.

#### TRADITIONAL STRUCTURE OF COUNTY GOVERNMENT

Most counties had a similar government structure – the traditional county commission form of government. Under this form, county residents elected a number of officials to oversee administration of specified state responsibilities (often called “row” officers around the country because the office labels



usually occurred in a row on the ballot). County residents might elect a sheriff and judge to maintain public order (and a county coroner for when public order failed), a county clerk to keep public records, and a tax assessor and tax collector to bring in revenue. County residents also elected a board of county commissioners (known by various names in different states) who would, in the limited fashion allowed by the state, both make and implement some additional policies for the county (one of the only types of government in the U.S. that violates the doctrine of separation of powers for the legislative and executive branch). The legal doctrine known as Dillon's Rule meant that states could (and usually did) treat their local governments, including counties, as "creatures of the state" heavily regulating their government structures and rarely allowing them to take independent action.<sup>3</sup>

The historical relationship between Florida and its counties (and cities) unfolded in much the same way.<sup>4</sup> And so by 1949-1950 in Florida the structure of local government was virtually identical across its 67 counties. Under the traditional commission form of government, the residents of each county elected a county commission (that would select a chairman from its members), county judge, county court clerk, sheriff, tax assessor, tax collector, and registration supervisor.<sup>5</sup> Florida counties were tightly controlled by the state legislature under the philosophy of Dillon's Rule. Under this rule, local governments were prevented from doing anything not specifically authorized by state laws. Counties who wanted even small changes in their structure or responsibilities had to petition the legislature to pass a special act - a statute drafted specifically naming a city or county and not applicable to the entire state like a general act. Consequently, hundreds of special acts were passed by the Florida legislature each year in a very cumbersome and inefficient process of micromanagement. The flaws in this unwieldy system became more exposed as growth in Florida accelerated by two to three million people a decade in the 1950s and 1960s. Florida's counties could not take innovative action on the myriad problems caused by massive sustained growth unless specifically authorized to do so by the legislature.<sup>6</sup>

## **REFORMING THE STRUCTURE OF COUNTY GOVERNMENT**

However, as the states became more urban in the 20<sup>th</sup> century, progressive reformers called for change and counties were slowly granted more power and independent responsibility for local governance. Fast growing urban counties began to provide a larger number of services in addition to their traditional responsibilities. Counties began to experience variations of home rule and some counties even began getting charters from their state granting expressed powers of self-government. As expectations for counties grew, many states and communities began to look at changing county government structure to try and provide more professional, efficient and effective service to citizens.<sup>7</sup> Thus the traditional county commission form of government began to give way to the commission-manager form or even the commission-executive form.

All these trends were evident in Florida by the 1950s as state and local officials and academics began to question the effectiveness of the traditional commission form of county government in fast-growing counties and began to advocate and allow structures with more independence from the state and with more professional administration and/or stronger political leadership.<sup>8</sup> Finally in the late 1960s and early 1970s Florida made specific constitutional and legal changes to reform county government structure. The state adopted a new Constitution in 1968.<sup>9</sup> Article VIII Section 1c of the new Florida Constitution gave counties the option of adopting a charter to establish their government. And under Section 1g charter counties gained significant powers of home rule that allow them to do anything not specifically prohibited by state law. Article VIII also set up a system of government for non-charter counties establishing county officers and commissioners and even providing for a more limited version of home rule for these counties as spelled out by state law. Following up on these constitutional changes and to clarify and overcome resistance to home rule, state lawmakers passed legislation in 1971 (the County Home Rule Act), 1973 (Municipal Home Rule Powers Act), and 1974 (the County Administration Law and Optional County Charter Law) setting up a code of county powers that expanded home rule for non-charter counties and repealed a number of laws that narrowed county power.<sup>10</sup>

While these changes did provide counties with more home rule flexibility, the legislature continues to restrain counties in several ways.<sup>11</sup> First the Florida legislature retains strict control over the



revenue sources a county can adopt and caps the level of taxes a county can charge. Second, lawmakers continue to pass unfunded mandates that require counties to take on additional administrative and policy responsibilities without providing money to pay for them. And third, the state has preempted local governments in dozens of policy areas. For instance the state legislature has passed a complete preemption on the regulation of firearms and ammunition, new local ordinances increasing minimum wage, requirements for restaurant nutritional information, or additional restrictions on smoking, ownership of exotic animals, use of plastic bags by retail establishments, or disposal of bio medical waste.<sup>12</sup> While not providing absolute home rule, the new constitutional provisions and state statutes in Florida have given counties more independence than they once had (although with charter counties still having somewhat more discretion than non-charter counties) and have given counties more choices for structure and form of government.

## CHARTER AND NON-CHARTER COUNTIES

One of the most important structural variations for Florida county government is whether or not a county has adopted a charter. Counties that adopt a charter are called charter counties and the ones that have not are called non-charter counties. While reforms to county government in Florida have given all counties more independence, charter counties do differ in significant ways from non-charter counties. As of 2016, 20 counties in the Sunshine State have adopted a charter allowing significant home rule (see Table 1). The other 47 counties have not adopted a charter but could do so following the procedures outlined in the Constitution and state statute.

**Table 2.1 Florida's Charter Counties**

| <b>Florida's 20 Charter Counties<br/>and Date Chartered</b> |      |            |      |
|---|------|------------|------|
| Alachua   | 1987 | Miami-Dade | 1957 |
| Brevard   | 1994 | Orange     | 1986 |
| Broward   | 1975 | Osceola    | 1992 |
| Charlotte   | 1986 | Palm Beach | 1985 |
| Clay  | 1991 | Pinellas   | 1980 |
| Columbia  | 2002 | Polk       | 1998 |
| Duval   | 1967 | Sarasota   | 1971 |
| Hillsborough  | 1983 | Seminole   | 1989 |
| Lee   | 1996 | Volusia    | 1971 |
| Leon  | 2002 | Wakulla    | 2008 |

*Source: Florida Association of Counties.*

## COUNTY CHARTERS

A county charter is a state grant of authority that sets forth governmental boundaries, powers and functions, structure and organization, methods of finance, and means of electing or appointing local officials. In other words, a charter may be thought of as a type of local government constitution. Figure 1 displays the contents of the Wakulla County Charter which lays out the general powers of Wakulla County government, creates the legislative branch (the county commission), administrative branch (a county administrator) and a county attorney, establishes county officers (the traditional five found in most Florida counties with no changes to their constitutional powers and functions), reserves two powers for county residents (initiative and recall), and covers several miscellaneous provisions (including charter amendments, a charter review commission, and non-partisan elections for all county officials including commissioners and constitutional officers).



**Figure 2.1a. Orange County Charter.**

|              | PAGE  |
|--------------|---|
| PREAMBLE     | 1   |
| ARTICLE I    | POWERS OF GOVERNMENT  |
|              | 101. Body corporate and politic.  |
|              | 102. Name and boundaries.   |
|              | 103. General powers of the county.  |
|              | 104. Special powers of the county.  |
|              | 105. Transfer of powers.  |
|              | 106. Security of the citizens.  |
|              | 107. Casino gambling.   |
|              | 108. Division of powers.  |
|              | 109. Construction.  |
|              | 110. Severability.  |
| ARTICLE II   | LEGISLATIVE BRANCH: BOARD OF COUNTY COMMISSIONERS   |
|              | 201. Board of County Commissioners.   |
|              | 202. Commission districts.  |
|              | 203. Structure of board.  |
|              | 204. Terms of county commissioners.   |
|              | 205. Compensation.  |
|              | 206. Vacancies; incapacity or absence due to military service.                              |
|              | 207. Power and duties.  |
|              | 208. Organization.  |
|              | 209. Meetings.  |
|              | 210. Enactment of ordinances and resolutions.   |
|              | 211. Code of ordinances.  |
|              | 212. Noninterference.   |
|              | 213. Temporary Succession Plan.   |
| ARTICLE III  | EXECUTIVE BRANCH  |
|              | 301. County administration.   |
|              | 302. County mayor.  |
|              | 303. County administrator.  |
| ARTICLE IV   | ADMINISTRATIVE DIVISIONS, OFFICERS AND AGENCIES   |
|              | 401. General provisions.  |
|              | 402. Initial divisions and administrative regulations.                                      |
| ARTICLE V    | PLANNING AND ZONING COMMISSION AND BOARD OF ZONING ADJUSTMENT                               |
|              | 501. Creation of Orange County Planning and Zoning Commission.                              |
|              | 502. Creation of board of zoning adjustment.  |
|              | 503. Review of planning and zoning commission's and board of zoning adjustment's decisions. |
|              | 15  |
|              | 505. Voluntary annexation.  |
| ARTICLE VI   | INITIATIVE, REFERENDUM AND RECALL   |
|              | 601. Initiative and referendum.   |
|              | 602. Procedure for initiative and referendum.   |
|              | 603. Limitation.  |
|              | 604. Power of recall.   |
|              | 605. Nonpartisan elections.   |
| ARTICLE VII  | GENERAL PROVISIONS  |
|              | 701. Charter amendment by board.  |
|              | 702. Charter review commission.   |
|              | 703. County officers.   |
|              | 704. Conflict of county ordinances with municipal ordinances;                               |
|              | 705. Bonds.   |
|              | 706. Legal actions involving county.  |
|              | 707. Code of ethics.  |
|              | 708. Existing contracts.  |
|              | 709. Uniform budget procedure.  |
|              | 710. Effect on special acts.  |
|              | 711. Home Rule Charter transition.  |
|              | 712. Audits of county officers.   |
| ARTICLE VIII | CITIZEN REVIEW BOARD  |
|              | 801. Citizen review board.  |
| ARTICLE IX   | ORANGE COUNTY / CITY OF ORLANDO CONSOLIDATION<br>OF SERVICES STUDY COMMISSION               |
|              | 901. Orange County / City of Orlando Consolidation of Services Study Commission.            |

*Source: Orange County Supervisor of Elections as edited by the author.*



**Figure 2.1b. Wakulla County Charter.**

---

|  |  |
|--|--|
| PREAMBLE   |  |
| ARTICLE 1. - CREATION, POWERS AND ORDINANCES OF HOME RULE CHARTER GOVERNMENT |  |
| Sec. 1.1. - Creation and general powers of home rule charter government.     |  |
| Sec. 1.2. - Body corporate, name and boundaries.                             |  |
| Sec. 1.3. - Construction.  |  |
| Sec. 1.4. - Special powers and duties of county.                             |  |
| Sec. 1.5. - Transfer of powers.  |  |
| Sec. 1.6. - Separation of powers.  |  |
| Sec. 1.7. - Relation to state law.   |  |
| Sec. 1.8. - Conflict of county ordinances with municipal ordinances.         |  |
| ARTICLE 2. - LEGISLATIVE BRANCH: BOARD OF COUNTY COMMISSIONERS               |  |
| Sec. 2.1. - Composition.   |  |
| Sec. 2.2. - Redistricting.   |  |
| Sec. 2.3. - Qualifications and Election.                                     |  |
| Sec. 2.4. - Terms of office.   |  |
| Sec. 2.5. - Salary and other compensation.                                   |  |
| Sec. 2.6. - Vacancies and suspensions.                                       |  |
| Sec. 2.7. - Powers.  |  |
| Sec. 2.8. - Code of ordinances.  |  |
| Sec. 2.9. - Administrative Code.   |  |
| ARTICLE 3. - ADMINISTRATIVE BRANCH: COUNTY ADMINISTRATOR                     |  |
| Sec. 3.1. - County administrator.  |  |
| Sec. 3.2. - Compensation and terms of employment.                            |  |
| Sec. 3.3. - Powers and duties.   |  |
| Sec. 3.4. - Noninterference by board of county commissioners.                |  |
| Sec. 3.5. - Temporary absence or incapacity.                                 |  |
| ARTICLE 4. - COUNTY ATTORNEY   |  |
| Sec. 4.1. - County attorney.   |  |
| ARTICLE 5. - COUNTY OFFICERS   |  |
| Sec. 5.1. - County constitutional officers.                                  |  |
| ARTICLE 6. - POWERS RESERVED TO THE PEOPLE: INITIATIVE AND RECALL            |  |
| Sec. 6.1. - Initiative.  |  |
| Sec. 6.2. - Recall.  |  |
| ARTICLE 7. - MISCELLANEOUS PROVISIONS  |  |
| Sec. 7.1. - Effective date.  |  |
| Sec. 7.2. - Transition.  |  |
| Sec. 7.3. - Charter amendment.   |  |
| Sec. 7.4. - Charter review commission.                                       |  |
| Sec. 7.5. - Severability and validity.                                       |  |
| Sec. 7.6. - Nonpartisan elections.   |  |
| Sec. 7.7. - Debt policy.   |  |
| Sec. 7.8. - Fund balance policy.   |  |

---

*Source: Wakulla County Code of Ordinances as edited by the author.*

## **ADOPTING AND REVISING A CHARTER**

Two counties, Miami Dade and Duval, have charters that were originally established by a special act of the legislature followed by a referendum. These charters were “grandfathered” into the 1968 Constitution and have since been significantly revised. Since that time Article VIII Section 1c of the Florida Constitution states that county government may be established by charter but that the charter can only be adopted, revised or repealed by a vote of county residents in a special election.

Chapter 125 of the Florida statutes spells out the detailed procedures. In brief the county commission must set up a charter commission by resolution or upon receiving a petition from 15% of the county voters. Charter commission members are selected by the county commissioners (or, if a petition specifies, by the legislative delegation). The charter commission must then conduct a comprehensive study of county government and within 18 months of first meeting report back to the county



commissioners and present a proposed charter. Three public hearings must be held so that the charter can be revised based on citizens' input. The county commission must then set up a special election between 45 and 90 days from date of final proposal and the charter is adopted if a majority of county voters approve. Broward was the first county to go through this process in 1975 and Wakulla the most recent in 2008.

The general underlying difference between charter and non-charter counties is the extent of home rule and freedom from state control. The Florida Constitution states that charter counties "shall have all powers of local self-government not inconsistent with general law . . ." and that non-charter counties "shall have the power of self-government as is provided by general or special law." This is a subtle difference but in essence means that charters counties can do what they wish as long as it does not conflict with state law while non-charter counties can only do what state statute allows them to do.

**Table 2.2. Basic Differences between Charter and Non-Charter Counties.**

| <b>NON-CHARTER</b>   | <b>CHARTER</b>  |
|--|---|
| Structure of county government specified in State Constitution and State Statutes. Only amending the State Constitution or State law can change structure. | Structure of county government specified in Charter as approved by the electorate. Structure can be tailored by the local electorate to meet the needs of the county. |
| Counties have powers of self-government as prescribed by the State Legislature.  | Counties have all powers of self-government unless they are inconsistent with the Constitution or State law.  |
| State Statutes do not provide for initiative or referendum, or recall of county officers.  | County charter may provide for initiative, referendum and recall at the county level.   |
| State Statutes do not require an Administrative Code.  | County Charter can require an Administrative Code detailing all regulations, policies and procedures.   |
| County cannot levy a utility tax in the unincorporated area.   | County Charter can provide that a "municipal utility tax" is levied in the unincorporated area.   |
| County ordinance will not apply in a municipality if in conflict with a municipal ordinance.   | When there is a conflict between a county ordinance and a municipal ordinance the charter will provide for the resolution.  |

*Source: Florida Association of Counties as supplemented by the author.*

A number of important differences between charter and non-charter counties are displayed in Table 2.2. In addition to more general powers of self-government, charter counties have a structure of government specified in the charter and approved by county residents tailored to meet county needs whereas non-charter counties must use a structure specified in state law and those options could only be changed by the Florida Constitution or legislature. Charter counties can provide direct democracy for their residents while non-charter counties do not. County charters can require an administrative code detailing regulations, policies and procedures while state statutes do not require an administrative code for non-charter counties. Non-charter counties cannot levy a utility tax in the unincorporated areas while a county charter can provide for a "municipal utility tax" to be levied in the unincorporated area. And county ordinances do not apply within municipalities in non-charter counties while a charter can decide which ordinance would prevail in the case of conflict.

### **THREE FORMS OF COUNTY GOVERNMENT**

There are three basic forms of county government in use in Florida. The traditional commission form, the commission-administrator or manager form and the commission or council-executive form. These forms are also typically found in most counties across the country. The primary difference between these three forms is who is responsible for implementing policy. In the commission form, policy



**Table 2.3. Three Forms of County Government in Florida with Date of Adoption of New Form.  
(Charter Counties in Italics)**

| Commission |      | Administrator or Manager<br>(Terms used interchangeably in FL) |      |                 |      | Executive<br>(Mayor) |      |
|------------|------|--|------|-----------------|------|----------------------|------|
| County     | Date | County   | Date | County          | Date | County               | Date |
| Calhoun    | N/A  | Baker  | 1990 | <i>Alachua</i>  | 1987 | <i>Duval</i>         | 1968 |
| Franklin*  | N/A  | <i>Broward</i>   | 1975 | Bay             | 1987 | <i>Miami-Dade</i>    | 2007 |
| Hamilton*  | N/A  | <i>Charlotte</i>   | 1986 | Bradford        | 1993 | <i>Orange</i>        | 1986 |
| Jefferson* | N/A  | Citrus   | 1999 | <i>Brevard</i>  | 1994 |                      |      |
| Lafayette  | N/A  | DeSoto   | 1987 | <i>Clay</i>     | 1991 |                      |      |
| Levy*      | N/A  | Escambia   | 1985 | Collier         | 1993 |                      |      |
| Liberty    | N/A  | Flagler  | 1995 | <i>Columbia</i> | 2002 |                      |      |
| Madison*   | N/A  | Gadsden  | 1989 | Dixie           | ?    |                      |      |
| Union      | N/A  | Gilchrist  | 2004 | Glades          | 1995 |                      |      |
|            |      | Gulf   | 1993 | Hardee          | 2001 |                      |      |
|            |      | Hendry   | 1978 | Lake            | 1990 |                      |      |
|            |      | Hernando   | 1983 | <i>Lee</i>      | 1996 |                      |      |
|            |      | Highlands  | 1991 | Nassau          | 1986 |                      |      |
|            |      | <i>Hillsborough</i>  | 1983 | <i>Osceola</i>  | 1992 |                      |      |
|            |      | Holmes   | 2006 | <i>Polk</i>     | 1998 |                      |      |
|            |      | Indian River   | 1990 | <i>Seminole</i> | 1989 |                      |      |
|            |      | Jackson  | 1984 | <i>Volusia</i>  | 1971 |                      |      |
|            |      | <i>Leon</i>  | 2002 |                 |      |                      |      |
|            |      | Manatee  | 1991 |                 |      |                      |      |
|            |      | Marion   | 1983 |                 |      |                      |      |
|            |      | Martin   | 1981 |                 |      |                      |      |
|            |      | Monroe   | 1977 |                 |      |                      |      |
|            |      | Okaloosa   | 1993 |                 |      |                      |      |
|            |      | Okeechobee   | 1992 |                 |      |                      |      |
|            |      | <i>Palm Beach</i>  | 1985 |                 |      |                      |      |
|            |      | Pasco  | 1974 |                 |      |                      |      |
|            |      | <i>Pinellas</i>  | 1980 |                 |      |                      |      |
|            |      | Putnam   | 1990 |                 |      |                      |      |
|            |      | Santa Rosa   | 1989 |                 |      |                      |      |
|            |      | <i>Sarasota</i>  | 1971 |                 |      |                      |      |
|            |      | St. Johns  | 1990 |                 |      |                      |      |
|            |      | St. Lucie  | 1959 |                 |      |                      |      |
|            |      | Sumter   | 1983 |                 |      |                      |      |
|            |      | Suwannee   | 2012 |                 |      |                      |      |
|            |      | Taylor   | 2003 |                 |      |                      |      |
|            |      | <i>Wakulla</i>   | 2008 |                 |      |                      |      |
|            |      | Walton   | 1984 |                 |      |                      |      |
|            |      | Washington   | 1991 |                 |      |                      |      |

Source: Data collected by the author.

Note: Date of adoption for non-charter counties is the year the commission adopted the county administrator law into the county code (dates for Baker and Glades are estimates). For charter counties it is the year of charter adoption (or for Miami Dade the year of charter revision of form of government).

\*These five counties employ a county coordinator who performs some of the duties of an administrator for the commission but have not adopted the county administrator form of government into county code (Franklin County employs both a director of administrative services and a county coordinator).



implementation is handled by the board of commissioners. However, in the commission-administrator or manager form an administrator or manager appointed by the commission oversees implementation of policy. And in the commission-executive form an elected executive (typically a mayor) oversees policy implementation. In all three forms a board of county commissioners meets and makes policy for the county. In addition, regardless of government form, almost all counties have five other county officers that are popularly elected by county voters. These row officers are called constitutional officers in Florida since their existence at the county level is mandated in Article VIII Section 1d of the state constitution. These constitutional officers perform a variety of administrative duties and policy functions for the state and county.

## **OPTIONS FOR CHARTER AND NON-CHARTER COUNTIES**

Charter and non-charter counties have different options for structure of government. When a county drafts and adopts a charter it can pick the manager form or the executive form as a model and modify substantially based on local needs (and in fact state statute actually gives a third choice to charter counties: the county chair-administrator plan which is not currently in use in the state).<sup>13</sup> If a charter county wants to change its form of government then it must revise its charter. Non-charter counties may simply stay with their existing commission form of government (with some slight modifications allowed) or choose the commission-administrator form.<sup>14</sup> If a non-charter county wants to change its form of government it has two options. It may simply choose the county administrator form of government by passing an ordinance expressly adopting the County Administration law of 1974 (per Florida Statutes Ch. 125.70) or it can choose to become a charter county and adopt a charter as described above.

Currently nine Florida non-charter counties still use some variation of the traditional county commission form, 55 counties (both charter and non-charter) employ the county manager or administrator form and three charter counties have elected to use the executive form (see Table 3). Charter counties also have the flexibility of changing how the constitutional officers are chosen and even abolishing the positions as long as the duties assigned by state law to the officers are transferred to another office. Non-charter counties technically have this option as well but would need to get a special law passed by the legislature first and then approved by county voters.

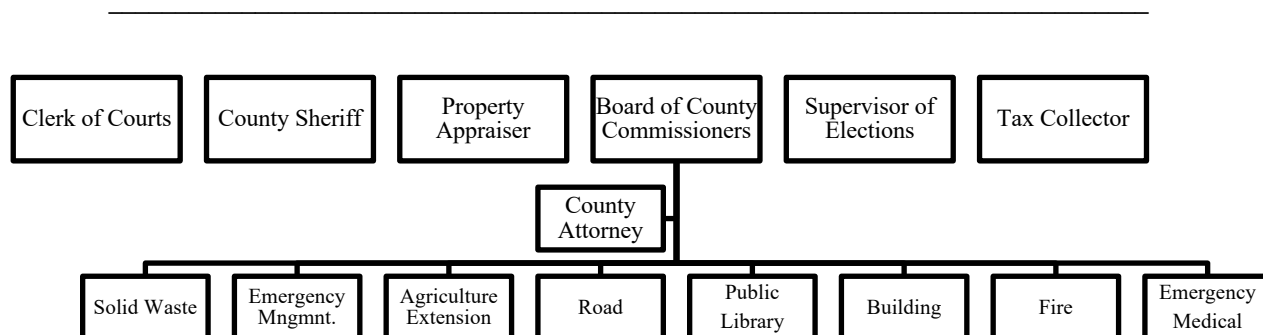
## **TRADITIONAL COUNTY COMMISSION FORM**

The traditional county commission form of government has been in existence nationally since the late 19<sup>th</sup> century. It is characterized by two major features: (1) the existence of a plural executive (county constitutional officers plus the board of county commissioners) and (2) a legislative body (the board of county commissioners) that performs both legislative and executive functions. It is a system with splintered executive authority that was born in an era when the public greatly distrusted executive officials (the era of machine politics with its “big bosses” and corrupt local politicians). There is no single person responsible for the administration of county functions. Instead the various county department heads report directly to the board of commissioners. The organizational chart for the county commission system used in Union County is shown in Figure 2. Since this form of government was designed for a rural population, it is not surprising that all the Florida counties that continue with some variation of this form are smaller counties located in the Florida Panhandle.

And while technically Florida still has nine non-charter counties that have not adopted the County Administration Law by local ordinance and changed to the commission-administrator form of government, five of these counties (Franklin, Hamilton, Jefferson, Levy and Madison) have hired a “county coordinator” that performs many of the same duties as a formal county administrator or manager (and Franklin County has hired a director of administrative services as well).



**Figure 2.2. Traditional Commission Form of Government, Union County, Florida.**



*Source: Union County website; Organizational chart designed by the author.*

## CONSTITUTIONAL OFFICERS

The five constitutional officers who are elected county-wide on a partisan ballot with no term limits in all Florida non-charter counties and almost all charter counties include: the clerk of courts, property appraiser, tax collector, supervisor of elections and sheriff. Several charter counties have made changes to this arrangement. Leon has a non-partisan supervisor of elections, and Wakulla has declared all five officers non-partisan. Over several years through referenda and court battles Orange County made their officers non-partisan and imposed term limits on them (technically they are now charter officers, but the revisions made it clear that the members continue to have the same constitutional powers). In addition to the standard five officers, Osceola County created the elected position of board of county commissioner auditor and Orange County has an elected county comptroller. Miami-Dade has made significant alterations. Under their county charter the county officers are appointed rather than elected and there is no agency called a “sheriff’s” office.<sup>15</sup>

Each of the five constitutional officers administers his or her own office, although each must obtain budgets and facilities from the board of commissioners. The sheriff usually submits the largest single budget request, covering countywide law enforcement and the operations of the county jail. It is not uncommon for sheriffs to press their county commissioner for sizable budget increases, more deputies, and larger jails. County commissioners may risk appearing “soft on crime” if they continually oppose the sheriff’s requests. However, if they do and the sheriff believes it is insufficient, under *Florida Statutes*, the sheriff has the right to appeal the commission’s budget decision to the state Administration Commission (governor and the cabinet).<sup>16</sup>

Constitutional officers perform many essential tasks for the state and the county:

- Sheriff – oversees law enforcement, public safety and often corrections for the county.
- Property appraiser – assesses the fair value of all property so that property taxes can be computed.
- Tax collector – receives property tax and other payments for both the county and state.
- Supervisor of elections – registers voters and organizes all elections in the county.
- Clerk of the courts – maintains public records and is clerk to the county commission.<sup>17</sup>

## DUTIES OF THE BOARD OF COUNTY COMMISSIONERS

Florida law lays out a large number of specific duties for commissioners in non-charter counties. Some of the more important commission duties in Ch. 125.01 of the Florida Statutes include:



- Adopt an annual budget to control county fiscal year expenditures.
- Levy taxes and special assessments; borrow and expend money; issue bonds, revenue certificates and other obligations.
- Adopt county ordinances, resolutions, and rules of procedure, prescribing fines and penalties for violations of ordinances.
- Provide for the prosecution and defense of legal causes on behalf of the county.
- Provide and maintain county buildings.
- Prepare and enforce comprehensive plans for development of the county.
- Establish, coordinate and enforce zoning and business regulations necessary for public protection.
- Place issues on the ballot at any primary, general, or special election.
- Provide services related to the health and welfare of citizens, such as fire protection, parks and recreation, and waste collection/disposal.
- Appoint members to and create Boards, Authorities, Committees and Commissions as required by law.

Commissioners in charter counties are given a shorter list of specific responsibilities because their charters can be modified to add additional responsibilities. Chapter 125.86 of Florida Statutes lists these eight duties:

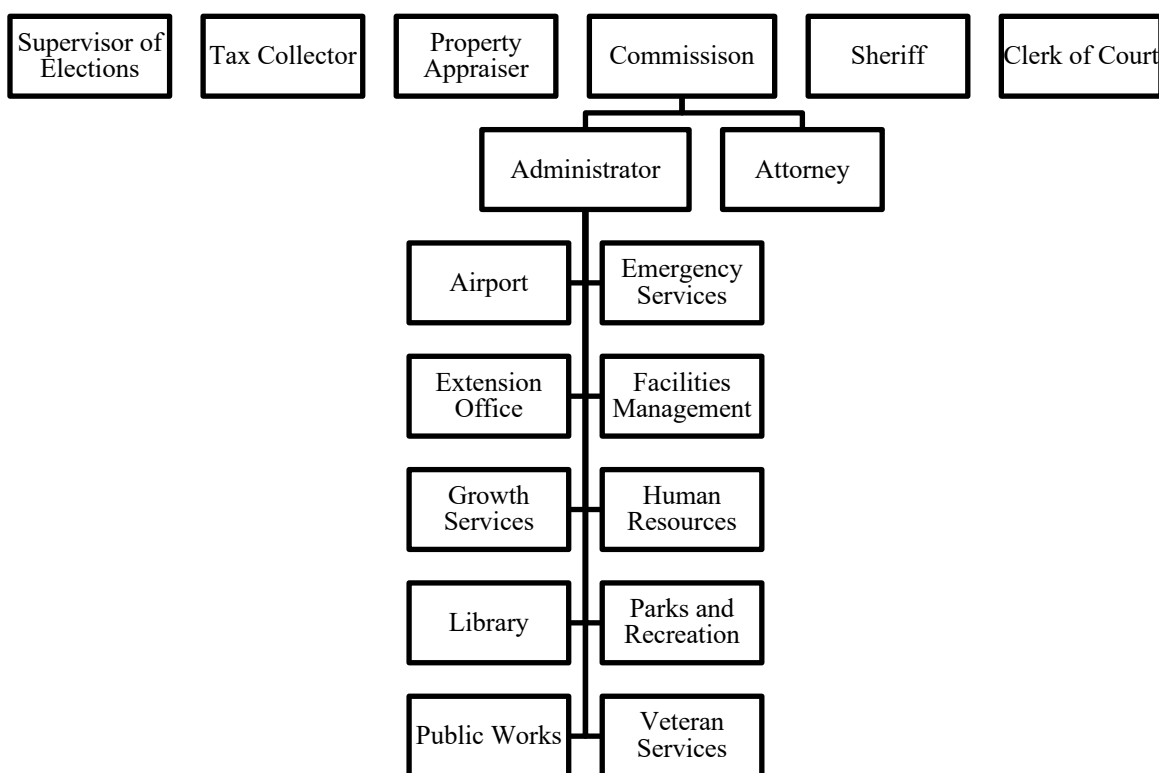
- Advise and consent to all appointments by the executive for which board confirmation is specified.
- Adopt or enact, in accordance with the procedures provided by general law, ordinances and resolutions it deems necessary and proper for the good governance of the county.
- Appoint a clerk to the board who shall serve at its pleasure and keep the records and minutes of the board.
- Approve the annual operating and capital budgets and any long-term capital or financial program.
- Conduct continuing studies in the operation of county programs and services and take action on programs for improvement of the county and the welfare of its residents.
- Adopt, and amend as necessary, a county administrative code to govern the operation of the county.
- Adopt, pursuant to the provisions of the charter, such ordinances of countywide force and effect as are necessary for the health, safety, and welfare of the residents. It is the specific legislative intent to recognize that a county charter may properly determine that certain governmental areas are more conducive to uniform countywide enforcement and may provide the county government powers in relation to those areas as recognized and as may be amended from time to time by the people of that county.
- All other powers of local self-government not inconsistent with general law as recognized by the Constitution and laws of the state and which have not been limited by the county charter.

## **COMMISSION MEETINGS**

One of the main responsibilities of any county commission in Florida is to meet regularly as a group and make policy. Most county commissions select a Chair and a Vice Chair to help run the meetings (some even select a 2<sup>nd</sup> or 3<sup>rd</sup> Vice Chair). The Broward County Commission selects a Mayor and Vice Mayor from the Board – although they are functionally equivalent to Chairs and Vice Chairs and not to be confused with elected mayors wielding executive power. Commission meetings must be announced ahead of time and the agenda for the meeting must be made available ahead of time as well. County residents must be given an opportunity to speak and bring up issues they are concerned about. Minutes must be kept of board actions and made available to the public.



**Figure 2.3. Commission-Administrator Form of Government, Suwannee County, Florida.**



*Source: Suwannee County website; Organizational chart adapted by the author*

### COMMISSION-ADMINISTRATOR OR MANAGER FORM

By far the most popular form of government in Florida today is the commission-administrator or manager form of government. Fifty-five counties have chosen this form of government. All but one of the counties with this form of government adopted it since the reforms of the late 1960s and early 1970s. St. Lucie County, a non-charter county, got a special act of the legislature passed in 1959 granting permission to create a commission-administrator form of government. As counties grow, they realize that the traditional commission form of government is no longer practical and that the expertise and professionalism of a full-time administrator or manager is needed. In 2012 Suwannee County became the most recent to change from the traditional commission system to the county administrator system. Figure 2.3 shows the organizational chart for Suwannee County government.

The key difference between this form and the traditional commission form is the separation of powers between making policy and executing policy. The board of commissioners passes ordinances but hires an administrator or manager to execute the policy and oversee the various departments under the board's control. Technically under Florida's County Administration Law the proper term for the person hired to implement policy and oversee day to day operations in a non-charter county is "administrator." And technically the proper term for that person in charter counties is "manager" according to the Optional County Charter Law. However, as Table 3 (above) shows, the terms are used interchangeably by charter



and non-charter counties. So as a practical matter in Florida a commission-administrator form of government is equivalent to a commission-manager form of government.<sup>18</sup>

Again, the meaningful difference is between charter and non-charter counties. Regardless of what the person is called, in charter counties the duties are largely governed by the county charter. Specifically, Chapter 125.84, Florida Statutes, succinctly says: “The county manager shall be appointed by, and serve at the pleasure of, the board and shall exercise the executive responsibilities assigned by the charter.”

Conversely in non-charter counties the duties are largely governed by state law (Chapter 125.74, Florida Statutes) and administrators are legally kept on a fairly short leash: “It is the intent of the Legislature to grant to the county administrator only those powers and duties which are administrative or ministerial in nature and not to delegate any governmental power imbued in the board of county commissioners...” The duties assigned by the legislature include:

- Administer and carry out the directives and policies of the board of county commissioners and enforce all orders, resolutions, ordinances, and regulations of the board to assure that they are faithfully executed.
- Report to the board on action taken pursuant to any directive or policy and provide an annual report to the board.
- Provide the board with data or information concerning county government and advice and recommendations on county government operations.
- Prepare and submit to the board an annual operating budget, a capital budget, and a capital program.
- Establish the schedules and procedures to be followed by all county departments.
- Prepare and submit to the board after the end of each fiscal year a complete report on finances.
- Supervise the care and custody of all county property.
- Recommend to the board a current position classification and pay plan for all county positions.
- Develop, install, and maintain centralized budgeting, personnel, legal, and purchasing procedures.
- Organize the work of county departments and review the departments, administration, and operation of the county and make recommendations pertaining to reorganization by the board.
- Select, employ, and supervise all personnel and fill all vacancies under the jurisdiction of the board. However, the employment of all department heads shall require confirmation by the board.
- Suspend, discharge, or remove any employee under the jurisdiction of the board pursuant to procedures adopted by the board.
- Negotiate leases, contracts, and other agreements for the county, subject to approval of the board.
- See that all terms and conditions in all leases, contracts, and agreements are performed and notify the board of any noted violation thereof.
- Attend all meetings of the board with authority to participate in the discussion of any matter.
- Perform such other duties as may be required by the board of county commissioners.



Statutes make clear that managers and administrators are not to engage in policy making. Instead they must only faithfully execute the decisions made by the commission. Of course, what is on paper is not always the way things work in real life. And so managers and administrators often have great say over what ordinances the county commissioners adopt, what decisions they make, and what budgets they pass. The managers and administrators are full-time employees and have a large information advantage over their commissioners, particularly in small- and medium-sized counties where the commissioners may have other full- or part-time jobs. Managers bring problems to the attention of the board, which allows them to help set the agenda. They also propose budgets and do research on policy problems and so can help steer the board to their desired course of action. Of course, county administrators or managers have a tough and tricky job and they have to be careful not to obviously exceed their authority or anger the commissioners. Because if they do, the same commissions that hire managers or administrators can also fire them!

### **COMMISSION-EXECUTIVE FORM**

As counties grow very large and more diverse, they often begin to consider the commission-executive form of government. Only three Florida charter counties have adopted the commission-executive form of government (technically called the “county executive form” in Florida statutes): Duval; Miami-Dade; and Orange. Figure 4 displays the county executive form of government for Orange County. Like the commission-administrator form it differs from the traditional commission form in that there are separate roles for making policy and implementing policy. However, it differs from the commission-administrator form as well because the person responsible for the executive role (the mayor in the case of these three Florida charter counties) is elected by the county voters rather than appointed by the board of commissioners. And unlike an administrator or manager, the mayor in this form of government is expected to help formulate policy. In all three counties the mayor is expected to suggest policy to the board and influence what is actually passed. In Orange County the elected mayor actually chairs the commission meetings and has an equal vote with the other six commissioners. In Miami-Dade and Duval, the mayors can veto commission actions (subject to override by the commission). And of course since the office is elected, the mayor is also expected to politically lead county residents and speak publicly and to the press about the direction of local policy and even on occasion state and national party politics. These are activities that are strictly forbidden for county managers and administrators and would almost certainly lead to termination.

The mayors in all three of these counties are similar to the administrators and managers in one way however, since the mayor is also legally responsible for the administration of county government and executing the laws that the commission passes. In fact, Florida Statutes Chapter 125.85 lists 12 specific administrative duties that charter county executives must undertake in addition to whatever else the charter contains (they are not listed separately here as most of them duplicate the administrative functions required of county managers and administrators in state statute). The specific duties and expectations for the mayors beyond the administrative ones required by the state are set out in the charter of each county. Of course all three of these county mayors employ a full-time administrator to oversee day to day operations because of the size of their counties and the enormous workload they carry. Of the three charters, Orange County has the one that might be considered the “average” example of a county executive form of government found in other states. The charters of Miami-Dade and Duval each have an interesting and unique twist on county government structure in Florida. Each was designed to help mitigate the problem of metropolitan fragmentation – the existence of many local governments in one region trying to coordinate and offer citizens services efficiently.<sup>19</sup>



## **CONSOLIDATED GOVERNMENT IN JACKSONVILLE/DUVAL COUNTY**

The Florida Constitution allows for the merger of local governments, including city-county consolidation, by special legislative act “if approved by vote of the electors of the county, or of the county and municipalities affected.”<sup>20</sup> The logic behind consolidation is to ease fragmentation and competition between cities and counties and increase efficiency by creating one local government to replace two or more. Jacksonville and Duval County residents voted to merge in 1967, following allegations of widespread corruption in the city government, a weakening tax base and deteriorating public schools.<sup>21</sup> But consolidation proposals have been repeatedly rejected by voters elsewhere in the state.<sup>22</sup> Often incumbent officials and public employees fear loss of their positions; racial minorities fear dilution of their power; and other voters fear larger, more expensive, and less responsive government. And even in Jacksonville, there has been little evidence that city-county consolidation has led to greater efficiency in government<sup>23</sup> or a reduction in expenditures.<sup>24</sup>

Nonetheless, consolidation did replace separate county and city governments with one consolidated government. And so the legislative body for the county is called the Jacksonville City Council and the chief executive of the county is called the Mayor of Jacksonville.

## **FEDERATED GOVERNMENT IN MIAMI-DADE**

Another attempt to coordinate service delivery and mitigate the problems of metropolitan fragmentation is the creation of a federated local government. The Florida constitution established home rule in 1956 and a special federated government was created in Dade County in 1957. (Dade County officially changed its name to Miami-Dade County in 1997). Interestingly, before the voters of Dade county were able to hold a referendum, the entire state got to vote on approval for this new form of government in 1956 as it was proposed as an amendment to the state constitution (subsequently it was carried forward in the new constitution of 1968). Unlike consolidation, federated government sets up a two-tier system of governance (much like the US federal system sets up a structure with national and state governments). The 35 municipalities in Miami-Dade make up the lower tier of government and provide police and fire protection, zoning and code enforcement, and other typical city services paid for by city taxes. The county is the higher tier of government and provides services that are more regional in nature such as emergency management, airport and seaport operations, public housing, health care, transportation, and environmental services which are funded by county taxes on all incorporated and unincorporated areas.<sup>25</sup> The original charter changed the form of government from the traditional commission form to a county manager form. However in 2007 the voters of Miami-Dade revised their charter creating the current commission-executive form of government.

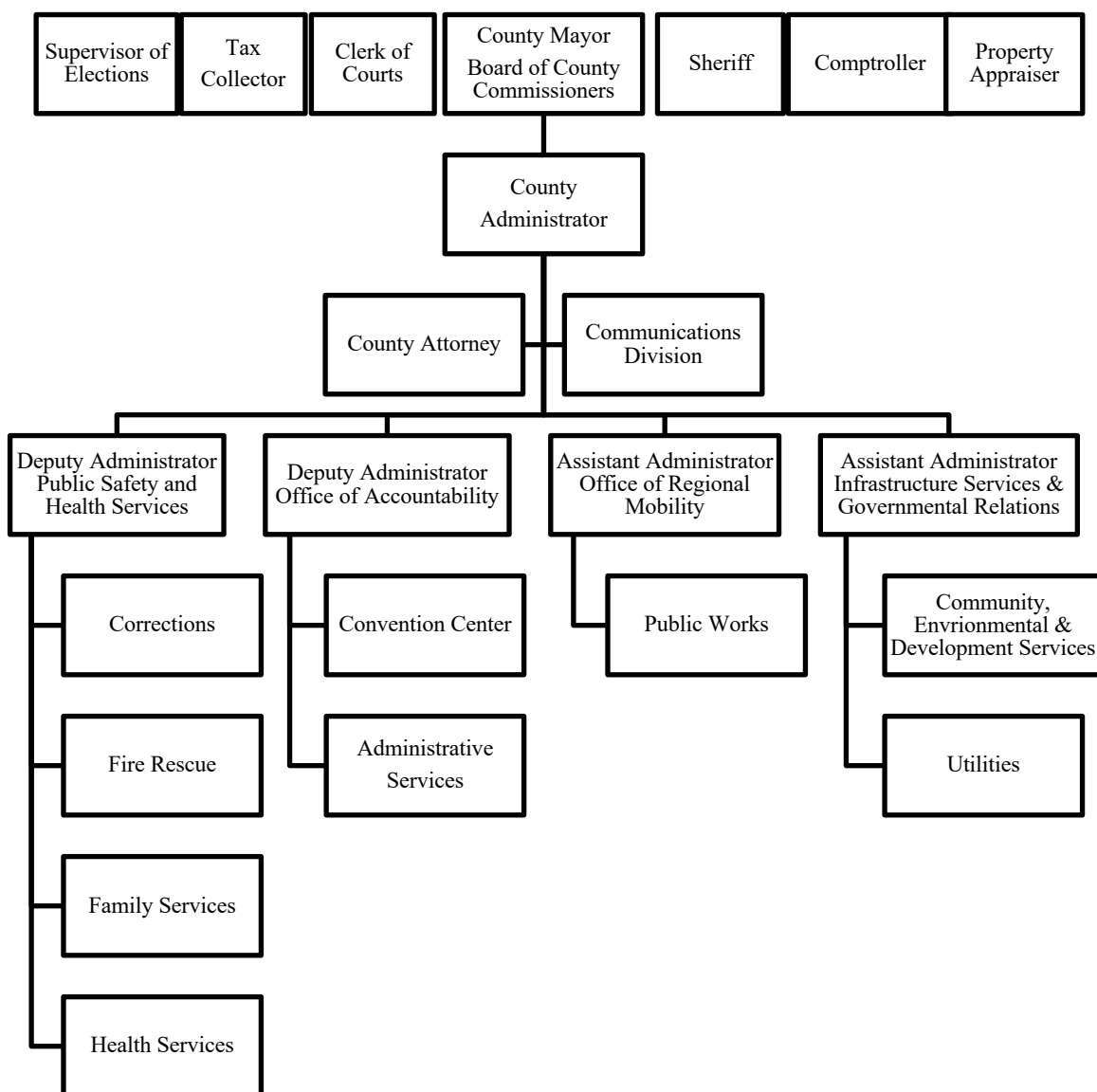
## **ASSESSING FORMS OF GOVERNMENT**

All three basic forms of county government can work effectively. However, each is designed for a certain type of county. The primary factor in having a good fit between the county and the form of government is population size. Table 2.4 shows the average population size of the counties that have each form of government. The ten non-charter counties with commission forms of government average a little less than 19,000 people. The 54 counties that have county-manager or administrator forms of government average a little over 260,000. And the three charter counties that have adopted an executive form of government average almost 1.5 million people.

There is logic to this self-sorting. The traditional county commission structure was designed for small rural counties with fairly homogenous population. Citizen expectations for services are fairly low and political conflict is rare. County commissioners can handle both making and overseeing policy and many key state functions are handled by the separately elected constitutional officers.



**Figure 2.4. Council-Executive Form of Government, Orange County, Florida.**



*Source: Orange County Government Directory 2015-2016; Organizational chart adapted by the author.*

However, as the population grows and becomes more diverse, more political conflict is bound to occur and citizens begin to expect more services. Having the county commission make and implement policy becomes difficult and inefficient – and violates the cherished political doctrine of separation of powers inherent in national and state government. Thus counties begin to gravitate towards the county manager or administrator form of government to allow a professional administrator to oversee day to day operations of county government and allow the commission to focus on making policy.

Finally, as the county grows even larger and more diverse there is a need for political leadership and an elected executive. Political disagreements between diverse factions can best be overcome by



strong political leadership – something a manager or administrator is ill-equipped to provide and legally cannot provide. Executive mayors that are forced to campaign, talk to voters, lay out plans for the future and help work out compromises that various factions can live with help make large urban counties function. In fact, it is somewhat surprising that only three counties have selected this system as several more in Florida are large enough and diverse enough to indicate they might be better served with a strong elected mayor. Broward County voted against establishing an executive mayor in 2000 but has periodically considered putting the issue back before residents as a charter revision.

**Table 2.4. Form of Government by Average County Population (2016).**

| Form of Government    | Average County Population |
|-----------------------|---------------------------|
| Commission            | 16,522                    |
| Manager/Administrator | 274,457                   |
| Executive             | 1,634,943                 |

*Source: Data tabulated by the author from Florida Office of Economic and Demographic Research county population estimates*

## COMMISSION DISTRICT STRUCTURES

There are basically two issues involved when examining the structure of commission districts in Florida: the number of commissioners and type of district. Charter status is the primary determining factor for size, although even non-charter counties have two options. Generally most counties in Florida have five districts although several charter counties (and one non-charter) have larger numbers. Federal civil rights concerns are a significant factor in the type of district that some counties use. The three basic types of districts found in Florida and across the country are: single member districts in operation in 23 counties; at-large district residency systems employed by 38 counties; and mixed systems (a combination of single member and at-large) found in the other six counties (see Table 2.5). The number and type of commission districts for non-charter counties is governed by the Florida Constitution and Chapter 124, Florida Statutes. The charter designates the number of commissioners and type of system in the charter counties.

### AT-LARGE, DISTRICT RESIDENCY SYSTEM

Article VIII Section 1(e) of the Florida Constitution requires that county commission districts in all counties be redrawn after each decennial census and be of “contiguous territory as nearly equal in population as practicable.” Additionally, it states that non-charter counties will have five or seven commissioners serving four-year staggered terms (so as to keep some experienced members on the commission after each election) and that one member residing in each commission district will be elected as provided by law. Chapter 124.01, Florida Statutes, sets up an election system called an at-large, district residency system. Specifically, the county is divided into five equally populated, geographically defined districts. A candidate runs to represent the district he or she lives in (e.g., District 1), but all voters in the county get to vote on who shall represent that district. Thirty-eight counties, including seven charter counties, use this system and have five districts. For non-charter counties it is the default system if they do not choose something different.

### SINGLE-MEMBER AND MIXED DISTRICTS

Chapter 124.011, Florida Statutes, gives two more alternatives for non-charter counties: five single-member districts or a seven-member mixed system—both with staggered terms. In either case, for a non-charter county to adopt either of these systems a proposition to do so must be placed before the voters by resolution of the commission or by a petition signed by at least 10% of the county’s registered



voters. The single-member district plan is fairly straightforward: “each commissioner shall be nominated and elected only by the qualified electors who reside in the same county commission district as the commissioner.” Twenty-three counties have single-member district elections with four charter and 15 non-charter counties having five members and four charter counties deciding on larger commissions (Orange, 6, Palm Beach, 7, Broward, 9, and Miami-Dade, 13).

**Table 2.5. County Commission Elections Districts: Type and Number (Charter Counties in Italics).**

| Single Member     |    | At-Large, District Residency |   |                 |   | Mixed<br>(Single/At-Large) |           |
|-------------------|----|------------------------------|---|-----------------|---|----------------------------|-----------|
| County            | #  | County                       | # | County          | # | County                     | #         |
| Bradford          | 5  | <i>Alachua</i>               | 5 | Liberty         | 5 | <i>Duval</i>               | 19 (14/5) |
| <i>Brevard</i>    | 5  | Baker                        | 5 | Marion          | 5 | <i>Hillsborough</i>        | 7 (4/3)   |
| <i>Broward</i>    | 9  | Bay                          | 5 | Martin          | 5 | <i>Leon</i>                | 7 (5/2)   |
| Calhoun           | 5  | <i>Charlotte</i>             | 5 | Monroe          | 5 | Manatee                    | 7 (5/2)   |
| <i>Clay</i>       | 5  | Citrus                       | 5 | Nassau          | 5 | <i>Pinellas</i>            | 7 (4/3)   |
| Collier           | 5  | DeSoto                       | 5 | Okaloosa        | 5 | <i>Volusia</i>             | 7 (5/2)   |
| <i>Columbia</i>   | 5  | Dixie                        | 5 | Okeechobee      | 5 |                            |           |
| Escambia          | 5  | Flagler                      | 5 | Pasco           | 5 |                            |           |
| Franklin          | 5  | Gilchrist                    | 5 | <i>Polk</i>     | 5 |                            |           |
| Gadsden           | 5  | Glades                       | 5 | Putnam          | 5 |                            |           |
| Gulf              | 5  | Hardee                       | 5 | Santa Rosa      | 5 |                            |           |
| Hamilton          | 5  | Hernando                     | 5 | <i>Sarasota</i> | 5 |                            |           |
| Hendry            | 5  | Highlands                    | 5 | <i>Seminole</i> | 5 |                            |           |
| Jackson           | 5  | Holmes                       | 5 | St. Johns       | 5 |                            |           |
| Jefferson         | 5  | Indian River                 | 5 | St. Lucie       | 5 |                            |           |
| Madison           | 5  | Lafayette                    | 5 | Sumter          | 5 |                            |           |
| <i>Miami-Dade</i> | 13 | Lake                         | 5 | <i>Wakulla</i>  | 5 |                            |           |
| <i>Orange*</i>    | 6  | <i>Lee</i>                   | 5 | Walton          | 5 |                            |           |
| <i>Osceola</i>    | 5  | Levy                         | 5 | Washington      | 5 |                            |           |
| <i>Palm Beach</i> | 7  |                              |   |                 |   |                            |           |
| Suwannee          | 5  |                              |   |                 |   |                            |           |
| Taylor            | 5  |                              |   |                 |   |                            |           |
| Union             | 5  |                              |   |                 |   |                            |           |

Source: Data collected by the author.

\* Orange County actually has 7 voting members on the commission since the executive mayor elected countywide also has a vote.

For the seven-member mixed system, five members are elected from single member districts as just described. The other two run at-large—candidates for these two seats can live in any part of the county and all county electors are eligible to vote in those elections. Manatee County is the only non-charter county currently using this system, but two charter counties, Leon and Volusia, do as well. Two other charter counties (Hillsborough and Pinellas) also have seven members but have four single members and three at-large. Finally, Duval County/Jacksonville uses a mixed system and has the largest commission/council in the state at 19 total members: 14 from single member districts and five elected at-large.

## EVALUATING DISTRICTING PLANS

Each of the three types of districting plan has some advantages and disadvantages. At-large district residency plans require commission members to be spread out geographically through the county to ensure that all areas receive representation but allow all residents to have a vote for all commissioners.



Theoretically at-large elections keep commissioners focusing on the good of the whole county rather than the narrow concerns of one area. However, at-large systems can make it more difficult for minority residents to elect a minority to the commission. If most residents vote along racial or ethnic lines, even a county with 49% minority population may not elect any members to the commission. In fact, a number of Florida counties have been forced to abandon at-large elections and replace them with single member districts because of legal action by the U.S. Justice Department and federal courts enforcing the Voting Rights Act. These include Escambia, Miami-Dade and more recently Osceola. In each case Black and/or Hispanic residents complained that they were not able to elect minority members to their commission despite having a fairly high percentage of minority residents in the county. In each case the switch to single member districts increased the number of minorities on the commission and gave needed representation to minority groups in the community. One of the big advantages of single member districts is that they allow for greater diversity and representation on the commission. Of course, single member districts can also lead each commissioner to have a narrow parochial view of issues and lose sight of what is in the best interest of the county as a whole. Thus, proponents of mixed systems promote them precisely because they allow some commissioners to bring a countywide perspective to matters before the board of county commissioners but allow other district-based commissioners to represent specific areas of the county.

## **A REVIEW OF COUNTY GOVERNMENT STRUCTURE IN FLORIDA**

---

Florida county government structure has come a long way since the 1950s. The options provided to the counties by the state have given counties more home rule and flexibility to deal with larger urban populations and citizen demand for increasing county services. There are three main structures that affect all counties in the state: charter status; form of government; and type of commission district.

The first and most important structural question faced by Florida counties is whether or not to adopt a charter. Charter counties have more independence from the state in determining how to set up and operate their county government although even non-charter counties have many more options and much more independence than they used to. It is somewhat surprising that only 20 counties have chosen to become charter counties in the last 40 years. It would not be surprising if more select this option in the coming decades.

Florida counties are using three different forms of government – with all but one county also having at least five elected constitutional officers. Some smaller counties still use the traditional county commission system that combines the legislative and executive function in the county commission. Only nine counties are still using this system in Florida and five of those are already phasing into a county administrator system by employing a county coordinator to act as an administrator over day to day activities. Over time it is likely that all but two or three of the smallest counties in Florida will eventually choose to abandon the county commission system. By far the most popular form of government is the county administrator or manager form of government. The vast majority of counties have chosen this system. By separating policy making and policy implementation between the commission and a manager or administrator appointed by the commission, residents get more efficient effective governance. Finally, just three of the largest counties in Florida have chosen an executive form. This form requires a mayor to be elected. The mayor can then provide political leadership to the county, work with the commission to make policy, execute county decisions, and manage the bureaucracy. Of these three counties, Duval County's consolidation with Jacksonville and Miami-Dade's system of federated government provide two more interesting structures to try and deal with the problem of metropolitan fragmentation in urban areas. Several other large Florida counties will likely consider an executive form of government or consolidation in the future (although consolidation attempts have not fared well in Florida).

Finally, the last structure is number and type of commission district. Almost all non-charter counties have five commission members (although they can have seven and one does). Charter counties can and do have larger commissions with the number determined by the charter. The three types of



election districts are available to both charter and non-charter counties alike (although the method of adopting them is somewhat different for each type of county). At-large district residency systems are the most prevalent in Florida and allow commissioners to focus on wider county concerns. However, they also make it more difficult for minorities to win seats on the commission and thus a number of counties have switched (voluntarily or through legal action) to single member districts. Increasing use of single member districts increases diversity of county commissions and allows district concerns to be addressed but also encourages commission members to take a very narrow view of their job. The mixed system that combines single member and at-large districts is perhaps a good compromise that utilizes the best features of each.

## NOTES

<sup>1</sup> Current information on the structure of all Florida counties was compiled by the author from a survey of the websites of the Florida Association of Counties, the Municipal Code Corporation, and the 67 individual counties in Florida. Follow up phone calls and emails were also made to a number of counties where web-data was unavailable or unclear.

<sup>2</sup> Terry Christensen and Tom Hogen-Esch, *Local Politics: A Practical Guide to Governing at the Grassroots*, 2<sup>nd</sup> ed. (Armonk, NY: M.E. Sharpe, 2006), p. 79.

<sup>3</sup> This brief history is adapted from "History of County Government Part I" authored by the National Association of Counties, <http://www.naco.org/Counties/Pages/HistoryofCountyGovernmentPartI.aspx> (accessed June 2010).

<sup>4</sup> For an excellent concise overview of the history and current status of local government in Florida see John Wesley White, "Local Government," in Allen Morris and Joan Perry Morris, eds., *The Florida Handbook, 2007-2008* (Tallahassee: The Peninsular Publishing Company, 2007), pp. 236-245.

<sup>5</sup> See Allen Morris, *The Florida Handbook, 1949-1950* (Tallahassee: The Peninsular Publishing Company, 1949), pp. 233-235 for a list of Florida County Officers from those years.

<sup>6</sup> John DeGrove and Robyne Turner "Local Government in Florida: Coping with Massive Sustained Growth," in Robert J. Huckshorn ed., *Government and Politics in Florida* (Gainesville: Florida University Press, 1991), pp. 213-223.

<sup>7</sup> Thomas R. Dye and Susan A. MacManus, *Politics in States and Communities*, 13<sup>th</sup> ed. (Upper Saddle River, NJ: Pearson Prentice Hall, 2009), pp. 350-356.

<sup>8</sup> Robert Benedetti, "Local Government in Florida: An Introduction" in Manning J. Dauer ed., *Florida's Politics and Government* (Gainesville, FL: University Press of Florida, 1980), pp. 192-200.

<sup>9</sup> See *Florida Constitution*, Article VIII online at <http://www.leg.state.fl.us/Statutes/index.cfm?Mode=Constitution&Submenu=3&Tab=statutes&CFID=75235441&CFTOKEN=10950934#A08>

<sup>10</sup> See *Florida Statutes*, Chapter 125 online at [http://www.leg.state.fl.us/Statutes/index.cfm?App\\_mode=Display\\_Statute&URL=Ch0125/titl0125.htm&StatuteYear=2009&Title=%2D%3E2009%2D%3EChapter%20125](http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=Ch0125/titl0125.htm&StatuteYear=2009&Title=%2D%3E2009%2D%3EChapter%20125)

<sup>11</sup> Frank P. Sherwood, *County Government in Florida*, (Lincoln, NE: iUniverse, 2008) p.9.

<sup>12</sup> For the expansive firearm preemption see Florida Statutes, Chapter 790.33 at [http://www.leg.state.fl.us/statutes/index.cfm?App\\_mode=Display\\_Statute&URL=0700-0799/0790/Sections/0790.33.html](http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&URL=0700-0799/0790/Sections/0790.33.html)

<sup>13</sup> *Florida Statutes*, Ch. 125.84 County Charters; Optional Forms.

<sup>14</sup> *Florida Statutes*, Ch. 125.70 County Administration Law of 1974.

<sup>15</sup> Miami-Dade County is the only county without an elective sheriff or an agency titled "Sheriff's Office." Instead the equivalent agency is known as the Miami-Dade Police Department, and its leader is known as the Metropolitan Sheriff and Director of the Miami-Dade Police Department.

<sup>16</sup> Pursuant to section 129.03, Florida Statutes, on or before June 1 of each year, sheriffs are required to submit a tentative budget to the board of county commissioners for the operation of the sheriff's office for the ensuing fiscal year. Along with the tentative budget, Section 30.49, Florida Statutes, requires the sheriff to submit a sworn certificate that the proposed expenditures are "reasonable and necessary for the proper and efficient operation of the office for the ensuing year." The board of commissioners is to review the budget request and may require changes made as it deems necessary. Section 30.49, Florida Statutes, allows the sheriff, within 30 days, to file an appeal to the Administration Commission regarding the approved budget. The Executive Office of the Governor is required to



provide a budget hearing to allow both parties to present their case. Upon the findings and recommendations of the Executive Office of the Governor, the Administration Commission may amend the budget if it finds that any aspect of the budget is unreasonable. The budget as approved, amended or changed by the Administration Commission is final.

<sup>17</sup> The clerk also has some audit and fiscal responsibility over the commission. Charter counties may appoint a different person to be their clerk.

<sup>18</sup> Although in Florida there is little practical distinction between commission-manager and commission-administrator forms of government, that is not the case in all states. Some states, like Georgia, view county administrator as a more constrained position than a county manager which is viewed as more expansive. See Bernard H. Ross and Myron A. Levine, *Urban Politics* 7<sup>th</sup> ed. (Belmont, CA: Thomson Wadsworth, 2006), pp. 426-427.

<sup>19</sup> G. Ross Stephens and Nelson Wikstrom, *Metropolitan Government and Governance* (New York: Oxford University Press, 2000) pp. 75-81 and 88-95.

<sup>20</sup> Florida Constitution, Article VIII Section 3, "Consolidation"

<sup>21</sup> For a good description, see James B. Crooks, *Jacksonville: The Consolidation Story, from Civil Rights to the Jaguars* (Gainesville, FL: University Press of Florida, 2004).

<sup>22</sup> Areas that have rejected city-county consolidation include Tampa-Hillsborough in 1967, 1970, and 1972; Pensacola-Escambia in 1970; Fort Pierce-St. Lucie in 1972; Tallahassee-Leon in 1973, 1976, and 1993; Gainesville-Alachua in 1975, 1976, and 1990; and Okeechobee City and County in 1979 and 1989.

<sup>23</sup> Bert Swanson, "Jacksonville: Consolidation and Regional Governance" in H.V. Savitch and Ronald K. Vogel, eds., *Regional Politics: American in a Post-City Age* (Thousand Oaks, CA: Sage Publications, 1996).

<sup>24</sup> See J. Edwin Benton and Darwin B. Gamble, "City/County Consolidation and Economies of Scale: Evidence from a Time-Series Analysis in Jacksonville, Florida," *Social Science Quarterly* 65 (March 1985): 190-98.

<sup>25</sup> See <http://www.miamidade.gov/info/government.asp>. For an early look at the establishment of federated government in Miami-Dade see Edward Sofen, *The Miami Metropolitan Experience* (Garden City, NY: Anchor Books, 1966).



---

## 3. Sources and Limits of County Powers

---

Virginia “Ginger” Delegal

Counties are political subdivisions of the State of Florida. They may be created, abolished or changed by law.<sup>1</sup> The powers and authority of a county are derived from federal, state, and local law, including constitutions, statutory law, judicial decisions, administrative rules and local regulations, as a part of the governing law. All of these laws can also limit the powers and authority of a county in Florida and must be consulted to determine whether any applicable limits exist in a particular situation.

**United States Constitution.** The United States Constitution does not address the issue of creating local governments. Instead, the U.S. Constitution outlines the powers of the federal government, leaving any powers not given to the federal government to the states. This state power includes the ability to establish local governments, such as counties.

**Florida Constitution and State Statutes.** More than a century has passed since Dillon’s treatise first articulated the law of state and local government relations in this country. A local government, under Dillon’s Rule, possesses only those powers that are expressly delegated to it from the sovereign state, those necessarily implied from the express grant, or those implied from the municipality’s very existence.<sup>2</sup> This view resolved the conflict of power between state and local governments within the individual states, and further assured that under the United States Constitution principles of federalism, only two sovereigns would be recognized, the federal and the state. Within individual states, however, Dillon’s Rule generated an uneasiness that was hard to put to rest. Fundamental democratic principles, as well as the U.S. Constitution itself guarantee citizens the right to petition their government for redress of grievances, and local government is the government closest and potentially most responsive to the people.<sup>3</sup> As Florida courts have recognized, the people have a deep-rooted expectation that they will resolve many matters among themselves at the most accessible level of government.<sup>4</sup>

From these and similar concepts, a national home rule movement developed during the course of the 20<sup>th</sup> century. Through various means, most states have now granted home rule powers to their cities, counties, and other local governments, either by direct grants of power, by limitations on state legislative interference in local affairs, or by a modified combination of both.<sup>5</sup>

Dillon’s Rule prevailed in Florida, with limited and notable exception, until Article VIII of the 1968 Constitution dramatically reallocated constitutional power by expressly vesting in municipalities and charter counties full power of self-determination in local affairs. Since 1968, counties, in addition to municipalities in Florida have *home rule* powers. This concept favors the grant of authority, not exclusively reserved by the state (to itself) to units of local government. This concept does not mean complete local autonomy, however. Rather, it speaks to a broad empowerment of local authorities to make and enforce rules in matters of genuine local concern. State legislation is not barred on matters of local concern under home rule but home rule does shift the location of decision making power back to those persons who are in the best position to assess local needs, allowing the State Legislature to concentrate on the issues that have a genuine statewide effect. Furthermore, home rule is a practical response to continued increases in the demand for fundamental services such as water, wastewater treatment, transportation, planning, zoning, law enforcement, fire protection, public health, parks and recreation, precipitated by increasing populations.<sup>6</sup>

There are two forms of county government, *charter* and *non-charter*, in the state constitution. Counties with charters have all powers of self-government that are not inconsistent with general law or with special laws (when those special laws are approved by local referendum).<sup>7</sup> This self-governance authority is granted directly from the constitution (i.e., the people) to the county. Non-charter counties have more limited powers of self-government; they have those powers that are provided by general or



special law.<sup>8</sup> Scholars have noted that depending on the legislative enactments, the powers of charter and non-charter counties could conceivably be the same.<sup>9</sup>

The 1968 constitutional revision and later legislation, like the 1974 Optional County Charter Law, have increased the counties' home rule powers in order to more effectively meet the needs of Florida's citizens. In addition, the County Administration Law of 1974 was designed to then modernize non-charter county government, by authorizing the appointment of a county administrator in non-charter counties. Chapter 125, 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 systems, to list a few.<sup>10</sup> The role of county government in Florida has changed dramatically since 1968. No longer are counties considered merely appendages of the state. Even non-charter counties have been granted limited home rule powers by the Legislature in response to Floridians' increased demands and expectations for service.<sup>11</sup>

**Ordinances and Resolutions.** An ordinance is the mode of expressing the legislative acts of a local government.<sup>12</sup> A resolution is an order of a temporary character and of a ministerial nature.<sup>13</sup> The adoption of an ordinance allows an opportunity for greater citizen input than passage of a resolution. Thus, ordinances provide broader safeguards and a permanence not afforded by a resolution.<sup>14</sup>

The board of county commissioners has the power to carry on county government.<sup>15</sup> This power includes the authority to adopt ordinance and resolutions that are necessary for the exercise of its powers.<sup>16</sup> The board of a non-charter county may enact county ordinances that are not inconsistent with general or special law.<sup>17</sup> A charter county's board of county commissioners may enact county ordinances that are not inconsistent with general law.<sup>18</sup> Ordinances in a non-charter county that conflict with a municipal ordinance are not effective inside that municipality;<sup>19</sup> in a charter county, the charter must specify whether the county or municipal ordinance prevails in the event of a conflict.<sup>20</sup>

Each county ordinance must be filed with the custodian of state records (i.e., the Secretary of State) and becomes effective upon filing or at another time as prescribed by general law.<sup>21</sup> In addition, when ordinances are violated, violators are to be prosecuted and punished as provided by general or special law.<sup>22</sup>

The ordinance enactment powers that are conferred on counties by the state constitution may be exercised in accordance with section 125.66, Florida Statutes. Ordinances are enacted after noticed public hearings are held on the proposed ordinance. The precise procedures for a particular type of ordinance vary. For example, the enactment procedures for the small county local option sales tax are different<sup>23</sup> than the procedures for an ordinance that changes the list of permitted uses of property within a zoning category.<sup>24</sup>

Ordinances can only contain one subject matter, and that subject matter must be expressed in the title. Revisions to ordinances must be set out in full; no ordinance can be amended or revised by reference to the title only. The enacting clause of every ordinance must read:

Be it Ordained by the Board of County Commissioner of \_\_\_\_ County:<sup>25</sup>

With only a few exemptions in the growth and land use area, each county must maintain a current codification of all ordinances.<sup>26</sup>

**Ordinance Violations.** In general, violations of county ordinances are misdemeanors and are prosecuted in the same manner as all other misdemeanors and in county court.<sup>27</sup> Violators may be punished by fines up to \$500 and/or by imprisonment in the county jail up to 60 days.<sup>28</sup> A county may also establish a code enforcement board<sup>29</sup> or designate a county employee (or agent) as code inspectors who may issue citations for violations of county codes and ordinances.<sup>30</sup>



## COUNTY TAXATION AND SPENDING

---

Perhaps the severest limit on the broad transfer of power to cities and counties in Florida in the 1968 constitutional revision arises from Article VII of the constitution. Although the constitution, in one place,<sup>31</sup> mandates that the Legislature authorize the local levy of ad valorem taxes and allowed the Legislature to authorize other local taxes as well,<sup>32</sup> another<sup>33</sup> preempts all forms of taxation except ad valorem taxes to the state, and further provides that no tax can be levied “except in pursuance of law.”<sup>34</sup> Combined with the State Legislature’s power to preempt or deny home rule by general law, the constitution’s fiscal preemption deals a rugged blow to home rule. After all, while the taxing and borrowing power is a fundamental component of sovereignty over which a State Legislature might wish to exert substantial control,<sup>35</sup> it has been cannily observed that without fiscal home rule there is no home rule.<sup>36</sup>

## PLANNING AND ZONING

---

Counties are statutorily empowered to prepare and enforce comprehensive plans for the development of the county.<sup>37</sup> In addition, counties have the power to establish, coordinate, and enforce zoning regulations that are necessary to protect the public.<sup>38</sup> The Florida Legislature has also mandated that counties have not only the power but also the responsibility to plan for future growth and development, to adopt and amend comprehensive plans, to implement comprehensive plans, and to establish, support and maintain administrative procedure to carry out the purpose of the Local Government Comprehensive Planning and Land Development Regulation Act.<sup>39</sup> Comprehensive plans contain chapters or “elements” that address future land use, housing, transportation, infrastructure, coastal management, conservation, recreation and open space, intergovernmental coordination, and capital improvements. A key component of the Act is its “concurrency” provision that requires facilities and services to be available concurrent with the impacts of development.

Each county commission must designate and by ordinance establish a “local planning agency,” unless the agency is otherwise established by law.<sup>40</sup> The agency can be a local planning commission, the planning department of the local government, or other entity, including a countywide planning unit.<sup>41</sup> The county commission is mandated to appropriate funds for salaries, fees and expenses necessary in the conduct of the work of the local planning agency and must also establish the schedule of fees to be charged by the agency.<sup>42</sup>

## EMINENT DOMAIN

---

Eminent domain is the fundamental power of the sovereign to take private property for a public use without the property owner’s consent.<sup>43</sup> The power of eminent domain comes from the practical necessity to take properties for the public good. Every property owner holds title to property subject to the superior right of the government to retake that property. Because this power is one of the most onerous proceedings known to the law, the United States and the Florida constitutions contain express safeguards for private property rights. The United States Constitution, in the Fifth Amendment, prohibits the federal government from taking private property for public use without just compensation and the 14<sup>th</sup> Amendment prohibits state and local governments from condemning private property without due process of law. In Florida, that means that no private property can be taken except for a public purpose and with full compensation paid to the owner.

A county’s power of eminent domain is prescribed by the Florida Legislature, through Chapters 73 and 74 of the Florida Statutes. These chapters describe the required notice and opportunity to be heard that is demanded by the constitution. There are at least 55 other statutory provisions that also grant the



right to the power of eminent domain to the state, its agencies, counties and other local governmental entities and provide limitations on its use. Chapter 127 of the Florida Statutes provides express and additional powers of eminent domain for counties.

Some examples of when counties use the power of eminent domain include roadway, bridge, expressway and other transportation projects; drainage and water control purposes; water, wastewater, telephone, electric and natural gas utility services; beach restoration and preservation; community redevelopment; and public housing projects.

## NOTES

<sup>1</sup> See Art. VIII, § 1(a), Fla. Const.

<sup>2</sup> See, generally, 1 J. Dillon, *Municipal Corporations* 448-55 (5th ed. 1911).

<sup>3</sup> See U.S. Const. amend. 1; see also Sands and Libonati, 1 *Local Government Law* §4.01 and Supp. at 99 (1991).

<sup>4</sup> See, for example, *Cross Key Waterways v. Askew*, 351 So. 2d 1062 (Fla. 1st DCA 1977), *aff'd*, 372 So. 2d 913 (Fla. 1978) (footnote omitted)(concluding a shift in regulatory authority away from local government to the state, “The primacy of local government jurisdiction in land development regulation has traditionally been, in this country, a corollary of the people’s right of access to government. In a sense, therefore, the jurisdictional claim of local governments in these matters is based on historical preferences stronger than law.”).

<sup>5</sup> See Andersen, *Resolving State/Local Governmental Conflict—A Tale of Three Cities*, 18 *URBAN L. ANN.* 129 (1980), for a useful analysis of the variations on state grants of home rule power.

<sup>6</sup> See Wolff, Mark J. *Home Rule in Florida: A Critical Appraisal*. 21 *Stetson L.Rev.* 853, 853-54 (1990).

<sup>7</sup> See Art. VIII, § 1(g), Fla. Const.

<sup>8</sup> See Art. VIII, § 1(f), Fla. Const.

<sup>9</sup> See D’Alembert, Talbot “Sandy”, *Commentary*, to Article VIII, section 1, Fla. Const., Fla. Stat. Annotated.

<sup>10</sup> See § 125.01(1), Fla. Stat.

<sup>11</sup> See *State v. Orange County*, 281 So. 2d 310 (Fla. 1973); *Speer v. Olson*, 367 So. 2d 207 (Fla. 1979); and *Taylor v. Lee County*, 498 So. 2d 424 (Fla. 1986)(recognizing the expansive home rule powers conferred by Art. VIII, section 1(f), Fla. Const. and section 125.01, Fla. Stat., concluding that counties with the broad legislative implementation of home rule, no county needs specific statutory authority to enact ordinances for any public purpose).

<sup>12</sup> See *City of Pensacola v. Southern Bell Telephone Co.*, 37 So. 820, 824 (Fla. 1905); see also § 166.041(1)(a), Fla. Stat. (defining ordinances as “an official legislative action of a governing body, which action is a regulation of a general and permanent nature and enforceable as a local law.”).

<sup>13</sup> See *City of Pensacola v. Southern Bell Telephone Co.*, 37 So. 820, 824 (Fla. 1905); see also § 166.041(1)(b), Fla. Stat. (defining resolutions as “expressions of a governing body concerning matters of administration, an expression of a temporary character, or a provision for the disposition of a particular item of the administrative business of the governing body.”).

<sup>14</sup> See *Atty. Gen. Op.* 96-45.

<sup>15</sup> See § 125.01(1), Fla. Stat.

<sup>16</sup> See § 125.01(1)(t), Fla. Stat.

<sup>17</sup> See Art. VIII, § 1(f), Fla. Const.

<sup>18</sup> See Art. VIII, § 1(g), Fla. Const.

<sup>19</sup> See Art. VIII, § 1(f), Fla. Const.

<sup>20</sup> See Art. VIII, § 1(g), Fla. Const.

<sup>21</sup> See Art. VIII, § 1(i), Fla. Const.

<sup>22</sup> See Art. VIII, § 1(j), Fla. Const.

<sup>23</sup> See § 212.055(3), Fla. Stat.

<sup>24</sup> See § 125.66(4), Fla. Stat.

<sup>25</sup> See § 125.67, Fla. Stat.

<sup>26</sup> See § 125.68(1)(a), Fla. Stat.

<sup>27</sup> See § 34.01(1)(b), Fla. Stat. (“County courts shall have original jurisdiction...of all violations of municipal and county ordinances”).

<sup>28</sup> See § 125.69(1), Fla. Stat.

<sup>29</sup> See Chapter 162, Part II, Fla. Stat.

<sup>30</sup> See § 125.69(4), Fla. Stat.



<sup>31</sup> See Art. VII, § 9, Fla. Const.

<sup>32</sup> See *Id.*

<sup>33</sup> See Art. VII, § 1 (a), Fla. Const.

<sup>34</sup> See *Id.*

<sup>35</sup> See Vaubel, Toward Principles of Restraint Upon the Exercise of Municipal Power in Home Rule, Part II, 24 Stetson L. Rev. 417, 461-66 (1995).

<sup>36</sup> See *Id.* at 462; see also Sands and Libonati, *supra* note 3 at § 4.16.

<sup>37</sup> See § 125.01(1)(g), Fla. Stat.

<sup>38</sup> See § 125.01(1)(h), Fla. Stat.

<sup>39</sup> See § 163.3167(1), Fla. Stat.

<sup>40</sup> See § 163.3174, Fla. Stat.

<sup>41</sup> See § 163.3174(1), Fla. Stat.

<sup>42</sup> See § 163.3174(3), Fla. Stat.

<sup>43</sup> See Art. X, § 6, Fla. Const.







---

## 4. *County Commissioners: Powers and Duties*

---

*Virginia “Ginger” Delegal*

In Florida, except when otherwise provided by county charter, the governing body of each county is a board of county commissioners, composed of either five or seven members.<sup>1</sup>

---

### **BUDGETING AND SPENDING COUNTY FUNDS**

---

A budget system has been established for the control of the finances of the boards of county commissioners across the state.<sup>2</sup> The budget controls the levy of taxes and the expenditure of money for all county purposes on an annual basis, and it is unlawful for the county commission to expend or contract for expenditures in any fiscal year for more than the amount budgeted.<sup>3</sup> The county budget is to be prepared, summarized, and approved by the board of county commissioners of each county and it must be balanced—that is, the total of the estimated receipts (monies to be received by the county), including balances brought forward, shall equal the total of the appropriations (monies budgeted to be spent) plus monies held in reserves. The receipts side of the budget can include only 95 percent of anticipated receipts from all sources. The expenditure side of the budget must include itemized appropriations for all expenditures that are authorized by law, contemplated to be made, or incurred for the benefit of the county during the year, and the provision for reserves. Finally, the budget must reflect the estimated division between countywide and non-countywide expenditures and revenues.<sup>4</sup>

The annual county budget must make provision for reserves. A reserve for contingencies (i.e., unforeseen circumstances) can be provided but not in an amount that exceeds 10 percent of the budget. When certain statutory thresholds are met, the budget can also provide for a cash carry forward reserve.<sup>5</sup> Section 129.01 of the Florida Statutes further outlines the requirements for outstanding debt and surpluses in the annual budget.

---

### **COUNTY PROPERTY**

---

In every county, there must be a county seat where the principal offices and permanent records of all the county officers must be located.<sup>6</sup> Counties in Florida have the express statutory power to “provide and maintain county buildings.”<sup>7</sup> Furthermore, the county commission has the sole authority to allocate space in county buildings to the various county officials and, in the absence of fraud or abuse of that discretion, such a determination will not be interfered with.<sup>8</sup> In addition, the county can also provide and maintain county buildings;<sup>9</sup> hospitals;<sup>10</sup> parks, preserves, playgrounds, recreation areas, libraries, museums;<sup>11</sup> and roads, bridges, tunnels and related facilities.<sup>12</sup>



## ACQUISITION AND DISPOSITION

**Purchase.** Counties have the express authority to purchase real property for a public purpose.<sup>13</sup> All appraisals, offers, and counteroffers must be in writing. They are not, however, available for public disclosure or inspection, and they are exempt from the public records law until an option contract is executed, or if no option contract is executed, until 30 days before a contract or agreement for purchase is considered for approval by the board of county commissioners.<sup>14</sup>

**Sale of Property.** County property can be sold and leased through action of the board of county commissioners. When the board determines that it is in the best interest of the county to do so, the county can sell real or personal property or can lease real property. Such a sale or lease can be made to the highest and best bidder for the particular use the board deems to be the highest and best, for such length of term and under such conditions as the board may in its discretion determine.<sup>15</sup> In addition, boards can negotiate the lease of an airport or seaport facility and can modify or extend an existing lease of real property for an additional term not to exceed 25 years where the improved value of the lease has an appraised value in excess of \$20 million and can lease a professional sports franchise facility financed by tourist development and/or sales taxes.<sup>16</sup>

When selling real property, the county must provide notice and call for bids for the purchase of the real estate. The highest bid complying with the terms and conditions in the notice must be accepted by the board unless the board rejects all bids because they are all too low.<sup>17</sup> A county can conduct a private sale of real property only when the property meets certain criteria, like it is of insufficient size and shape to be issued a building permit, when the value of the property is \$15,000 or less, or when the parcel is of use only to one or more adjacent property owners.<sup>18</sup>

Finally, a county can sell and convey any real or personal property in accordance with an ordinance enacted by the board of county commissioners that prescribes standards and procedures to be used by the county in such selling and conveying.<sup>19</sup>

**Exchange of Property.** When a board of county commissioners determines that property is no longer needed for a county purpose and that property could, to the best interest of the county, be exchanged for other real property that the county wants to acquire for county purposes, the county can exchange such property. However, before any exchange of property can occur, notice must be provided and a resolution adopted by the board exchanging such property.<sup>20</sup>

**Sale of County Property to the United States, the State, or a Nonprofit.** A county can convey or lease real property in a private sale to the United States, one of its departments or agencies, the state or any political subdivision, a municipality of this state, or other not-for-profit organization.<sup>21</sup> These entities must petition the county, describing the public or community interest and welfare that the county-owned property is needed for. If the board is satisfied that such property is required for such use and it is not needed for county purposes, the board can convey the property at such price as the board may fix.

## COMMISSIONER COMPENSATION

---

“The powers, duties, compensation and method of payment of state and county officers shall be fixed by law.”<sup>22</sup> In all non-charter counties and in all charter counties where charters do not alter the salaries of county commissioners, the salary is established by the Legislature.<sup>23</sup> Section 145.031, Florida Statutes, establishes county commissioner salaries as a function of population.

## COMMISSIONER VACANCIES

---

**Suspension from Office.** The governor has the power to suspend any county officer for malfeasance, misfeasance, neglect of duty, drunkenness, incompetence, permanent inability to perform



official duties, or commission of a felony and can fill the office by appointment for the period of suspension.<sup>24</sup>

**Malfeasance**, as grounds for removal from office, refers to evil conduct or an illegal deed; doing that which one ought not to do; or performance of an act in an official capacity that is wholly illegal and wrongful.<sup>25</sup>

**Misfeasance**, as grounds for removal or suspension from office, refers to performance by an officer in his or her official capacity of a legal act in an improper or illegal manner—literally a misdeed or trespass.<sup>26</sup>

**Neglect of duty**, as grounds for removal or suspension from office, refers to neglect or failure of an officer to do and performance of some duty imposed by virtue of his or her office or required by law.<sup>27</sup>

**Nonfeasance**, as grounds for removal or suspension from office, refers to neglect or refusal without sufficient excuse, to do that which is in the officer's duty to do.<sup>28</sup>

**Drunkenness**, as grounds for suspension or removal from office, has reference to such use of spirituous, vinous, or malt liquors as impairs or incapacitates, whether slight, temporary, or permanent, an officer in the efficient discharge of his or her official duties.<sup>29</sup>

**Incompetency**, as grounds for removal or suspension from office, refers to any physical, moral, or intellectual quality, the lack of which incapacitates one to perform the duties of his or her office. Examples include gross ignorance or carelessness, lack of judgment or discretion or serious physical or mental defect not present at the time of election.<sup>30</sup>

The governor also has the power to fill by appointment any vacant county office for the remainder of the term if the term had less than 28 months remaining. If more than 28 months, the governor can appoint the replacement who will serve until the first Tuesday after the first Monday, following the next general election.<sup>31</sup>

## COMMISSIONER RECALL

---

County commissioners in charter counties, except Miami-Dade County, by operation of law, may be removed from office by elector recall. Such is not the case in non-charter counties. The process is defined by state statute.<sup>32</sup>

## NOTES

<sup>1</sup> See Art. VIII, § 1(e), Fla. Const.

<sup>2</sup> See § 129.01(1), Fla. Stat.

<sup>3</sup> See § 129.07, Fla. Stat.

<sup>4</sup> See § 129.01(1)(b), Fla. Stat.

<sup>5</sup> See § 129.01(1)(c), Fla. Stat.; the cash carry forward may be used to pay expenditures from October 1 of the ensuing fiscal year until such time as the revenues for that year are expected to be available. See § 129.01(1)(c)2, Fla. Stat.

<sup>6</sup> See Art. VIII, § 1(k), Fla. Const.



<sup>7</sup> See § 125.01(1)(c), Fla. Stat.

<sup>8</sup> See Atty. Gen. Op. 79-107 (opining that the Hillsborough County Board of County Commissioners were required to pay the utility costs of the clerk of court as the sole occupant of a county building); *see also* Atty. Gen. Op. 76-173 (opining the county commission of a county with a fee officer tax collector has the duty to provide office space within the county seat to the county tax collector without charge but the county commission did not have to equip and maintain the office space).

<sup>9</sup> See § 125.01(1)(c), Fla. Stat.

<sup>10</sup> See § 125.01(1)(e), Fla. Stat.

<sup>11</sup> See § 125.01(1)(f), Fla. Stat.

<sup>12</sup> See § 125.01(1)(m), Fla. Stat.

<sup>13</sup> See § 125.355(1)(a), Fla. Stat.

<sup>14</sup> See *Id.*

<sup>15</sup> See § 125.35(1)(a), Fla. Stat.

<sup>16</sup> See § 125.35(1)(b), Fla. Stat.

<sup>17</sup> See § 125.35 (1)(c), Fla. Stat.

<sup>18</sup> See § 125.35(2), Fla. Stat.

<sup>19</sup> See § 125.35(3), Fla. Stat.

<sup>20</sup> See § 125.37, Fla. Stat.

<sup>21</sup> The not-for-profit entity must be created for the purposes of promoting community interest and welfare. See § 125.38, Fla. Stat.

<sup>22</sup> Art. II, § 5(c), Fla. Const.

<sup>23</sup> See § 145.012, Fla. Stat.

<sup>24</sup> See Art. IV, § 7(a), Fla. Const.

<sup>25</sup> See *Hardie v. Coleman*, 155 So. 129 (Fla. 1934).

<sup>26</sup> See *Id.*

<sup>27</sup> See *Id.*

<sup>28</sup> See *Id.*

<sup>29</sup> See *Id.*

<sup>30</sup> See *Id.*

<sup>31</sup> See Art. IV, § 1(f), Fla. Const.

<sup>32</sup> See § 100.361, Fla. Stat.



---

## 5. *Other County Officials, Boards, and Authorities*

---

*Virginia “Ginger” Delegal*

---

### OTHER COUNTY OFFICIALS

---

***County Manager/Administrator.*** Almost every county in Florida has created the office of the county administrator.<sup>1</sup> The county administrator is responsible for administration of all departments within county government that are responsible to the board of county commissioners and for the proper administration of all affairs under the jurisdiction of the board.<sup>2</sup> Unless otherwise indicated by charter provision, the county administrator is hired, fired, and paid in accordance with action by the board of county commissioners.<sup>3</sup> The administrator can, among others, have the following powers and duties:<sup>4</sup>

- Administer and carry out directives and policies of the board.
- Enforce all orders, resolutions, ordinances and regulations of the board.
- Report to the board on an annual basis.
- Provide the board of its individual members with data or information concerning county government.
- Provide advice and recommendations on county government operations to the board.
- Prepare and submit to the board an annual operating budget, a capital budget, and a capital program.
- Establish the schedules and procedures for all county departments.
- Prepare and submit to the board a complete report on the finances and administrative activities of the county.
- Supervise the care and custody of all county property.
- Recommend a classification and pay plan for all positions in county service.
- Develop, install and maintain centralizing budgeting, personnel, legal and purchasing procedures.
- Organize the work of county department.
- Select, employ and supervise all personnel and fill all vacancies under the jurisdiction of the board.
- Negotiate leases, contracts, other agreements for the county, subject to approval of the board.



- Attend all meetings of the board with authority to participate in the discussion of any matter.

**County Attorney.** The board of county commissioners has the authority to employ an attorney to represent it. Specifically, the county commission can “[p]rovide for the prosecution and defense of legal causes [o]n behalf of the county ... and retain counsel and set their compensation.”<sup>5</sup>

## CONSTITUTIONAL COUNTY OFFICERS

---

In Florida, there are five independently elected county officers who have authority to act in a semi-autonomous fashion.<sup>6</sup> The county commissioners are elected individually and separately from these other officers. The officers are:

- Sheriff
- Tax Collector
- Property Appraiser
- Supervisor of Elections
- Clerk of the Circuit Court

**Clerk.** Under the state constitution, clerks are constitutional officers deriving their authority and responsibility from both constitutional and statutory provisions.<sup>7</sup> Article V, section 16, states as follows:

There shall be in each county a clerk of the circuit court who shall be selected pursuant to the provisions of Article VIII, section 1. Notwithstanding any other provision of the constitution, 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 funds.

The state constitution further provides for the election of the clerk of circuit court, along with the other county officers, and that, “[w]hen not otherwise provided by county charter or special law approved by vote of the electors, the clerk of the circuit court shall be the ex officio clerk of the board of county commissioners, auditor, recorder and custodian of all funds.”<sup>8</sup>

Under these two constitutional provisions, the clerk’s judicial functions as clerk of the court are separated from the clerk’s authority as auditor, accountant, custodian of county funds, and official recorder. In fact, these provisions provide the only method for separating the clerk’s functions.<sup>9</sup> Accordingly, the clerk’s office may be divided by special or general law or by county charter or special law approved by the electors. “In the absence of either of these two methods, the clerk must perform the dual role prescribed by constitutional mandate.”<sup>10</sup>

By state law, the clerk of the court for the county is the clerk and accountant of the board of county commissioners. The clerk keeps the board’s minutes and accounts and performs other duties as directed by the board and keeps the county seal.<sup>11</sup>

With respect to the courts, the clerk:

- Ensures that the court's orders, judgments or directives are carried out within the parameters allowed by law.
- Maintains the court's records.
- Collects and disburses the court fines, fees and assessments.



- Collects and disburses court ordered child support and alimony payments.

With respect to state government, the clerk:

- Collects and disburses documentary stamps and intangible taxes for the Department of Revenue.
- Collects and disburses numerous fees and assessments for the benefit of state trust funds.
- Provides informational, financial and statistical data to the Florida Legislature, Supreme Court, Florida Department of Law Enforcement, Auditor General, Department of Health and Rehabilitative Services, and other state agencies.

With respect to citizens' protection, the clerk:

- As custodian of county funds, ensures that the taxpayer's money is managed according to law.
- Can provide internal audits of county government.<sup>12</sup>

The clerk can have a role in a county as the budget officer. Unless the board of county commissioners has designated a different officer, the clerk or the comptroller, as applicable, is the budget officer for the county. The budget officer duties are not a part of the constitutional requirements performed by the clerks. Accordingly, the position of budget officer is not an office for purposes of the state constitution.<sup>13</sup>

**Sheriff.** As a constitutional officer, the sheriff in Florida is elected for a term of four years and is governed by the Florida Constitution and the Florida Statutes. The duties of the office are specifically laid out in Chapter 30 of the Florida Statutes. Although the nature and scope of law enforcement have evolved with the rising population and changing times, the sheriff's core of duties as outlined in Chapter 30 has remained fairly constant over the years.

The most recognizable aspect of the sheriff's duties is law enforcement. The sheriff is chief law enforcement officer of the county. Sheriffs are the "conservators of the peace in their counties."<sup>14</sup> The sheriffs are also responsible for service of all legal process (writs, warrants, subpoenas, and other legal documents) directed to them by the courts or the county commissioners.<sup>15</sup> Other responsibilities of the sheriff include keeper of the county jail<sup>16</sup> and provider of court security.<sup>17</sup>

One of the ways in which the sheriff and the board of county commissioners interrelate is through the budget process. Each sheriff must certify to the board of county commissioners a proposed budget of expenditures for the ensuing fiscal year<sup>18</sup> that the proposed expenditures "are reasonable and necessary for the proper and efficient operation of the office."<sup>19</sup>

**Tax Collector.** The Office of Tax Collector is authorized by the state constitution, as a separate entity from other county departments or agencies and is an elected officer. The tax collector is an agent for various state and local government agencies responsible for the collection of revenue and public funding; the tax collector invests those revenues and funds, pending their timely distribution, to various state, local agencies, and taxing authorities. A wide range of services are provided by tax collectors, including the collection of ad valorem taxes, non-ad valorem special assessments, occupational licenses, motor vehicle and vessel registration and title applications, collection of sales tax, licenses, and the issuance of hunting and fishing licenses.

**Property Appraiser.** The property appraiser is responsible for identifying, locating, and fairly valuing all property, both real and personal, within the county for tax purposes. Florida law requires that the just value of all property be determined each year. The Supreme Court of Florida has declared "just value" to be legally synonymous to "full cash value" and "fair market value." The fair market value of your property is the amount for which it could sell on the open market. The property appraiser analyzes



these market transactions annually to determine fair market value as of January 1. The property appraiser also:

- Tracks ownership changes.
- Maintains maps of parcel boundaries.
- Keeps descriptions of buildings and property characteristics up to date.
- Accepts and approves applications from individuals eligible for exemptions and other forms of property tax relief.
- Analyzes trends in sales prices, construction costs and rents to best estimate the value of all assessable property.

Each August, the property appraiser sends a Truth in Millage (TRIM) notice to all property owners as required by law. The TRIM notice informs the property owner of the taxable value of the property. Taxable value is the just (market) value less any exemptions. The TRIM notice also provides information on proposed millage rates and taxes as estimated by the local taxing authorities and indicates when and where these authorities will hold public meetings to discuss tentative budgets to set millage tax rates.

## OTHER BOARDS AND AUTHORITIES

---

***Value Adjustment Boards.*** Value Adjustment Boards are independent governmental entities created by Chapter 194 of the Florida Statutes to accept and process taxpayers' petitions contesting the value of and exemptions for real estate and personal property as assessed by the Property Appraiser's Office. Hearings are conducted by "Special Magistrates" appointed by the VAB to determine whether or not property is properly assessed. If not, then the VAB has the authority to make any necessary adjustment.

The VAB is composed of five officials, specifically two county commissioners, one school board member, one citizen member appointed by the county commission, and one citizen member appointed by the school board. One of the commissioners is required to serve as the VAB chairperson. At least three members must be present at the meeting in order to have a quorum, one of whom must be a commissioner, a school board member, and one citizen member.

***School Districts.*** Each county in Florida constitutes a school district.<sup>20</sup> A district school system includes all public schools, classes and course of instruction, and all services and activities directly related to education in that district. The system may also include alternative site schools for disruptive or violent youth.<sup>21</sup> Each school district is governed by a school board composed of five or more members chosen by vote of the electors in a nonpartisan election for staggered four-year terms.<sup>22</sup> The school board is empowered to operate, control, and supervise all free public schools within the school district and to determine the rate of school district taxes.<sup>23</sup> There is a superintendent of schools in each school district in the state. The superintendent is elected or, when provided by resolution of the school board or by special law approved by the electors, the superintendent is employed or appointed by the school board.<sup>24</sup>

***Soil and Water Conservation District.*** A SWCD can be formed by any 10 percent of owners of land lying within the limits of the territory proposed to be organized into a SWCD.<sup>25</sup> The formation is contingent upon passage of a referendum held within the boundaries to be served, which are usually drawn along county lines. A SWCD so organized constitutes a governmental subdivision of the State of Florida. Once organized, the electors within the SWCD elect five supervisors on a non-partisan basis to serve staggered four-year terms. Supervisors serve without pay or other forms of compensation. The Florida Department of Agriculture and Consumer Services administers the SWCD programs assigned to it by the Legislature under the Soil and Water Conservation Law, Chapter 582 of the Florida Statutes. Some



of the programs with which the Department of Agriculture coordinates with SWCD include: best management practices (“BMP”) implementation, cost share programs, mobile irrigation labs, and public land management.

**Water Management Districts.** The Department of Environmental Protection is involved in managing the quality and quantity of water through its relationship with the state’s five water management districts:<sup>26</sup> Northwest Florida Water Management District, Suwannee River Water Management District, St. Johns River Water Management District, South Florida Water Management District and Southwest Florida Water Management District. These districts were created as a part of the Florida Water Resources Act.<sup>27</sup>

The water management districts administer flood protection programs and perform technical investigations into water resources. The districts also develop water management plans for water shortages in times of drought and to acquire and manage lands for water management purposes under the “Save Our Rivers” program. Regulatory programs delegated to the districts include programs to manage the consumptive use of water, aquifer recharge, well construction, and surface water management.

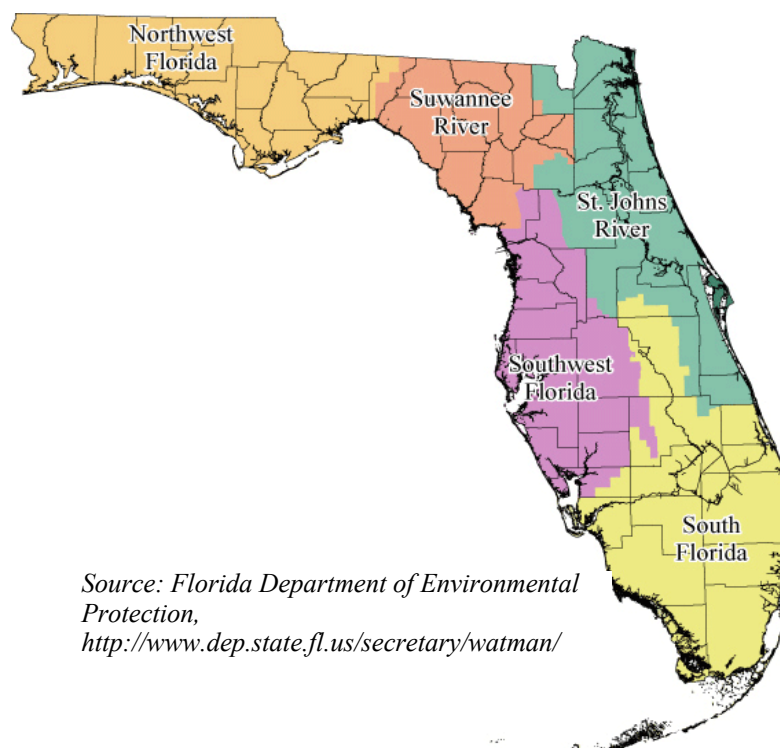
As part of their surface water management programs, the districts administer the Department’s stormwater management program. This increases the districts’ contacts with local governments by directing the districts to help with the development of the water elements in local government comprehensive plans.

The water management districts are each governed by an independent board whose members are appointed to four-year terms by the Governor.<sup>28</sup> These districts have taxing power provided by the constitution. They can levy, for water management purposes, 0.05 mill in the northwest portion of the state and 1.0 mill in the remaining portions of the state.<sup>29</sup>

**Children’s Services Councils.** A Children’s Services Council (CSC) is a countywide special taxing district created by ordinance, and approved by voters, to fund programs and services that improve the lives of children and their families. Chapter 125 of the Florida Statutes allows a CSC to be created by ordinance of the board of county commissioners. County voters may, by countywide referendum, approve taxing authority for the CSC. If approved, Florida law specifies that the CSC can use local tax money only to serve the children and families within the boundaries of the CSC county.<sup>30</sup>

Composition of the CSC governing board is outlined in the law, with most boards having 10 members. Five members are ex-officio: the school superintendent, one local school board member, the district administrator of the local Department of Children and Families, a juvenile court judge, and one member of the board of county commissioners. The remaining five members are appointed by the governor to four-year terms, and, to the extent possible, represent the demographic diversity of the population of the county.

**Figure 5.1. Map of Florida's Five Water Management Districts.**



Source: Florida Department of Environmental Protection,  
<http://www.dep.state.fl.us/secretary/watman/>



**State Trial Court System.** Under the state constitution, counties are responsible for funding the cost of communications services, existing radio systems, existing multi-agency criminal justice information systems, and the cost of construction or lease, maintenance, utilities, and security of facilities for the trial courts, public defenders' offices, state attorneys' offices, and the offices of the clerks of the circuit and county courts performing court-related functions.<sup>31</sup>

**Metropolitan Planning Organizations.** Congress approved the Surface Transportation Assistance Act of 1973, requiring the formation of an MPO for urbanized areas of more than 50,000 residents. Congress' intent was to establish an independent governmental agency to ensure that expenditures of federal transportation funds were based on a continuing, cooperative, and comprehensive (3-C) transportation planning process.

There are currently 26 MPOs in Florida. Each one is unique in terms of membership composition, planning boundaries, and organizational structure. However, every MPO is required to have a governing board, a technical advisory committee (engineers, planners and other local staff), and a citizens' advisory committee. Many have additional committees such as a bicycle and pedestrian committee or a freight advisory committee. Every MPO must develop certain required documents (e.g., a long-range transportation plan), but the remaining work products are selected by the MPO within rather broad state and federal guidelines. MPOs conduct a variety of transportation studies (e.g., transit, greenway, air quality), and provide input on a broad range of issues including land use and environmental preservation.<sup>32</sup>

**Regional Planning Councils.**<sup>33</sup> A regional planning council (RPC) is a multi-purpose regional entity that:

- Plans for and coordinate intergovernmental solutions to growth-related problems on greater-than-local issues.
- Provides technical assistance to local governments.
- Meets other needs of the communities in each region.

The RPCs have eight major responsibilities:

- 1) Strategic Regional Policy Plans (SRPP).<sup>34</sup>
- 2) Review local government comprehensive plan amendments and evaluation and appraisal reports.<sup>35</sup>
- 3) Review developments of regional impacts (DRIs).<sup>36</sup>
- 4) Implement the regional dispute resolution process.<sup>37</sup>
- 5) Local emergency management planning committee (LEPC) and hazardous materials planning.<sup>38</sup>
- 6) State planning efforts.
- 7) Technical assistance and public information.
- 8) Intergovernmental coordination and review.

**Other Authorities.** There are many other governmental and quasi-governmental authorities that counties interact with on a daily basis, including housing authorities, public safety coordinating councils, community development districts, community redevelopment agencies, local land planning commission, transportation authorities, drainage districts, library boards, and basin boards, just to name a few. Each of these has its own unique function and is generally created by statute. Some are subject to control of the board of county commissioners, but many have their own separate, independent governing bodies. State law, special acts, and local charters must be consulted to determine the level of involvement and control of the county with and over these separate entities.



## NOTES

- <sup>1</sup> Non-charter counties enact ordinances creating this office. See § 125.72, Fla. Stat., and charter counties.
- <sup>2</sup> See, for example, § 125.73(1), Fla. Stat.
- <sup>3</sup> See § 125.73(2) and (3), Fla. Stat.
- <sup>4</sup> See § 125.74(1), Fla. Stat.
- <sup>5</sup> See § 125.01(1)(b), Fla. Stat.
- <sup>6</sup> See Art. VIII, § 1(d), Fla. Const. (“There shall be elected by the electors of each county, . . . , a sheriff, a tax collector, a property appraiser, a supervisor of elections, and a clerk of the circuit court[.]”)
- <sup>7</sup> See *Alachua County*, 351 So. 2d 32, 35 (Fla. 1977) (citing *Security Finance Company v. Gentry*, 109 So. 220 (1926)).
- <sup>8</sup> See Art. VIII, § 1(d), Fla. Const.
- <sup>9</sup> See *Alachua County*, 351 So. 2d at 35.
- <sup>10</sup> See *Alachua County*, 351 So. 2d at 35.
- <sup>11</sup> See § 125.17, Fla. Stat.
- <sup>12</sup> See [http://www.flclerks.com/clerk\\_role.html](http://www.flclerks.com/clerk_role.html), Fla. Assoc. of Court Clerks and Comptrollers.
- <sup>13</sup> See § 129.025, Fla. Stat.
- <sup>14</sup> See § 30.15(1)(e), Fla. Stat.
- <sup>15</sup> See § 30.15(1)(a), (b), Fla. Stat.
- <sup>16</sup> See § 30.49, Fla. Stat.; Atty. Gen. Op. 79-49 (“Although the sheriff has ‘no exclusively inherent or constitutional right to the custody, care and keeping of county convicts,’ *Lang v. Walker*, 35 So. 78, 80 (Fla. 1903), it has been held that, in the absence of a constitutional description of his duties, ‘the operation of the [county jail] and the control and custody of the inmates therein are in the hands of the sheriff.’ *Baughner v. Alachua County*, 305 So.2d 838, 839 (1 D.C.A. Fla., 1975). See also *Brown v. St. Lucie County*, 153 So. 906, 908 (Fla. 1933) (county jail is county property which law requires sheriff to manage and look out for); Atty. Gen. Ops. 077-55 and 074-266 (sheriff is responsible for efficient operation of the jail)”).
- <sup>17</sup> See § 30.15(1)(c), Fla. Stat.
- <sup>18</sup> See § 129.03(2), Fla. Stat.; see also § 30.49(1), Fla. Stat.
- <sup>19</sup> See § 30.49(2)(a), Fla. Stat.
- <sup>20</sup> See Art. IX, § 4(a), Fla. Const.
- <sup>21</sup> See § 1001.31, Fla. Stat.
- <sup>22</sup> See Art. IX, § 4(a), Fla. Const.; see also § 1001.30, Fla. Stat.
- <sup>23</sup> See Art. IX, § 4(b), Fla. Const.
- <sup>24</sup> See Art. IX, § 5, Fla. Const.
- <sup>25</sup> See § 582.10, Fla. Stat.
- <sup>26</sup> See, generally, Ch. 373, Fla. Stat.
- <sup>27</sup> See § 373.069, Fla. Stat.
- <sup>28</sup> See § 373.073, Fla. Stat.
- <sup>29</sup> See Art. VII, § 9(b), Fla. Const.
- <sup>30</sup> See § 125.901, Fla. Stat.
- <sup>31</sup> See Art. V, § 14(b), Fla. Const.; see also § 29.008, Fla. Stat, for definitions of these terms.
- <sup>32</sup> See Glassman, Howard, “MPO’s: A Primer.” <http://www.pinellascounty.org/mpo/PDFs/MPOsWhatIs.pdf>. Mr. Glassman is Executive Director of the Florida MPO Advisory Council, a statewide organization representing Florida’s MPO’s.
- <sup>33</sup> See §§ 186.501-.513, Fla. Stat.
- <sup>34</sup> See § 186.507, Fla. Stat.
- <sup>35</sup> See §§ 186.507 and 163.3184(4), Fla. Stat.
- <sup>36</sup> See Ch. 380, Fla. Stat.; see also Rule 9J-2, 9J-3, 9J-28, Fla. Admin. Code.
- <sup>37</sup> See § 186.509, Fla. Stat.
- <sup>38</sup> See Ch. 252, Fla. Stat.







---

## 6. *Liability of Counties and Public Officials*

---

*Amy Taylor Petrick*

In Florida, counties have broad powers of self-government, sometimes referred to as “home rule” powers. In the exercise of these powers, counties provide a myriad of services and benefits to the public. Counties are often land-owners, employers, vehicle and equipment owners, utility providers, public service providers, and local regulators. In each of these roles, a county is required to exercise reasonable care and to respect the safety, property, and civil rights of the public. When members of the public have been injured or deprived of their civil rights as a result of a county’s action or inaction, the county—and potentially its public official and employees—can face liability.

A lawsuit arising out of a claim that a county has committed a wrongful act or omission resulting in injury or a violation of civil rights typically involves a request for monetary compensation. However, lawsuits can also request that the judge make a declaration of the claimant’s rights, known as a declaratory judgment, or issue an order compelling or restraining a particular action, known as injunctive relief. In addition to civil rights claims and personal injury claims, counties can face a variety of claims, including claims that the county breached a written contract, actions for violations of either the public records law or the open meeting requirements of the sunshine law, claims challenging the legality or the constitutionality of county ordinances or quasi-judicial decisions, and claims alleging that the county took property through regulation or possession without just compensation (inverse condemnation claims)—just to name a few. Additionally, relief can be sought in the Florida Division of Administrative Hearings for county actions relating to comprehensive planning and permits applied for by the county, such as environmental or water use permits.

As a political subdivision of the State of Florida, Florida counties are legal entities capable both of bringing a lawsuit and of being sued. As an organization, however, the county acts only through the official actions of its elected officials and their designees. In limited circumstances, an elected or appointed official or an employee may face personal liability for their behavior. When a public official or employee has been sued personally for acts arising out of their public role, they may incur the costs of defending themselves and, in the case of an adverse judgment, may have to pay a monetary judgment awarded against them. This chapter focuses on the potential liability of both counties and their public officials and employees in the context of civil rights and negligence claims.

---

### **LIABILITY FOR CIVIL RIGHTS VIOLATIONS**

---

The term “civil rights” commonly refers to the rights of individuals to be free from discrimination and the deprivation of rights guaranteed to individuals by federal or statute constitutions or statutes. Both the United States Congress and the Florida legislature have enacted laws that protect the civil rights of persons, a broad category that can, in some instances include corporations. Consequently, a claimant alleging that his or her civil rights have been violated by a Florida county has the ability to bring his or her case in a variety of ways. For example, the claimant may choose to bring a case under federal statute, under the state counterpart to the federal civil rights legislation, as a case seeking equitable relief under the state’s Declaratory Judgment Act, or as a combination of the three. The type of case brought can impact what type of defenses are available to the county-defendant, how much money can be recovered, what type of damages can be alleged, what pre-suit notice requirements must be met, and what statute of limitations apply.



## FEDERAL CIVIL RIGHTS LEGISLATION

Federal legislation authorizing damages against Florida counties includes Title 42 Section 1983, United States Code (§1983), which authorizes a claim for damages when rights guaranteed by the United States Constitution or other federal law<sup>1</sup> have been violated. The Bill of Rights of the United States Constitution guarantees a number of individual rights that are implicated by the actions of counties. For example, the right of free speech in the First Amendment can be implicated when a county decides whether or not to allow protesters to use a public venue,<sup>2</sup> or when a county makes a land use decision or takes code enforcement actions restricting the right to operate an adult entertainment venue.<sup>3</sup> The right to freedom of religion, also provided by the First Amendment, can be impacted by land use decisions regarding the proper location of churches.<sup>4</sup> Likewise, the right to be free from unreasonable searches and seizures guaranteed under the Fourth Amendment may be affected by the actions of county administrative actors, such as a county code enforcement officer conducting an inspection<sup>5</sup> or an animal care and control officer who impounds a neglected animal.<sup>6</sup>

One of the most common allegations in a §1983 case is the violation of the right to due process, which is protected by both the Fifth and Fourteenth Amendments to the United States Constitution. The concept of due process includes two categories of rights: substantive due process and procedural due process. Substantive due process rights protect an individual from substantive decisions that violate a person's fundamental rights (those rights generally considered to be implicit in the concept of ordered liberty the deprivation of which would "shock the conscience" of the average member of the public<sup>7</sup>), while procedural due process rights guarantee that decisions affecting life, liberty, and property interests will be made with appropriate procedural safeguards, including reasonable notice and the opportunity to be heard.<sup>8</sup> Due process claims can arise when the county performs a regulatory function, like citing someone for a violation of county codes.<sup>9</sup> Due process claims can also arise in the employment context, because public employees may enjoy a liberty interest in clearing their name when an adverse employment decision is made or a property interest in continued employment.<sup>10</sup>

Another constitutional right commonly raised in the §1983 context is the right to equal protection of the laws, guaranteed by the Fifth and Fourteenth Amendments to the U.S. Constitution. The Equal Protection Clause of the Fourteenth Amendment generally requires governmental entities to treat similarly situated individuals alike and protects individuals from both discrimination on the basis of their membership in a vulnerable class and from intentional discrimination against the individual.<sup>11</sup> Equal protection claims may arise in the context of employment, the enforcement of county codes, and in the context of land use decisions.

In addition to the constitutional provisions commonly raised under §1983, there are several federal statutes that also give rise to potential county liability. In the context of employment, Title VII of the Federal Civil Rights Act of 1964<sup>12</sup> prohibits employment discrimination and retaliation in hiring, promotion, pay, discipline, and termination decisions on the basis of race, color, religion, sex, or national origin. Retaliation in the Title VII context occurs when an employer punishes an employee for making a Title VII claim, for participating in a Title VII investigation, or opposing a discriminatory practice. Such punishment happens when the county takes an adverse employment action against the employee, such as termination or discipline. Acclaim for retaliation may lead to county liability if retaliation is demonstrated, even if the original claim was unfounded. Title VII also prevents sexual harassment, whether through the creation of a hostile work environment by pervasive offensive behavior, or through direct pressure or threats to an employee. The Pregnancy Discrimination Act added pregnancy to the Title VII categories of protected status.<sup>13</sup> It is important to note that, unlike §1983 cases, Title VII cases cannot be brought against individuals, because the Act only applies to employers. Title VII also limits the amount of monetary damages that can be recovered, depending on the number of employees, and disallows punitive damages. However, attorney's fees can be recovered by a prevailing claimant in a Title VII case, which can add considerable financial exposure in the case of an adverse judgment.

The Age Discrimination in Employment Act of 1967<sup>14</sup> extends the same type of protections offered by Title VII to employees over the age of 40. Accordingly, county employers cannot terminate,



discipline, demote, refuse to hire, or refuse to promote older workers on the basis of their age. Workers that can prove a discrimination case on the basis of age can recover lost wages and benefits, as well as attorney's fees.

The Family Medical Leave Act<sup>15</sup> (FMLA) requires county employers to provide leave for qualifying medical events, both for the employee and the employee's family members, and prohibits discrimination and retaliation on the basis of an employee's use of FMLA. Similarly, the Fair Labor Standards Act<sup>16</sup> (FLSA) requires payment for overtime worked by qualified employees and prohibits discrimination and retaliation against employees who exercise their rights under FLSA. FLSA has specific requirements and exemptions for overtime rules for police, fire, and emergency workers.<sup>17</sup> If a FLSA violation is demonstrated, the claimant has the potential to recover double the amount of overtime pay withheld, as well as attorney's fees and costs.<sup>18</sup> Additionally, if a systemic violation of FLSA is demonstrated, the claimant may bring a mini-class action on behalf of both himself and all others similarly situated. Thus, a mini-class action suit under FLSA can be very costly<sup>19</sup>. In addition to the general right to sue provided by §1983, and the employment-specific rights of Title VII, FMLA, and FLSA, there are statutes that apply to both the employment context and to the provision of public facilities. For example, the Americans with Disabilities Act<sup>20</sup> prohibits discrimination on the basis of an actual disability, a record of disability, or a perceived disability, both in the employment relationship and in the provision of public accommodations.<sup>21</sup> And, specific to the enjoyment of religious rights, Congress adopted the Religious Land Use and Institutionalized Persons Act<sup>22</sup> (RLUIPA), which protects the exercise of religious freedom and creates potential county liability for religious rights violations in the context of land use decisions and in the operation of prisons and other institutional programs.

## FLORIDA CIVIL RIGHTS LEGISLATION

Like Congress, the Florida Legislature has adopted several pieces of legislation that may give rise to county liability for monetary damages and other relief arising out of civil rights violations. The Florida Civil Rights Act (FCRA) serves as an omnibus anti-discrimination law providing "freedom from discrimination because of race, color, religion, sex, pregnancy, national origin, age, handicap, or marital status."<sup>23</sup> In addition to the FCRA, the Florida Legislature has adopted a form of "equal pay" legislation,<sup>24</sup> prohibiting wage discrimination on the basis of sex, and a state Whistleblower's Act,<sup>25</sup> which protects employees from retaliation for having reported violations of the law that "create a substantial and specific danger to the public's health, safety, or welfare", or for having reported the "improper use of governmental office, gross waste of funds, or any other abuse or gross neglect of duty on the part of an agency, public officer or employee." Additionally, Florida has adopted a state Religious Freedom Restoration Act,<sup>26</sup> protecting religious actors from being substantially burdened in the exercise of their faith, where the government does not have a compelling interest or where the legislation is not narrowly tailored to accomplish the governmental interest. The Religious Freedom Restoration Act was amended in 2016, to protect churches and clergy from public agencies attempting to penalize or withhold benefits or privileges on the grounds that the church or clergy refuse to solemnize a marriage or to provide services, accommodations, facilities, goods or services because to do so would cause the church or clergy to violate a sincerely held religious belief.<sup>27</sup>

While a complete survey of federal and state civil rights legislation is beyond the scope of this chapter, the aforementioned statutes represent the most common types of lawsuits brought against both counties and public officials in the context of civil rights and employment-related litigation. At times, counties and public officials can avoid liability for civil rights and employment-related claims by raising defenses like immunity from suit, on a variety of grounds.

### **Immunity**

***Individual Immunity—Absolute and Qualified.*** For individual defendants, there are generally two types of immunity from suit that are enjoyed by public officials and employees in a civil rights case: absolute immunity and qualified immunity.<sup>28</sup> Both types of immunity are immunity from suit, rather than



judgment.<sup>29</sup> Accordingly, courts are instructed to resolve questions of absolute and qualified immunity as early in the litigation process as possible.<sup>30</sup>

Absolute immunity protects individuals engaged in activities that are considered sufficiently important, from a policy perspective, that society is better off protecting those engaged in such activities from lawsuits, even if it means that, occasionally, individuals will commit wrongful acts during those activities without consequence. An example of absolute immunity is the protection against defamation claims for legislative actions. Public policy favors protecting legislators from speech-related lawsuits in the conduct of their legislative duties, so that legislators' public service is not limited by fear of lawsuits.<sup>31</sup> Thus, a legislator who makes statements during the legislative process is absolutely immune from a defamation suit, even if there is evidence that the legislator spoke untruthfully and with bad intent, because the benefits of free legislative speech outweigh the harm of potential wrongdoing in the legislative context.<sup>32</sup> Another example of absolute immunity is the protection against defamation claims for persons engaging in litigation; public policy favors allowing litigants to speak freely in order to facilitate the court's search for the truth.<sup>33</sup>

As the name implies, qualified immunity is different, and more limited, than absolute immunity. Qualified immunity attaches to the actions of a public official or employee when the act at issue is a discretionary act within the scope of duties of the official or employee and the act does not violate any clearly established statutory or constitutional right.<sup>34</sup> The focus of the qualified immunity defense is whether the official or employee knew or should have known that what he or she was doing violated the claimant's rights. As with the public policy supporting absolute immunity, the rules regarding qualified immunity exist in order to ensure public actors have the freedom to exercise their discretion in the fulfillment of their public duties without fear of litigation. However, unlike absolute immunity where the protected activities are considered so important that immunity exists regardless of the wrongfulness of the public actor's conduct, the public policy supporting qualified immunity balances the public actor's need to act freely in making discretionary decisions against the public's right to be free from obvious civil rights violations. Another important difference between absolute and qualified immunity is that, while absolute immunity is expected to exist only in extraordinary circumstances, qualified immunity is the rule, rather than the exception.<sup>35</sup>

Procedurally, qualified immunity is determined by the courts through a burden-shifting approach.<sup>36</sup> Initially, the public actor bears the burden of proving that he or she was acting within his or her discretion in performing the challenged action.<sup>37</sup> Once the public official proves that the act was discretionary in nature, the burden of proof shifts to the claimant to show that the action violated a clearly established statutory or constitutional right.<sup>38</sup>

In order to show that a statutory or constitutional right is "clearly established," the claimant must show that the action complained of "is so obviously wrong, in the light of pre-existing law, that only a plainly incompetent [public actor] or one who was knowingly violating the law would have done such a thing."<sup>39</sup> It is not enough for the claimant to show that a general statutory or constitutional right exists; rather, the claimant must show that prior case law exists within a sufficiently similar fact pattern such that the law regarding whether a specific act violates a specific right is well-settled.<sup>40</sup> If prior case law does not "clearly establish" that the action taken violates a specific statutory or constitutional right, the public actor is qualifiedly immune, even if there is evidence that the public actor behaved maliciously or in bad faith against the claimant.<sup>41</sup> Where immunity is established of either sort, the public actor is entitled to judgment in his or her favor.

**Sovereign Immunity.** One type of immunity enjoyed by counties is called "sovereign immunity." The doctrine of sovereign immunity comes from the ancient English law concept that "the king can do no wrong," and generally provides that sovereign entities cannot be sued without their consent.<sup>42</sup> As political subdivisions of the State of Florida, counties are considered sovereign entities subject only to those lawsuits to which the Florida legislature has consented through the creation of civil remedies against the State and its subdivisions.<sup>43</sup> Stated differently, an injured party cannot sue the State or its counties for money damages, unless there is a specific waiver of sovereign immunity provided for under Florida law and such waivers are construed strictly against liability.<sup>44</sup> This is true whether the lawsuit is a typical personal injury lawsuit brought under common law or an equitable lawsuit, like an implied contracts



claim.<sup>45</sup> A lawsuit for a breach of contract is one exception to the rule that a statutory waiver of sovereign immunity must first be identified before a lawsuit seeking money damages can be brought against the State or its subdivisions. This is so because, in order to function, the State and its subdivisions can and must enter into contracts which, in order to valid, must be enforceable through legal redress.<sup>46</sup>

For actions brought under federal statutes, the analysis is more complicated. As a state, the State of Florida generally has sovereign immunity against federally authorized litigation, pursuant to the Eleventh Amendment to the United States Constitution.<sup>47</sup> However, the United States Supreme Court has concluded that, for federal anti-discrimination legislation such as §1983, counties can be sued in the same manner as individuals, notwithstanding their status as a political subdivision of the state.<sup>48</sup> This rather convoluted legal analysis, which is rooted in the history of the anti-discriminatory purposes of the Fourteenth Amendment and its subsequent remedial legislation, means that counties face full liability for §1983 claims, both in the form of monetary damages and attorney's fees as well as declaratory and injunctive relief. The same is true for all of the aforementioned federal laws, unless the law itself establishes some statutory limit on recovery against public entities.<sup>49</sup>

### **Liability of Counties under §1983**

§1983 applies when someone acting under color of “[state] law, statute, ordinance, regulation, [or] custom” subjects a person to “the deprivation of any [constitutional] rights, privileges, or immunities.” When the actor is a final policy-maker for a county, the question of whether his or her actions were “under color of law” is answered fairly easily—final policymakers act “under color of law” in exercising discretion within the scope of their official duties.

However, for the actions of officials or employees who are not final policy-makers, the courts have to decide whether the action complained of represents a *county* action—something the county either sanctioned or ordered.<sup>50</sup> In some actions for money damages, corporate bodies are required to answer for all actions taken by their employees—this concept is called *respondeat superior*, Latin for “let the superior make answer.”<sup>51</sup> In the §1983 context, however, counties cannot be held liable simply under the theory of *respondeat superior*, but instead must be directly liable based on proof that the civil rights deprivation resulted from a county custom or policy that is official enough to establish that the county actor was acting “under color of law....”<sup>52</sup>

Typically, counties establish policies through the official acts of their respective boards of county commissioners. Thus, county policy can be established through the passage of ordinances and resolutions, and through the formal adoption of county documents meant for internal use, such as written rules, policies and procedures, memoranda, and handbooks. However, county customs and policies do not have to be reduced to writing or be formally adopted in order to constitute the type of customs and policies that establish liability. Rather, the test for whether an action rises to the level of an actionable “county custom or policy” is whether the behavior complained of is “a widespread practice that, although not authorized by written law or express municipal policy, is so permanent and well settled as to constitute a custom or usage with the force of law.”<sup>53</sup> “Such a widespread practice is ‘deemed authorized by policymaking officials because they must have known about it but failed to stop it.’”<sup>54</sup>

In the absence of either a written county custom or policy or a widespread practice that rises to the level of an unwritten custom or practice, the courts will hold a county liable for the actions of its officials or employees if the county has delegated the policy-making decision to the county actor whose actions resulted in the constitutional violation, or if the county ratified the unconstitutional action after-the-fact. Policy-making authority is delegated when the county actor is given discretion to act on the matter and the decision is not subject to meaningful administrative review by the county.<sup>55</sup> For example, if a county creates a procedure where final employment decisions are made by an individual supervisor and those employment decisions are not subject to any administrative review process, the supervisor may be considered to have been delegated the ability to set final policy regarding the employment actions for which he or she is responsible.

Ratification, on the other hand, requires the final policy-maker to learn of and formally approve both the action and its basis after the action is taken.<sup>56</sup> A county does not face liability for an unlawful



action if it merely acquiesces to the use of discretion or if it approves of the discretionary act without knowing of or approving the unconstitutional motive for the act.<sup>57</sup> Thus, if a board of county commissioners upheld a decision to terminate an employee without knowing that the initial decision to terminate was based on discriminatory animus, the board's decision would not be a ratification of the initial discriminatory act. It should be noted that, while liability based on the existence of an unwritten county custom or policy typically contemplates a pattern of behavior—a single incident may constitute a custom or policy in appropriate circumstances, such as in the employment context, under a theory of delegation or ratification.<sup>58</sup>

### **Liability for Negligence in the Civil Rights Context**

The term “negligence” refers to “the failure to exercise the standard of care that a reasonably prudent person would have exercised in a similar situation” or “any conduct that falls below the legal standard established to protect others against unreasonable risk of harm.”<sup>59</sup> The doctrine of qualified immunity, discussed above, already addresses circumstances in the civil rights context where a public official is mistaken regarding application of the law, but where the mistake was not so egregious as to suggest incompetence or bad faith. The limitation on liability arising from the doctrine of qualified immunity is consistent with the general concept that §1983 liability cannot be based on simple negligence.<sup>60</sup> Thus, for example, a county actor who negligently, but not deliberately, deprives a person of a life, liberty, or property interest without due process, is not liable under §1983 for a due process violation.<sup>61</sup>

### **Liability for Conduct of Subordinates in Civil Rights Cases**

As discussed above, there is generally no *respondeat superior* liability for the actions of subordinates. However, counties and public officials can be liable for their failure to train, supervise, or discipline employees under limited circumstances, when such failure results in the deprivation of an individual's civil rights and otherwise meets the evidentiary requirements of §1983. In order for either a county or a public official to be liable for failing to prevent the harmful act of their subordinates, whether by training or supervising them properly, the claimant must show: 1) that the failure represents “deliberate indifference” on the part of the county/public official; 2) that the county/public official knew or should have known that the failure to act was substantially certain to lead to a deprivation of constitutional rights; and 3) that the failure to act was causally connected, or the “moving force” that led to the constitutional deprivation at issue.<sup>62</sup> In other words, failure to train leads to county liability when “‘in light of the duties assigned to specific officers or employees[,] the need for more or different training is so obvious, and that inadequacy so likely to result in the violation of constitutional rights, [ ] the policymakers of the [county] can reasonably be said to have been deliberately indifferent to the need.’”<sup>63</sup> It is not enough to say that more training would have prevented the violation, as that would be true in virtually all cases. Instead, the claimant must show that the constitutional deprivation was so likely to occur as a result of the decision not to provide training, that the policymaker knew what would likely happen and failed to act anyway.

### **DAMAGES AND ATTORNEY'S FEES**

As mentioned above, if a county or an individual is found liable under §1983, there is no statutory limit to the damages that can be imposed. In addition, a prevailing claimant can recover attorney's fees for the cost of bringing the lawsuit. Attorney's fees can be equal to or even greater than the actual monetary damage award, particularly when only nominal damages are awarded.

Individuals can be sued in their official capacity or their individual capacity.<sup>64</sup> A suit against an individual in his or her official capacity is a suit against the entity for which the person is employed, while a suit against a person in his or her individual capacity is a suit against him or her personally.<sup>65</sup> Thus, a county sheriff may be sued in both his or her official capacity and his or her individual capacity. Any liability arising from the official capacity lawsuit would be liability imposed against the county



employing the sheriff, while liability arising from the individual capacity lawsuit would be imposed against the sheriff personally.

If an individual is held liable personally for a violation of §1983, that individual must personally pay for the portion of money damages and attorney's fees awarded to the claimant against him or her. Counties cannot pay monetary judgments against individuals who have been determined to have violated someone's civil rights, because all county expenditures must have a public purpose.<sup>66</sup> Additionally, punitive damages—which are damages not based on the harm suffered by the claimant but, rather, on a desire to punish the wrongdoer—are recoverable against individuals, but not counties, in a §1983 action.<sup>67</sup> However, if the individual is successful in defending against the claim, and the claim arose out of activities undertaken for a public purpose within the course and scope of the individual's duties, the individual may recover the cost of his or her defense from the county for whom the individual is employed.<sup>68</sup>

## **LIABILITY UNDER FLORIDA LAW FOR NEGLIGENCE CLAIMS**

---

### **COUNTY LIABILITY FOR NEGLIGENCE CLAIMS**

In addition to liability for civil rights violations, counties are commonly sued in state court for damages arising from the negligent actions of their employees and officials. For example, a county may be sued for failing to maintain a county building where a slip-and-fall accident occurred or because a county vehicle was involved in a car accident. These types of actions are sometimes referred to as tort claims, which can be generally defined as a civil lawsuit brought seeking damages for the breach of a duty owed to the person bringing the lawsuit resulting in damage.<sup>69</sup> The State of Florida has adopted a limited waiver of sovereign immunity for these suits.

Section 768.28(5), Florida Statutes, provides, “the state and its agencies and subdivisions shall be liable for tort claims in the same manner and to the same extent as a private individual under like circumstances.” The clause “in the same manner and to the same extent as a private individual under like circumstances,” has the effect of excluding tort claims that arise from an action that is particularly governmental in nature because, if there is no liability that corresponds to the type of liability a “private individual” might face, there is no waiver. Stated differently, if the cause of action is not something for which a private person could face liability, the government cannot be liable for it either under the sovereign immunity statute.<sup>70</sup>

Similarly, a tort claim cannot be brought against the government unless the government owed the claimant a duty of care that was breached by the challenged action. Courts have consistently held that, when the action complained of is a “discretionary planning, policy-making, or judgmental government function,” the government owes the claimant no particular duty, because inherently governmental decisions of this sort are made for the public at large, rather than for the benefit of a particular person and, thus, a tort claim cannot be maintained.<sup>71</sup> By contrast, operational activities conducted by governments are the type of functions to which a duty of care attaches because, like private land-owners and commercial actors, governments functioning in a proprietary or operational capacity owe a duty of care to persons for whom the government's activity creates a foreseeable zone of risk. The general policy behind this distinction is that liability cannot attach to legislative and policy-making decisions, because it cannot be considered tortious to govern and juries and judges cannot invade the legislative policy-making process without violating the separation of powers between the three branches of government. By contrast, there is no public benefit in holding governments to a lesser standard of care when the government is acting like any other land-owner or commercial actor.<sup>72</sup>

The types of planning functions immune from suit include “legislative, permitting, licensing, and executive officer functions” as well as the “enforcement of laws and the protection of public safety.”<sup>73</sup> Operational functions include the maintenance of property and the provision of professional services.<sup>74</sup> However, the planning/operational distinction may apply with different consequences, even within the



same category of activities. For example, a decision to design a roadway in a particular way would be a planning decision immune from suit, while the maintenance of that same roadway is an operational function for which the county would be liable if the roadway is not properly maintained and the lack of maintenance causes a person harm.<sup>75</sup>

Assuming a claim can be maintained under Section 768.28, Florida Statutes, the statute limits the scope of the claimant's potential recovery. Section 768.28(5), Florida Statutes, disallows punitive damages and prejudgment interest, and limits the amount of monetary damages recoverable against the State and counties for tort claims to \$200,000 per person and \$300,000 per claim. The statutory caps apply to payments by all state agencies and subdivisions. Therefore, if a lawsuit involves multiple state and local entities, the entire recovery is limited by the statutory cap, regardless of how much each entity pays. If a claimant is awarded an amount greater than the statutory limit by a jury, the claimant may petition the Florida Legislature through the filing of a claims bill to increase the amount of sovereign immunity waiver for the claimant's particular case.<sup>76</sup> The Legislature's decision to award a claims bill is a matter of legislative grace, rather than statutory liability.<sup>77</sup>

In addition to statutory limits on recovery, Section 768.28(6), Florida Statutes, sets forth pre-suit notice requirements that must be met before a claimant is entitled to bring a tort action against the state or its counties, including notice of the claim and the provision of the claimant's personal information to the entity being sued. If pre-suit notice is not provided within the three years provided for by the statute, the claimant is not entitled to bring the action at all.

## **PERSONAL LIABILITY FOR NEGLIGENCE CLAIMS**

Section 768.28(9)(a), Florida Statutes, generally exempts county officers and employees from suit and liability in tort cases arising from actions taken in the scope of the officer or employee's employment, unless the officer or employee "acted in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property." When the actions complained of meet the "bad faith, [ ] malicious purpose or [ ] wanton and willful disregard" criteria, then the individual bears liability, rather than the county. In all other cases, negligence on the part of individual officers and employees results in liability for the county, rather than for the individual. If an individual is liable under Section 768.28(9)(a), neither the statutory limits on monetary damages, the limits on prejudgment interest or punitive damages, nor the pre-suit notice requirements of the statute apply—the case proceeds under the same rules as any tort action between two private parties.<sup>78</sup>

Because the immunity is both from liability and from suit, courts are encouraged to act as a gatekeeper by determining in the early trial stages whether the facts alleged could support a decision by a reasonable trier-of-fact that wrongful conduct occurred of the type required to exempt the individual defendant from immunity.<sup>79</sup> Nevertheless, because the level of wrongfulness often turns on fact-specific questions, the applicability of the sovereign immunity exemption for individuals is often left for a jury to decide.<sup>80</sup> Additionally, because the decision of whether the individual's behavior meets the criteria for exemption from sovereign immunity has consequences for the county that employees the individual, conflicts can arise between the defense strategies of the county and the individual that may require the individual to have a separate attorney representing him or her in the case.

The term "willful" contemplates some intent on the part of the individual, however, the term "wanton and willful disregard" does not require proof that the individual intended to cause harm. Rather, the courts look at what a reasonable person would know about the likely outcome of the conduct at issue in determining whether the conduct constitutes a "wanton and willful disregard" of rights, safety, or property. Conduct that is virtually certain to cause death or injury easily meets the standard of "wanton and willful disregard," because a decision to act in such circumstances infers an intent to harm.<sup>81</sup>

For conduct that is not virtually certain to cause death or injury, the courts analyze each situation on a case-by-case basis. At least one court has concluded that the language of Section 768.28 requires more than gross negligence in order to exempt the officer or employee's conduct from statutory immunity; other courts have treated "gross negligence" and "wanton and willful disregard" as interchangeable standards of conduct, at least in the context of claims for the intentional infliction of



emotional distress.<sup>82</sup> Gross negligence is defined by statute as “conduct [ ] so reckless or wanting in care that it constitute[s] a conscious disregard or indifference to the life, safety, or rights of persons exposed to such conduct.”<sup>83</sup>

It should be noted that, while the foregoing discussion of the term “wanton and willful disregard” focuses on an objective standard of care, the exemption to individual immunity is phrased in the disjunctive; in other words an individual may be liable if he acted in bad faith *or* with a malicious purpose<sup>84</sup> *or* with wanton and willful disregard. Consequently, evidence showing bad faith<sup>85</sup> or malicious purpose will expose the individual to liability, even if the conduct does not otherwise meet the level of negligence required to satisfy the wanton and willful disregard standard.

## **LIABILITY INSURANCE/INDEMNIFICATION**

---

Section 768.28, Florida Statutes, allows counties to purchase insurance coverage, while still maintaining their sovereign immunity rights. Section 768.28 (16)(a), Florida Statutes, provides, “[t]he state and its agencies and subdivisions are authorized to be self-insured,<sup>86</sup> to enter into risk management programs, or to purchase liability insurance for whatever coverage they may choose, or to have any combination thereof, in anticipation of any claim, judgment, and claims bill which they may be liable to pay pursuant to this section.” Local governments that are subject to homogenous risks may purchase insurance jointly, or joint together as joint self-insurers to provide other means of protection against tort claims, as well. Thus, the choice to purchase insurance is voluntary on the part of counties and does not change their exposure in the absence of a claims bill. However, if a claims bill is issued by the Legislature over and above the amount of the statutory caps (\$200,000 per person/\$300,000 per claim), then insurance can be used to pay for the excess judgment.<sup>87</sup>

Counties are limited, however, in their ability to enter contracts providing for the indemnification of other entities. Section 768.28(19), Florida Statutes, allows counties to enter contracts with the state and its subdivisions that indemnify the other party for the county’s own negligence. Counties may not indemnify other agencies or subdivisions for that agency or subdivision’s negligence. In the case of contracts with non-governmental entities, the ability to indemnify is even more restricted. Counties may not indemnify private parties in any way and may not purchase insurance to provide for the indemnification of that party. Similarly, counties are not able to enter into contractual agreements that provide for the payment of attorney’s fees to the prevailing party in a contractual dispute.<sup>88</sup> Counties are able to post bonds in court and can be held liable up to the extent of the bond posted; bonds are considered equivalent to contracts and enforceable in the same way.<sup>89</sup> The restrictions on indemnification exist because, as political subdivisions of the State of Florida, counties have no power to amend or expand sovereign immunity waivers delineated by the Florida Legislature.

## **LIABILITY PREVENTION (RISK MANAGEMENT)**

---

As with the purchase of insurance, Section 768.28, Florida Statutes, allows counties to create risk management programs. Risk management programs, which can be either internally managed or outsourced to a risk management company, create an opportunity for the county to investigate and settle claims either prior to or during litigation, to engage in concerted liability prevention activities, such as training and internal incident reporting, to develop and monitor the effectiveness of internal administrative policies with respect to both employment practices and safety rules, to assess the need and effectiveness of insurance coverage, to respond to citizen complaints, and to monitor legal developments affecting county liability. These programs are considered beneficial, because they protect public finances from damage awards that could be avoided and because they increase public safety.



However, because of their proactive nature, risk management programs can result in the development of evidence that may be later used against the county. For example, pre- and post-accident pictures of a location may be taken and maintained, which may be used to establish knowledge and/or liability against the county in litigation. Additionally, security camera tapes and incident reports created during a risk management investigation or as part of routine risk management protocols may create evidence that can be used against a county at trial. Because risk management programs are favored as a matter of public policy, there are legal mechanisms for protecting documents created as a result of risk management programs.

In the litigation context, work product created as part of a risk management program is exempt from discovery, unless the claimant shows that the exemption creates an undue hardship on the claimant's ability to prove his or her case.<sup>90</sup> Additionally, the rules of evidence provide that remedial measures taken subsequent to an accident are inadmissible to prove liability;<sup>91</sup> therefore, a county can take steps to fix a dangerous condition after an accident has occurred without fear that fixing the condition will be perceived as an admission of fault in litigation over the initial accident.

In order to further encourage risk management programs for public entities, Section 768.28, Florida Statutes, provides exemptions for both public records act obligations and sunshine law open meetings requirements for risk management files and risk management meetings, respectively, until the completion of litigation and/or the settlement of a claims bill.<sup>92</sup> Therefore, just like a claimant cannot obtain risk management records through the discovery process, claimants cannot obtain those same records by making a public records request pursuant to the Public Records Act.

## **DEFENSE COSTS/REIMBURSEMENT**

---

Typically, attorney's fees and costs are not recoverable in a lawsuit unless a party can show a statutory or contractual provision providing entitlement to fees.<sup>93</sup> Some, if not all, of the federal civil rights legislation addressed in the first part of this chapter, contain "prevailing party" provisions, which have been construed by the courts as essentially "prevailing plaintiffs" provisions.<sup>94</sup> This means that a successful federal civil rights claimant can recover attorney's fees and costs, but a successful defendant in the same forum is not similarly entitled to fees unless the defendant can show the lawsuit was meritless.<sup>95</sup> Courts have applied this interpretation in order to promote access to courts for those harmed by civil rights violations, reasoning that claimants may not bring meritorious claims for fear of an attorney's fee award in the event the claim is unsuccessful.<sup>96</sup> However, there are two mechanisms by which defense attorney's fees and costs can be recovered for state claims: the Offer of Judgment Act and Section 57.105, Florida Statutes.

The Offer of Judgment Act, Section 768.79(1), Florida Statutes (2018), provides that either plaintiff or defendant can submit an offer of judgment or a demand for judgment, respectively. If the defendant makes a demand that is not accepted, and a judgment is returned at trial that is at least 25% less than the demand, the defendant is entitled to attorney's fees and costs. Conversely, if the plaintiff makes an offer that is rejected, and a verdict in the plaintiff's favor is returned that is at least 25% greater than the offer, the defendant is obligated to pay the plaintiff's attorney's fees and costs. The only exception to a prevailing party's entitlement to fees under the statute is where it can be shown that the offer/demand was not made in good faith.<sup>97</sup> The rule exists to encourage settlement on the part of both plaintiffs and defendants.

In order to qualify for the Offer of Judgment Act's statutory benefit, an offer/demand must be made in writing and with specificity, including how much in damages is offered/demanded for each plaintiff and against each defendant, and how much of the offer/demand represents an offer/demand for punitive damages, where applicable. An offer/demand can be withdrawn prior to acceptance, but the offer/demand is binding if it is accepted before it is withdrawn. A decision to accept an offer/demand must be made within thirty days of the offer.



While the Offer of Judgment Act encourages settlement, Section 57.105, Florida Statutes, is intended to discourage frivolous lawsuits. Section 57.105 authorizes an award of attorney's fees and costs to the prevailing party where it can be shown that "the losing party or the losing party's attorney knew or should have known that a claim or defense when initially presented to the court or at any time before trial: (a) Was not supported by the material facts necessary to establish the claim or defense; or (b) Would not be supported by the application of then-existing law to those material facts." An exemption to such attorney's fee awards exists for claims or defenses that are alleged in good faith to extend, modify or reverse existing law or establish new law, if there is a reasonable chance of success. Additionally, under Section 57.105(2), Florida Statutes, fees may be awarded if the moving party proves that an action taken by a party was taken primarily for the purpose of unreasonable delay. The fee award is intended as a sanction against the losing party for filing a frivolous lawsuit.

The statute requires that the party seeking the fee award serve a motion asking for the sanction to the non-moving party and wait 21 days to see if the party withdraws or corrects the frivolous pleading. If the frivolous pleading is not withdrawn or corrected, and the prevailing party is successful in demonstrating the frivolous nature of the pleading, the prevailing party can receive an award of attorney's fees against both the losing party and the losing party's attorney, to be paid in equal amounts by each. The primary purpose of the 21-day time period is to give the losing party one last chance to withdraw the frivolous pleading or reconsider the impermissible legal tactic.<sup>98</sup> However, because of the punitive nature of the Section 57.105 fee award, such awards are relatively rare.

In addition to the limited opportunities for recovery of attorney's fees under the Offer of Judgment Act and Section 57.105, Florida Statutes, Section 57.041, Florida Statutes, allows the recovery of certain litigation costs against the losing party in any state court claim. Costs include those incurred for the taking of depositions used at trial, the cost of photocopying exhibits and certain demonstrative exhibits, and certain limited expert witness costs. The ability to recover taxable costs exists for all prevailing parties in state court claims, regardless of the nature of the claim, but rarely represents a complete recovery of the actual costs incurred during the litigation, due to the limited categories of taxable costs.

## NOTES

<sup>1</sup> The right to bring an action under §1983 does not apply to every violation of a federal law. Instead, a plaintiff must demonstrate that the federal statute creates an individually enforceable right by showing that Congress intended that the provision in question benefit the plaintiff, the asserted right is not so vague and amorphous as to preclude enforcement by the judiciary, and the statute imposes a binding obligation on the States. *D.O. v. Glisson*, 847 F.3d 374 (6th Cir. 2017).

<sup>2</sup> *Amnesty Intern., USA v. Battle*, 559 F.3d 1170 (11<sup>th</sup> Cir. 2009).

<sup>3</sup> *University Books and Videos, Inc. v. Metropolitan Dade County*, 33 F.Supp.2d 1364, 1368 n. 6 (S.D. Fla. 1999).

<sup>4</sup> *Hollywood Community Synagogue, Inc. v. City of Hollywood, Fla.*, 436 F.Supp.2d 1325 (S.D. Fla. 2006). See *Snowden v. Town of Bay Harbor Islands*, 358 F. Supp.2d 1178 (S.D. Fla. 2004)(addressing a claim under §1983 relating to municipal displays of religious holiday decorations).

<sup>5</sup> *Young Apartments Inc. v. Town of Jupiter*, 529 F.3d 1027 (11<sup>th</sup> Cir. 2008).

<sup>6</sup> See *Mobley v. Hillsborough County*, 2009 WL 2026374 \*1, \*2 (M. D. Fla. July 9, 2009)(acknowledging the potential for section 1983 claims based on Fourth Amendment violations relating to the seizure of dogs).

<sup>7</sup> *McKinney v. Pate*, 20 F.3d 1550, 1556 (11<sup>th</sup> Cir. 1994).

<sup>8</sup> *Crocker v. Pleasant*, 778 So.2d 978, 983 (Fla. 2001).

<sup>9</sup> *Wilson v. County of Orange*, 881 So.2d 625 (Fla. 5<sup>th</sup> DCA 2004).

<sup>10</sup> *Cannon v. City of West Palm Beach*, 250 F.3d 1299, 1301 (11<sup>th</sup> Cir. 2001)

<sup>11</sup> *Campbell v. Rainbow City, Ala.*, 434 F.3d 1306, 1313 (11<sup>th</sup> Cir. 2006).

<sup>12</sup> 42 U.S.C.A. §2000e et. seq.

<sup>13</sup> 42 U.S.C.A. §2000e (k)

<sup>14</sup> 29 U.S.C.A. § 621 et seq.

<sup>15</sup> 29 U.S.C.A. §2601 et. seq.



- <sup>16</sup> 29 U.S.C.A. §201 et. seq.
- <sup>17</sup> 29 U.S.C.A. §213.
- <sup>18</sup> 29 U.S.C.A. §216.
- <sup>19</sup> It should also be noted that in 2009, Congress adopted the Lilly Ledbetter Fair Pay Act of 2009, which provided that an unlawful employment practice occurs when a discriminatory compensation decision or practice is adopted each time the person is paid or otherwise compensated under the discriminatory decision or practice. This law had the effect of extending the period of time during which an employee could bring claims of discrimination against an employer, by allowing the employee to sue for back pay of up to two years preceding the filing of the charge, even if the discriminatory practice being challenged was a longstanding practice.
- <sup>20</sup> 42 U.S.C.A. §12101 et. seq.
- <sup>21</sup> 42 U.S.C.A. §12112; §12182 .
- <sup>22</sup> 42 U.S.C.A. §2000cc et. seq.
- <sup>23</sup> Fla. Stat. §760.01(2) (2012).
- <sup>24</sup> Fla. Stat. §448.07 (2012).
- <sup>25</sup> Fla. Stat. §112.3187 et. seq. (2012).
- <sup>26</sup> Fla. Stat. §761.01 et. seq. (2012).
- <sup>27</sup> §761.061, Fla. Stat. (2016)
- <sup>28</sup> See *Harlow v. Fitzgerald*, 457 U.S. 800, 807 (1982)(discussing qualified and absolute immunity).
- <sup>29</sup> *Mitchell v. Forsyth*, 472 U.S. 511, 526-527 (1985).
- <sup>30</sup> *Id.*
- <sup>31</sup> *McNayr v. Kelly*, 184 So.2d 428, 430-431 (Fla. 1966).
- <sup>32</sup> *Id.*
- <sup>33</sup> See *DelMonico v. Traynor*, 116 So. 3d 1205, 1220 (Fla. 2013)(discussing the litigation privilege and its application to out-of-court statements to potential non-party witnesses during case).
- <sup>34</sup> *Junior v. Reed*, 693 So.2d 586, 590 (Fla. 1<sup>st</sup> DCA 1997).
- <sup>35</sup> *Harlow*, 457 U.S. at 807.
- <sup>36</sup> *Junior*, 693 So.2d at 590.
- <sup>37</sup> *Id.*
- <sup>38</sup> *Id.*
- <sup>39</sup> *City of Hialeah v. Fernandez*, 661 So.2d 335, 339 (Fla. 3d DCA 1995).
- <sup>40</sup> *Id.*
- <sup>41</sup> *Town of Southwest Ranches v. Kalam*, 980 So.2d 1121, 1124 (Fla. 4<sup>th</sup> DCA 2008).
- <sup>42</sup> *American Home Assur. Co. v. National Railroad Passenger Corp.*, 908 So.2d 459, 471 (Fla. 2005)
- <sup>43</sup> *Id.*; *McPhee v. Dade County*, 362 So.2d 74, 76 (Fla. 3d DCA 1978) citing *Keggin v. Hillsborough County*, 71 Fla. 356 (1916).
- <sup>44</sup> *Arnold v. Shumpert*, 217 So.2d 116, 118 (Fla. 1968); *Tampa-Hillsborough County Expressway Authority v. K.E Morris Alignment Service, Inc.*, 444 So.2d 926, 928-29 (Fla. 1983).
- <sup>45</sup> *Id.*; *City of Gainesville v. Dept. of Transport.*, 778 So.2d 519, 530 (Fla. 1<sup>st</sup> DCA 2001); *County of Brevard v. Miorelli Engineering, Inc.*, 703 So.2d 1049, 1051 (Fla. 1997).
- <sup>46</sup> *American Home Assur. Co.*, 908 So.2d at 471; *Pan-Am Tobacco Corp. v. Department of Corrections*, 471 So.2d 4, 5 (Fla. 1984).
- <sup>47</sup> *Monell v. Department of Social Services of City of New York*, 436 U.S. 658, (1978).
- <sup>48</sup> *Id.* at 690.
- <sup>49</sup> See e.g. *Bradshaw v. School Bd. of Broward County*, 486 F.3d 1205 (11<sup>th</sup> Cir. 2007) (concluding that Florida cannot limit recovery against a school board under Title VII as a matter of sovereign immunity); 42 U.S.C.A. §1981a (3)(limiting employment damages).
- <sup>50</sup> *Samarco v. Neumann*, 44 F.Supp.2d 1276, 1286 (S.D.Fla. 1999).
- <sup>51</sup> BLACK’S LAW DICTIONARY, 7<sup>th</sup> Ed. 1313.
- <sup>52</sup> *Brown v. Neumann*, 188 F.3d 1289, 1290 (11<sup>th</sup> Cir. 1999)
- <sup>53</sup> *Brown v. City of Fort Lauderdale*, 923 F.2d 1474, 1481 (11<sup>th</sup> Cir. 1991)
- <sup>54</sup> *Samarco*, 44 F.Supp.2d at 1289.
- <sup>55</sup> *Samarco*, 44 F.Supp.2d at 1286.
- <sup>56</sup> *Sherrod v. Palm Beach County School Dist.*, 424 F.Supp.2d 1341, 1346 (S.D.Fla. 2006)
- <sup>57</sup> *Id.*
- <sup>58</sup> *Pembaur v. City of Cincinnati*, 475 U.S. 469, 480 (1986).



- <sup>59</sup> BLACK’S LAW DICTIONARY, 7<sup>th</sup> Ed. 1056.
- <sup>60</sup> *Carpenter v. City of St. Petersburg*, 547 So.2d 339, 341 (Fla. 2d DCA 1989) criticized on other grounds by *Mahon v. City of Largo, FL*, 829 F.Supp. 377, 383 (M.D. Fla. 1993).
- <sup>61</sup> *Daniels v. Williams*, 474 U.S. 327, 330-31 (1986).
- <sup>62</sup> *Swofford v. Eslinger*, 686 F.Supp.2d 1277, 1284 (M.D.Fla. 2009).
- <sup>63</sup> *Id.*
- <sup>64</sup> *Busby v. City of Orlando*, 931 F.2d 764, 776 (11<sup>th</sup> Cir. 1991).
- <sup>65</sup> *Id.*
- <sup>66</sup> *See Thornber v. City of Ft. Walton Beach*, 568 So.2d 914, 916-917 (Fla. 1990)(limiting recovery for the cost of defending suit to cases arising out of the course and scope of employment, based on the need for public expenditures to have a public purpose.)
- <sup>67</sup> *Young Apartments, Inc. v. Town of Jupiter*, 529 F.3d 1027, 1047 (11<sup>th</sup> Cir. 2008).
- <sup>68</sup> *See Thornber*, 568 So.2d at 916-917; *Maloy v. Leon County*, 946 So.2d 1260, 1265 (Fla. 1<sup>st</sup> DCA 2007)(clarifying that Thornber provides a right to recover representation costs when the activities at issue were undertaken within the course and scope of employment and serve a public purpose).
- <sup>69</sup> *See* BLACK’S LAW DICTIONARY, 7<sup>th</sup> Ed. 1496.
- <sup>70</sup> *Tucker v. Reisha*, 634 So.2d 756, 759 (Fla. 1<sup>st</sup> DCA 1994); *Dept. Health.Rehab.Serv. v. McDougall*, 359 So.2d 528, 532 (Fla. 1<sup>st</sup> DCA 1978).
- <sup>71</sup> *See Department of Health and Rehabilitative Services v. B.J.M.*, 656 So.2d 906, 911 (Fla. 1995).
- <sup>72</sup> *See Department of Transp. v. Neilson*, 419 So.2d 1071, 1075 (Fla. 1982).
- <sup>73</sup> *See Dep’t of Health and Rehab. Svcs. v. B.J.M.*, 656 So.2d at 911.
- <sup>74</sup> *Id.*
- <sup>75</sup> *Department of Transp. v. Neilson*, 419 So.2d 1071, 1075 (Fla. 1982); *Cygler v. Presjack*, 667 So.2d 458, 460 (Fla. 4<sup>th</sup> DCA 1996).
- <sup>76</sup> *See Searcy, Denney, Scarola, Barnhart & Shipley, etc. v. State*, 209 So. 3d 1181 (Fla. 2017)(addressing the issuance of claims bills).
- <sup>77</sup> *Id.* at 1189.
- <sup>78</sup> *See Medberry v. McCallister*, 937 So.2d 808, 812 (Fla. 1<sup>st</sup> DCA 2006)(holding that pre-suit notice requirements do not apply to cases against individual employees).
- <sup>79</sup> *Willingham v. City of Orlando*, 929 So.2d 43, 48 (Fla. 5<sup>th</sup> DCA 2006).
- <sup>80</sup> *See e.g. District Bd. of Trustees of Florida Keys Community College v. Martin*, 642 So.2d 816, 817 (Fla. 3d DCA 1994)(finding genuine issues of material fact as to whether jury could conclude firearms instructor’s conduct in using firearm with blanks constituted “willful and wanton disregard.”)
- <sup>81</sup> *Sierra v. Associated Marine Institutes, Inc.*, 850 So.2d 582, 592-593 (Fla. 2d DCA 2003).
- <sup>82</sup> *Id.*; *But see Williams v. City of Minneola*, 619 So.2d 983 (Fla. 5<sup>th</sup> DCA 1993)(holding that “reckless conduct” in the context of a claim for outrageous infliction of emotion distress and “wanton and willful” are interchangeable descriptions of the same conduct).
- <sup>83</sup> Fla. Stat. §768.72(1)(b)(2012)(defining “gross negligence” for the purpose of determining availability of punitive damages in a tort claim).
- <sup>84</sup> *Jarzynka v. St. Thomas University of Law*, 310 F.Supp.2d 1256, 1265 (S.D.Fla.,2004) (defining “malice” as “wrongful act, done intentionally, without just cause or excuse.”)
- <sup>85</sup> Bad faith can be defined as a dishonest purpose. An example could be a county actor’s prosecution of a county ordinance against an individual, where the county actor does not actually believe a violation occurred but is pursuing the prosecution for some other, illegitimate purpose. BLACK’S LAW DICTIONARY, 7<sup>th</sup> Ed. 134.
- <sup>86</sup> “Self-insurance is ‘a planned program of paying from a company’s own funds for losses sustained, where it recognizes reasonably the potential losses that might be incurred, does all that it can to avoid or reduce this potential, and then provides a means to process and pay for the losses remaining.... A true self-insurance plan contemplates the establishment of a fund based on projections of future losses and the identification and measurement of actual claims against the self-insured entity so that money from the fund may be set aside to pay those claims if and when they come due.’” *United Services Auto. Ass’n v. Phillips*, 740 So.2d 1205, 1208 (Fla. 2d DCA1999) citing Thomas W. Raynard, *The Local Government as Insured or Insurer*, 20 The Urban Lawyer 103 (1998).
- <sup>87</sup> *Wagner v. Orange County*, 960 So.2d 785, 788 (Fla. 5<sup>th</sup> DCA 2007).
- <sup>88</sup> §768.28(10), Fla. Stat (2018). *But see American Home Assur. Co. v. National Railroad Passenger Corp.*, 908 So.2d at 473.(refusing to apply the limitation on indemnification to municipalities).



- <sup>89</sup> *Provident Management Corp. v. City of Treasure Island*, 796 So.2d 481, 486 (Fla. 2001).
- <sup>90</sup> *District Bd. of Trustees of Miami-Dade Community College v. Chao*, 739 So.2d 105, 107 (Fla. 3d DCA 1999).
- <sup>91</sup> Fla. Stat. §90.407 (2017). However, such information may be admissible to show feasibility, control or ownership.
- <sup>92</sup> Fla. Stat. §768.28(16)(b)&(c) (2017).
- <sup>93</sup> *Price v. Tyler*, 890 So.2d 246, 250 (Fla.2004).
- <sup>94</sup> See e.g. *Christiansburg Garment Co. v. Equal Employment Opportunity Commission*, 434 U.S. 412, 422 (1978)(holding that prevailing party attorney’s fee provision only applied to prevailing plaintiffs, unless a prevailing defendant could show that the plaintiff’s action was “frivolous, unreasonable, or groundless”).
- <sup>95</sup> *Id.*
- <sup>96</sup> *Id.*
- <sup>97</sup> §768.79(7)(a) Fla. Stat. (2018); *Schmidt v. Fortner*, 629 So. 2d 1036 (Fla. 4th DCA 1993).
- <sup>98</sup> *Maxwell Bldg. Corp. v. Euro Concepts, LLC*, 874 So.2d 709, 711 (Fla. 4<sup>th</sup> DCA 2004).



---

## 7. *Ethics, Conflicts of Interest, and Abuse of Office*

---

*Herbert W.A. Thiele and Denise Marie Nieman*

Ethics is defined as “[o]f or relating to moral action, conduct, motive or character ... [p]rofessionally right or befitting.”<sup>1</sup> As former Supreme Court Justice Potter Stewart once said, “Ethics is knowing the difference between what you have the right to do and what is the right thing to do.”

It is Florida law and policy that “[a] public office is a public trust. The people shall have the right to secure and sustain that trust against abuse.”<sup>2</sup> Furthermore,

It is essential to the proper conduct and operation of government that public officials be independent and impartial and that public office not be used for private gain other than the remuneration provided by law. The public interest, therefore, requires that the law protect against any conflict of interest and establish standards for the conduct of elected officials and government employees in situations where conflicts may exist.<sup>3</sup>

---

### STATE CODE OF ETHICS

---

The state “Code of Ethics”, Chapter 112, Part III of the Florida Statutes, contains standards of conduct and disclosures applicable to public officers and employees, candidates, lobbyists, and others in state and local government, with the exception of judges. The Code of Ethics applies to any person elected or appointed to public office, as well as to persons serving on certain advisory boards.<sup>4</sup> The ethics laws address financial disclosure, conflicts of interest, doing private business with one’s agency, nepotism, gifts and honoraria, campaign finance, lobbying, and voting conflicts.<sup>5</sup>

---

### LOCAL ETHICS REGULATIONS

---

Local governments are empowered to enact ordinances that impose standards of conduct that are in addition to, and more stringent than, those specified in the state’s Code of Ethics.<sup>6</sup> State law specifies that county ordinances which impose such standards of conduct may provide for stiffer penalties for violations, including a fine not to exceed \$1,000, or a term of imprisonment in county jail not to exceed one year.<sup>7</sup> Local ethics codes typically provide for: the establishment of local ethics commissions; an internal inspector general to conduct investigations; local lobbyist registration; and penalties for violations.

For example, in 2010 the voters in Broward County approved charter amendments that created and established the Broward County Office of Inspector General, which is empowered to investigate misconduct and gross mismanagement within the governments of Broward County and all of its municipalities, including elected and appointed officials, candidates for elected office, and employees, as well as the providers of goods and services to the county and municipalities. “Misconduct” is defined as “any violation of the state or federal constitution, any state or federal statute or code, any county or



municipal ordinance or code; or conduct involving fraud, corruption, or abuse.”<sup>8</sup> “Gross mismanagement” is defined as “the material waste or significant mismanagement of public resources.”<sup>9</sup> The Broward County Office of Inspector General is empowered to investigate complaints, subpoena witnesses, administer oaths, require the production of documents and records, conduct hearings, conduct audits, issue reports, and refer any alleged misconduct to the appropriate agencies.<sup>10</sup> The OIG has a fiscal year budget of \$2.89 million.<sup>11</sup>

In 2010, the voters in Palm Beach County voted for charter amendments that provided for the adoption of a code of ethics, establishment of an independent Commission on Ethics, and establishment of the independent Office of Inspector General.<sup>12</sup> By virtue of the charter amendments, Palm Beach County government, and all of the municipalities within the County at the time of adoption, are subject to the jurisdiction of the OIG and the Commission on Ethics. The Palm Beach County Commission on Ethics has the authority to review, interpret, enforce, and render advisory opinions regarding the Code of Ethics, the Post-Employment Ordinance, the Lobbyist Registration Ordinance, and is also authorized to provide ethics training.<sup>13</sup> By separate agreements, the Delray Beach Community Redevelopment Agency, the Downtown Development Authority, the Housing Authority, and the Lake Worth Community Redevelopment Agency, are subject to the authority of the Commission on Ethics. The primary purpose of the Palm Beach County Office of Inspector General is to “prevent and detect fraud and abuse in programs and operations administered or financed by the county or municipal agencies.”<sup>14</sup> The OIG consists of an audit division, contract oversight division, and investigations division, and has a fiscal year budget of \$3 million.<sup>15</sup> By separate agreements, the Palm Beach County Solid Waste Authority and the Children’s Services Council are subject to the authority of the OIG.

## **FLORIDA COMMISSION ON ETHICS**

---

The Florida Commission on Ethics is an independent commission that was formed in 1974 to serve as “the guardian of the standards of conduct for officers and employees of Florida and its political subdivisions.”<sup>16</sup> The Commission on Ethics is responsible for receiving and investigating complaints made against public officers and employees for violations of the State’s Code of Ethics and any other breach of the public trust.<sup>17</sup> The Commission is authorized to investigate alleged ethics violations based upon the filing of a sworn, written complaint by a person, or by written referral from the Governor, Department of Law Enforcement, state attorney, or U.S. attorney.<sup>18</sup> The Commission cannot accept anonymous complaints.

The complaint must be filed with the Commission on Ethics within five years of the alleged Code of Ethics violation or other breach of public trust. The five-year time period starts running the day after the violation allegedly occurs.<sup>19</sup> The Commission on Ethics is empowered to make investigations, perform an audit, subpoena witnesses, administer oaths and affirmations, take evidence, require the production of records, and recommend that the Governor initiate judicial proceedings to enforce compliance or restrain violations of the Code of Ethics.<sup>20</sup>

The Commission on Ethics also maintains the financial disclosure filing system for public officers, which includes county commissioners, and certain employees, and administers automatic fines when the officers and employees fail to timely file the required disclosures.

The Commission on Ethics also renders advisory opinions in response to questions from public officers, candidates for public office, and public employees who may have doubts about the applicability and interpretation of the Code of Ethics or other laws, with regard to the standards of public duty.<sup>21</sup> Once rendered, the opinion is binding on the conduct of the officer, employee, or candidate who sought the opinion.<sup>22</sup>



## ETHICS TRAINING

---

County commissioners, other constitutional officers, and elected municipal officers are required to annually complete 4 hours of training on ethics, public records, and open meetings laws.<sup>23</sup> Elected officials who are leaving public office are not required to complete the training during the calendar year in which the officer leaves office.<sup>24</sup> The guidelines for the ethics training are as follows.

1. A county attorney's office, other local government attorney, and any person with knowledge of the required subject may provide the training.
2. The training may be satisfied through attendance of a pre-recorded program.
3. The training may be satisfied through a review of written materials, provided the materials are part of a formalized study program and not a self-directed study.
4. A 50-minute class on ethics can satisfy one credit hour of training.
5. Annual training means occurring between January 1 and December 31 of each and every year.<sup>25</sup>

The Commission on Ethics has also adopted rules that identify the minimum course content required for an ethics training program.<sup>26</sup> Subjects that must be covered in ethics training include one or more of the following:

- Doing business with one's own agency;
- Conflicting employment or contractual relationships;
- Misuse of position;
- Disclosure or use of certain information;
- Gifts and honoraria, including solicitation and acceptance of gifts, and unauthorized compensation;
- Post-officeholding restrictions;
- Restrictions on the employment of relatives;
- Voting conflicts when the constitutional officer is a member of a collegial body and votes in his or her official capacity;
- Financial disclosure requirements, including the fine and appeal process;
- Commission on Ethics procedures concerning ethics complaints and referrals; and
- The importance of and process for obtaining advisory opinions from the Commission.<sup>27</sup>

The statute is silent as to what combination of hours and topics will satisfy the 4-hour training requirement.<sup>28</sup> Thus, for example, a training program that consists of two hours of ethics, one hour of public records, and one hour of open meetings would satisfy the training requirement.<sup>29</sup>

Officials who are required to file full and public disclosure of financial interests must certify on the disclosure form that the required annual ethics training was completed.<sup>30</sup>

## FINANCIAL DISCLOSURE

---

Public officers, candidates for public office, and certain public employees must annually file a financial disclosure form. County commissioners are required to file a Full and Public Disclosure of Financial Interests (Form 6) with the Commission on Ethics by July 1st. Candidates must file a Form 6 during the qualifying period to run for office. Form 6 discloses the net worth, assets valued at over



\$1,000, liabilities in excess of \$1,000, primary and secondary sources of income, and interests in business entities.<sup>31</sup> The failure to file the required financial disclosure form, as well as filing an incomplete or inaccurate form, would be considered an ethics violation.

If the financial disclosure form is not filed or postmarked by September 1st, an automatic fine of \$25 per day is imposed up to a maximum penalty of \$1,500. If a person holding public office or public employment fails or refuses to file a full and public disclosure of financial interests and has accrued the maximum fine, the Commission on Ethics is to initiate an investigation and conduct a public hearing on the matter.<sup>32</sup> If the Commission determines that the person willfully failed to file the statement of financial interests, the Commission is to enter an order recommending that the officer or employee be removed from public office or employment.<sup>33</sup>

The Commission has various tools to collect unpaid fines for the failure to file financial disclosure forms, including wage garnishment, using a collection agency, or other collection methods authorized by law.<sup>34</sup> For example, as of July 31, 2018, unpaid fines totaling \$567,420 had been referred to collection agencies for collection.<sup>35</sup> The statute of limitations for collecting the unpaid fines is 20 years.<sup>36</sup>

---

## CONFLICT OF INTEREST DEFINED

---

Florida law states that officers and employees of a county, city, or other political subdivision of the state, must not 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 or her duties in the public interest.”<sup>37</sup> A “conflict” or “conflict of interest” is defined as a “situation in which regard for a private interest tends to lead to disregard of a public duty or interest.”<sup>38</sup>

---

## VOTING CONFLICTS

---

Florida law requires local board members who are present at a board meeting to vote on all measures that are being considered by the board.<sup>39</sup> However, local board members must abstain from voting on a measure which would inure to his or her special private gain or loss.<sup>40</sup> Thus, there is an exception to the mandatory voting requirement when “there is, or appears to be, a possible conflict of interest.”<sup>41</sup>

If there are measures which would inure to the special private gain or loss of the public officer, or the public officer’s employer, business associate (partner, joint venturer, co-owner of property, etc.), or relative (father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law), then the public officer must, prior to a vote being taken on the measure, “publicly state to the assembly the nature of the officer’s interest in the matter from which he or she is abstaining from voting.”<sup>42</sup> The official then does not vote on the measure. Within 15 days after the vote, the public official must disclose the nature of the interest in a memorandum of voting conflict form (Commission on Ethics Form 8B), which is then filed with the person responsible for recording the minutes of the meeting, who will incorporate the form into the minutes of the meeting.<sup>43</sup>

The existence of a conflict of interest depends on whether or not the public official’s private interests are impacted to a significantly greater (or significantly lesser) degree than the interests of other similarly situated persons. For example, the Commission on Ethics typically finds that no conflict exists when a voting official’s interest in a measure constitutes one percent (1%) or less of the “size of the class” of similarly situated persons who are affected by the measure.<sup>44</sup> In other words, where the size of the class of affected persons is large, the gain to the officer tends to be of a “general” nature. Where the size



of the class of persons benefiting from the measure is small, then the possibility of a “special gain” for the officer is much more likely.<sup>45</sup>

In addition, if the gain or loss resulting from the measure being voted on is so remote or speculative that the measure cannot be said to inure to the official’s special private gain or loss, then a voting conflict would not be triggered.<sup>46</sup> Also, a conflict would not exist when voting for measures which are procedural or preliminary to future actions that would result in a gain or loss.<sup>47</sup>

Further, if a public official is unsure of the conflict of interest but believes that there “appears to be” a possible conflict of interest, then the official would be allowed to abstain from voting. The official should orally announce the possible conflict before the vote, not vote on the measure, and then file the necessary memorandum of voting conflict form within 15 days after the board meeting.

Even a board member who is in attendance at a board meeting, but happens to be out of chambers during the vote on an issue in which the board member has or appears to have a conflict of interest, would be required to publicly announce the basis of a conflict of interest and file a memorandum of voting conflict.<sup>48</sup> The Florida Attorney General has determined that the statutory duty to vote “may not be avoided by the ‘temporary’ absence of a member during the vote on a particular matter which comes before the body of which he is a member during a meeting at which he is present.”<sup>49</sup>

Section 286.012, Florida Statutes also allows a board member to abstain from voting on a matter before the board if there is, or appears to be, a possible conflict of interest under a locally adopted code of ethics. If the conflict arises under the local code of ethics, then the board member is to follow the disclosure requirements specified in the local code of ethics. Further, a board member may abstain from voting on a matter in a quasi-judicial proceeding “if the abstention is to assure a fair proceeding free from potential bias or prejudice.”<sup>50</sup>

---

## **PERCEIVED CONFLICTS**

---

Beyond the voting conflicts discussed above is the interest or relationship that creates a perceived conflict. Even when required by state law to cast a vote, a county commissioner can ensure maximum transparency in government decision making by disclosing certain relationships and interests related to the matter. For example, voting on a matter that would benefit a grandparent, long-time friend, former employer, former business associate, or favorite charity may not amount to a voting conflict under state law. But, by fully disclosing the nature of these facts and relationships before the vote, the commissioner eliminates the possibility of any secret motive and can better demonstrate that the vote was made for the public good, not for private gain.

While not foolproof, full disclosure of the nature of personal interests and relationships related to a vote, even when there is no conflict under state law, best addresses the issue. Properly done, the nature of this disclosure should demonstrate that the decision is based on the best interests of the public and not secretly made to serve a private interest. Better still, this practice will further enhance transparency in local government decision making.

---

## **DOING BUSINESS WITH ONE’S AGENCY/CONFLICTING EMPLOYMENT**

---

The Code of Ethics prohibits a public officer or employee from doing business with one’s agency and from having or holding conflicting employment or contractual relationships. Pursuant to Section 112.313(3), Florida Statutes:

No employee of an agency acting in his or her official capacity as a purchasing agent, or public officer acting in his or her official capacity, shall either directly or indirectly purchase, rent, or lease any realty, goods, or services for his or her own agency from any



business entity of which the officer or employee or the officer's or employee's spouse or child is an officer, partner, director, or proprietor or in which such officer or employee or the officer's or employee's spouse or child, or any combination of them, has a material interest...

Nor shall a public officer or employee, acting in a private capacity, rent, lease, or sell any realty, goods, or services to the officer's or employee's own agency, if he or she is a state officer or employee, or to any political subdivision or any agency thereof, if he or she is serving as an officer or employee of that political subdivision...

However, this does not affect contracts that were entered into prior to qualifying for elective office, appointment to public office, or prior to beginning public employment.

In addition, pursuant to Section § 112.313(7)(a), Florida Statutes:

No public officer or employee of an agency shall have or hold any employment or contractual relationship with any business entity or any agency which is subject to the regulation of, or is doing business with, an agency of which he or she is an officer or employee, excluding those organizations and their officers who, when acting in their official capacity, enter into or negotiate a collective bargaining contract with the state or any municipality, county, or other political subdivision of the state; nor shall an officer or employee of an agency have or hold any employment or contractual relationship that will create a continuing or frequently recurring conflict between his or her private interests and the performance of his or her public duties or that would impede the full and faithful discharge of his or her public duties.

There are a few exceptions of note. For example, no violation of the Code of Ethics would occur if the business is awarded under a system of sealed, competitive bidding to the lowest or best bidder and:

1. The official or the official's spouse or child has in no way participated in the determination of the bid specifications or the determination of the lowest or best bidder;
2. The official or the official's spouse or child has in no way used or attempted to use the official's influence to persuade the agency or any personnel thereof to enter such a contract other than by the mere submission of the bid; and
3. The official, prior to or at the time of the submission of the bid, has filed a statement with the Commission on Ethics, if the official is a state officer or employee, or with the supervisor of elections of the county in which the agency has its principal office, if the official is an officer or employee of a political subdivision, disclosing the official's interest, or the interest of the official's spouse or child, and the nature of the intended business.<sup>51</sup>

Also, there would be no violation of the Code of Ethics if the business entity involved is the sole source of supply within the officer's political subdivision, and there is full disclosure by the officer of his or her interest in the business entity prior to the purchase, rental, sale, leasing, or other business being transacted.<sup>52</sup>

An example of a conflicting employment or contractual relationship would be as follows. In a recent opinion the Commission on Ethics determined that a city commissioner would have a prohibited conflict of interest if the city were to sell property to a charter school where the commissioner also served as general counsel for the school.<sup>53</sup> On the other hand, if the city were to donate the property to the charter school, there would be no conflict of interest so long as the commissioner was not involved in the transfer of the property.<sup>54</sup>



## DUAL OFFICE-HOLDING PROHIBITION

---

The State Constitution provides that “[n]o person shall hold at the same time more than one office under the government of the state and the counties and municipalities therein, except ... any officer may be a member of ... statutory body having only advisory powers.”<sup>55</sup> This prohibits a person from simultaneously serving in more than one state, county, or municipal office. However, the State Constitution contains an exception to the dual office-holding prohibition for service on statutory bodies that have only advisory powers.

The dual office-holding prohibition applies to both elected and appointed offices.<sup>56</sup> Although not defined by the Constitution, the courts have stated that the terms “office” or “officer,” for purposes of the dual office-holding prohibition, implies an authority to exercise some portion of the sovereign power, either in making, executing, or administering the laws.<sup>57</sup>

For example, the Florida Attorney General concluded that a town commissioner could serve on a town committee that had purely advisory or ministerial duties and made non-binding recommendations.<sup>58</sup> However, the commissioner could not serve on a town committee that had the authority to make factual determinations, review permit applications, issue permits, grant variances, or impose fines, as those types of duties do involve the exercise of sovereign powers, which would impinge on the dual office-holding prohibition set forth in the State Constitution.<sup>59</sup>

On the other hand, the legislative designation by ordinance or statute of an officer to perform the *ex officio* (by virtue of the office)<sup>60</sup> functions of an additional office would not violate the dual office-holding prohibitions, provided the duties imposed are consistent with the duties already being exercised.<sup>61</sup> In this scenario the newly assigned duties are viewed as an addition to the existing duties of the officer.<sup>62</sup> An example of this would be when county commissioners are designated by ordinance to serve as members of the local board of adjustment and appeals.<sup>63</sup>

## DUAL PUBLIC EMPLOYMENT PROHIBITION

---

Dual public employment by elected public officers and candidates for office is prohibited, except under certain circumstances.<sup>64</sup> Section 112.3125, Florida Statutes, provides that a public officer (defined as a person who is elected to state or local office, or a person who is presently a candidate for state or local office) “may not accept public employment with the state or any of its political subdivisions” if the person knows, or should know, that the position is being offered for the purpose of gaining influence or other advantage based on the person’s office or candidacy.<sup>65</sup> Any public employment accepted by a public officer must meet the following conditions:

1. the position was already in existence or was created by the employer without the knowledge or anticipation of the officer’s interest in the position;
2. the position was publicly advertised;
3. the officer was subject to the same application and hiring process as other candidates for the position; and
4. the officer meets or exceeds the required qualifications for the position.<sup>66</sup>

Persons who were employed by the state or any of its political subdivisions before qualifying as a public officer for his or her current term of office or the next available term of office may continue in said employment, but may not accept a promotion, advancement, additional compensation, or anything of value that the person knows, or should know, is being given as a result of the person’s election or position, or that is otherwise inconsistent with the promotion, advancement, additional compensation, or anything of value provided or given to a similarly situated employee.<sup>67</sup>



Section 112.313(10), Florida Statutes, also prohibits an employee of a county from holding office as a member of the county commission while also an employee of the county.

## **MISUSE OF CONFIDENTIAL INFORMATION**

---

Under Section 839.26, Florida Statutes:

Any public servant who, in contemplation of official action by herself or himself or by a governmental unit with which the public servant is associated, or in reliance on information to which she or he has access in her or his official capacity and which has not been made public, commits any of the following acts:

- (1) Acquisition of a pecuniary interest in any property, transaction, or enterprise or gaining of any pecuniary or other benefit which may be affected by such information or official action;
- (2) Speculation or wagering on the basis of such information or action; or
- (3) Aiding another to do any of the foregoing,

shall be guilty of a misdemeanor of the first degree....

Further, a public servant who discloses or uses confidential criminal justice information with the intent to obstruct, impede, or prevent a criminal investigation or a criminal prosecution, when such information is not available to the general public and is gained by reason of the public servant's official position, commits a felony of the third degree.<sup>68</sup>

Meanwhile, Section 112.313(8), Florida Statutes, provides the following:

**DISCLOSURE OR USE OF CERTAIN INFORMATION.**—A current or former public officer, employee of an agency, or local government attorney may not disclose or use information not available to members of the general public and gained by reason of his or her official position, except for information relating exclusively to governmental practices, for her or her personal gain or benefit or for the personal gain or benefit of any other person or business entity.

There are civil penalties for violating Section 112.313(8), Florida Statutes.<sup>69</sup>

In Florida Attorney General Opinion 2003-09, the question was posed regarding whether a public officer or employee who participated in a closed meeting on labor negotiations could disclose the information that was obtained during the closed meeting. Although Section 447.605, Florida Statutes, relating to closed labor negotiation meetings, did not specifically restrict the dissemination of information discussed at the closed labor negotiations, the Florida Attorney General did note that there were other laws [§§ 839.26 and 112.313(8)] that did prohibit the disclosure of such information under certain circumstances.



## GIFTS

---

Under the Code of Ethics, no public officer, employee of an agency, local government attorney, or candidate for elected office “shall solicit or accept anything of value to the recipient” (such as a gift, loan, reward, favor, service, or promise of future employment) “based upon any understanding that the vote, official action, or judgment” of the officer or employee would be influenced by the thing of value.<sup>70</sup> Public officers and employees, as well as their spouses and minor children, are also prohibited from accepting “any compensation, payment or thing of value,” when the officer knows, or should know, that it was given to influence a vote or official action.<sup>71</sup>

For purposes of the Code of Ethics, a “gift” would include: real property or the use of real property; tangible or intangible personal property or the use of same; preferential rates or terms on a debt, loan, goods, or services; forgiveness of a debt; food or beverage; membership dues; tickets to events; floral arrangements; and personal or professional services which would ordinarily require payment.<sup>72</sup> On the other hand, awards, plaques, certificates, and other similar items given in recognition for public service are not considered “gifts.”

Specifics of the gift law include, but are not limited to, the following:

1. Accepting a gift worth more than \$100 from a lobbyist, vendor of the agency, or political committee is prohibited.
2. Accepting a gift valued at not exceeding \$100 from a lobbyist, vendor, or political committee is allowable, but any gifts valued at over \$25 but not exceeding \$100 must be reported quarterly (on Form 30) to the Commission on Ethics.
3. Soliciting any gift from a lobbyist, vendor of the agency, or political committee is prohibited.
4. Accepting gifts from relatives is allowable and does not have to be reported.
5. Accepting gifts worth more than \$100 in value, for which there is a public purpose and which are given by certain governmental agencies, is allowable but must be reported annually (on Form 10).
6. All other gifts that are worth over \$100 in value must be disclosed on a quarterly gift disclosure form (Form 9) which is filed with the Commission on Ethics.
7. If no reportable gifts were received during the calendar quarter, then no form must be filed.<sup>73</sup>

The value of a gift is the actual cost of the gift, less taxes and gratuities.<sup>74</sup> For personal services provided, the value of the gift would be the reasonable and customary charge for same.<sup>75</sup> Gifts are usually valued on a per occurrence basis, but there are some exceptions. For example, lodging provided on consecutive days is considered a single gift, and membership dues paid to the same organization during any 12-month period is considered a single gift.<sup>76</sup>

Commission on Ethics gift disclosure forms (Form 9) are due on the last day of the calendar quarter for gifts valued in excess of \$100 received during the previous calendar quarter.



## HONORARIA

---

In the Code of Ethics, an “honorarium” is payment of money or anything of value to a “reporting individual” (a person required to file full or limited disclosure of financial interests) or state procurement employee as consideration for giving a speech or for preparing a “writing” (but not a book) that has been published or is intended to be published.<sup>77</sup> A reporting individual is prohibited from soliciting an honorarium,<sup>78</sup> and is also prohibited from knowingly accepting an honorarium from a political committee, vendor doing business with the agency, or a lobbyist.<sup>79</sup>

However, receiving payment or provision for actual and reasonable transportation, lodging, registration, and food/beverage expenses that are related to an honorarium event (i.e., a conference or convention) is allowable. If these expenses were paid by a political committee or lobbyist, then the expenses must be reported on an annual disclosure statement (Form 10) with the Commission on Ethics.<sup>80</sup>

## TESTIMONIALS

---

A “testimonial” is defined as “any breakfast, dinner, luncheon, rally, party, reception, or other affair held to honor or raise funds on behalf of any elected public officer,” with the exception of a campaign fundraiser.<sup>81</sup> Florida law requires that any organization hosting a testimonial for an elected official must file a notice of intent with the supervisor of elections, set up a “testimonial account” in a depository, and appoint a treasurer before any money can be accepted.<sup>82</sup> A report with certain specified information must then be filed by the host organization with the supervisor of elections within 90 days after the testimonial.<sup>83</sup> A violation of this law is a first degree misdemeanor, which is punishable by one year in prison and/or a \$1,000 fine.<sup>84</sup>

The Florida Attorney General was asked what types of events were subject to the reporting requirements and opined that, while the subject statute “refers to affairs that honor or raise funds on behalf of any elected public officer,” this did not mean “that the Legislature intended to encompass all events honoring a public official where no funds are being raised or payments made to attend. To read the statute so broadly could result in, for example, birthday parties held by family members for an elected public official being subject to the statute.”<sup>85</sup>

After payment of the expenses for the testimonial, any leftover funds must be donated to a charity, returned pro rata to the contributors, or deposited in the general fund of the elected official’s government entity.<sup>86</sup> Elected public officers are prohibited from receiving any leftover funds for personal use.<sup>87</sup>

## PROHIBITED REBATES

---

Pursuant to Section 395.0185, Florida Statutes, it is unlawful for any person to pay or receive a commission, bonus, kickback, or rebate, or engage in any split-fee arrangement with a physician, surgeon, organization, or person, either directly or indirectly, for patients referred to a particular hospital. This law may come into play if a county runs a hospital or ambulance service.

## EX PARTE COMMUNICATIONS

---

Certain land use approvals, such as site-specific rezonings, site plan approvals, variances, special exceptions, and voluntary annexations, require a local governing board to conduct a “quasi-judicial” hearing, which is akin to an informal trial.<sup>88</sup> Although a “quasi-judicial” hearing is not a true court



proceeding, there are certain standards of basic fairness that must be adhered to in order to provide due process to the affected parties.<sup>89</sup> For example, the parties must be provided notice of the hearing, allowed an opportunity to be heard, allowed to present evidence and cross-examine witnesses, and be informed of all of the facts upon which the local governing board acts.<sup>90</sup>

However, ex parte communications – “off the record” information provided by one party to a decision-making board member – are “inherently improper and are anathema to quasi-judicial proceedings,” and should be avoided.<sup>91</sup> Ex parte communications are presumed to be prejudicial to the aggrieved party until the local governing body proves otherwise.<sup>92</sup>

Disclosing ex parte communications on the record at the quasi-judicial hearing does enable all parties to be aware of all of the facts and to rebut those facts. There is a statutory procedure which allows local governments to establish a process by which ex parte communications related to land use matters may be made public, in order to remove the presumption of prejudice in quasi-judicial hearings.<sup>93</sup> However, even the disclosed ex parte communications may be problematic, because an aggrieved party may not have the opportunity to cross examine the party that provided the information to the local official.

## **DEFENSE OF ACTIONS AGAINST PUBLIC OFFICERS, EMPLOYEES OR AGENTS**

---

In today’s litigious society, lawsuits seem to be an inevitable and unenviable part of public life. Florida law provides that any agency of the state, or any county, municipality or political subdivision of the state is authorized to:

1. Provide an attorney to defend any civil action arising from a complaint for damages or injury suffered as a result of any act or omission of any of its officers, employees, or agents arising out of and in the scope of his or her employment or function.
2. Recover any attorney’s fees paid from public funds, should the officer, employee, or agent be found to be personally liable by virtue of acting outside the scope of his or her employment, or was acting in bad faith, with malicious purpose, or in a manner exhibiting wanton and willful disregard of human rights, safety, or property.
3. Reimburse such person who prevails in the action for court costs and reasonable attorney’s fees, should the county be authorized to provide an attorney to defend the civil action arising from a complaint for damages or injury suffered as a result of any act or omission of action of any of its officers, employees, or agents, and the county fails to provide such attorney.<sup>94</sup>

The Florida Supreme Court has set forth the following general rule:

Florida courts have long recognized that public officials are entitled to legal representation at public expense to defend themselves against litigation arising from the performance of their official duties while serving a public purpose. The purpose of this common law rule is to avoid the chilling effect that a denial of representation might have on public officials performing their duties properly and diligently. This entitlement to attorney’s fees arises independent of statute, ordinance, or charter. For public officials to be entitled to representation at public expense, the litigation must (1) arise out of or in connection with the performance of their official duties and (2) serve a public purpose.<sup>95</sup>

Thus, it is proper to use public funds to pay or reimburse the reasonable attorney’s fees and costs incurred by a public official in the successful defense of an ethics complaint, or even the successful defense of a



felony indictment, provided the case arose from performance of the official's official duties and while serving a public purpose.<sup>96</sup> This protection applies to both current and former public officials.<sup>97</sup>

On the other hand, if a board member successfully defends a charge arising from performance of an official duty, but the action did not serve a public purpose, then the agency is not required to pay the attorney's fees and costs incurred in defending the case.<sup>98</sup> A counterpoint to this is that it would be improper to refuse to pay attorney's fees and costs arising from the performance of an official's duties while serving a public purpose, simply because the agency disapproved of the particular actions of the public official.<sup>99</sup>

## **LEAVING OFFICE**

---

The Code of Ethics provides that upon leaving office, an elected county or municipal officer may not lobby the governmental body or agency, of which he or she was an officer, for a period of two years after leaving office.<sup>100</sup> This is known as the "revolving door" prohibition. In addition, upon leaving office, an elected local official is required to file a Final Full and Public Disclosure of Financial Interests form (Form 6F) with the Commission on Ethics within 60 days of leaving office.<sup>101</sup>

## **THE HOBBS ACT**

---

The federal "Hobbs Act" was enacted in 1946 and named for U.S. Representative Samuel Francis Hobbs of Alabama, who introduced the Act. The Hobbs Act provides in pertinent part that:

Whoever in any way or degree obstructs, delays, or affects commerce or the movement of any article or commodity in commerce, by robbery or extortion or attempts or conspires so to do, or commits or threatens physical violence to any person or property in furtherance of a plan or purpose to do anything in violation of this section shall be fined under this title or imprisoned not more than twenty years, or both.<sup>102</sup>

In the Hobbs Act, extortion is defined as "the obtaining of property from another, with his consent, induced by wrongful use of actual or threatened force, violence, or fear, or under color of official right."<sup>103</sup>

Although this law was primarily enacted to combat racketeering in labor-management disputes, it is also used in public corruption cases. An example of a Hobbs Act violation under color of official right would be the trading of official actions by a public official in an area in which the public official has actual authority, in exchange for a fee. There is no requirement that threat, force, or duress must be proved, as the "coercive element is supplied by the existence of the public office itself."<sup>104</sup> Further, a conviction under the Hobbs Act will be sustained based on proof that the public official obtained payment in cash and/or property and *generally* intended to use his or her public influence to benefit the payor as opportunities arose.<sup>105</sup>

## **"HONEST SERVICES" FRAUD**

---

The federal mail fraud law was initially enacted in 1872 to combat a post-Civil War outbreak of swindles being perpetrated over the mail. The purpose of the law was to protect the integrity of the U.S. postal service by not allowing the mails to be used as "instruments of crime."<sup>106</sup> A companion to the mail fraud statute, the wire fraud statute, was enacted in 1952 to extend the prohibitions to the newer communications technologies of wire, radio, and television.



Together, the mail fraud statute, 18 U.S.C. § 1341, and the wire fraud statute, 18 U.S.C. § 1343, provide that, “[w]hoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, transmits or causes to be transmitted” by means of the mail, or by wire, radio or television communication in interstate or foreign commerce, any writings, signs, signals, pictures, or sounds for the purpose of executing such scheme or artifice, shall be fined or imprisoned for not more than 20 years, or both. The phrase “scheme or artifice to defraud” is defined as a scheme or artifice to deprive another of the intangible right of “honest services.”<sup>107</sup>

Although the term “honest services” is not defined in the federal statute, it has withstood numerous challenges for unconstitutional vagueness. Notably, in 2010, the U.S. Supreme Court issued its landmark decision in the case of *Skilling v. United States*, which involved former Enron CEO Jeffrey K. Skilling.<sup>108</sup> In the *Skilling* case, the Supreme Court held that the statute was not unconstitutionally vague when properly confined to bribery and kickback schemes. However, the Court did narrow the parameters of honest services fraud by finding that the nondisclosure of a conflict of interest (or undisclosed “self-dealing”) was not a violation of the statute.

Another significant honest services fraud case involved former Virginia Governor Robert F. (Bob) McDonnell. The former Governor was found guilty of several counts of public corruption, including honest services wire fraud and conspiracy to commit honest services wire fraud, and appealed the convictions to the U.S. Supreme Court. Although the Court did, once again, reject arguments that the honest services mail and wire fraud statutes were unconstitutionally vague, the Court did determine that the instructions to the jury concerning the meaning of the term “official act” were incorrect, which may have led the jury to convict Mr. McDonnell for conduct that was not unlawful. Further, the Supreme Court adopted a more limited interpretation of an “official act,” by finding that setting up a meeting, calling another public official, or hosting an event on behalf of a benefactor did not, standing alone, qualify as an “official act.”<sup>109</sup> Rather, to convict Mr. McDonnell of bribery, the jury had to find that, in exchange for loans and gifts, he took action, or agreed to take action, for a benefactor, such as, for example, exerting pressure on other public officials to initiate research studies for the benefactor.

## PENALTIES FOR VIOLATIONS

---

Any violation of the State Code of Ethics “shall constitute malfeasance, misfeasance, or neglect of duty in office.”<sup>110</sup> Malfeasance is the commission of an act which is “positively unlawful,” whereas misfeasance is the “improper performance of some act which a person may lawfully do.”<sup>111</sup> In the case of a public officer, any violation of the State Code of Ethics would constitute grounds for, and may be punished by, one or more of the following: impeachment, removal from office, suspension from office, public censure and reprimand, forfeiture of salary, a civil penalty not to exceed \$10,000, and restitution.<sup>112</sup>

The Governor may by executive order suspend any elected municipal officer who is indicted for a crime until such time as the officer is acquitted.<sup>113</sup> In addition, any public officer or employee who is convicted of embezzlement of public funds, theft from his or her employer, bribery in connection with employment, and most felonies, is also subject to forfeiture of all rights and benefits under any public retirement system.<sup>114</sup>

Violations of county ethics ordinances are generally prosecuted as second degree misdemeanors, punishable by a fine of \$500, imprisonment of 60 days, or both.<sup>115</sup> However, those counties that have enacted ordinances that impose standards of conduct may exact stiffer penalties for violations, including a fine not to exceed \$1,000, or a term of imprisonment in county jail not to exceed one year.

Individuals who are convicted of honest services fraud or for a violation of the Hobbs Act are subject to fines and/or imprisonment of up to 20 years in federal prison.<sup>116</sup>



## EVALUATING ETHICAL DILEMMAS

---

As stated in the code of ethics developed by the National Association of Counties (NACo), “[i]ndividual and collective adherence to high ethical standards by public officials is central to the maintenance of public trust and confidence in government.”<sup>117</sup>

Public officers are agents of the people and hold their positions for the benefit of the public.<sup>118</sup> Accordingly, when faced with ethical dilemmas in public service, county officials should observe and practice the highest standards of ethics “regardless of personal considerations, recognizing that promoting the public interest and maintaining the respect of the people in their government must be of foremost concern.”<sup>119</sup>

## NOTES

<sup>1</sup> *Black’s Law Dictionary* 553 (6th ed., West 1990).

<sup>2</sup> Art. II, § 8, Fla. Const.

<sup>3</sup> § 112.311(1), Fla. Stat. (2018).

<sup>4</sup> § 112.313(1), Fla. Stat.

<sup>5</sup> § 112.313, et seq., Fla. Stat.

<sup>6</sup> § 112.326, Fla. Stat.

<sup>7</sup> § 125.69(1), Fla. Stat.

<sup>8</sup> § 10.01 A.(2), Broward County Charter.

<sup>9</sup> § 10.01 A.(3), Broward County Charter.

<sup>10</sup> See §§ 10.01 B.-D., Broward County Charter.

<sup>11</sup> FY 2018 budget.

<sup>12</sup> See Art. VIII, Palm Beach County Charter.

<sup>13</sup> Article VIII, § 8.2, Palm Beach County Charter.

<sup>14</sup> Art. XII, § 2-422, Palm Beach County Code of Ordinances.

<sup>15</sup> FY 2018 budget.

<sup>16</sup> § 112.320, Fla. Stat.; *See also* Art. II, §§ 8(f), 8(i)(3), Fla. Const.

<sup>17</sup> § 112.322(1), Fla. Stat.

<sup>18</sup> § 112.324(1), Fla. Stat.

<sup>19</sup> § 112.3231(1), Fla. Stat.

<sup>20</sup> § 112.322(4)-(5), Fla. Stat.

<sup>21</sup> § 112.322(3)(a), Fla. Stat.

<sup>22</sup> § 112.322(3)(b), Fla. Stat.

<sup>23</sup> § 112.3142(2), Fla. Stat.

<sup>24</sup> *See* Florida Commission on Ethics Op. 15-5 (2015).

<sup>25</sup> Florida Commission on Ethics Op. 13-15 (2013).

<sup>26</sup> Rule 34-7.025, F.A.C.

<sup>27</sup> Rule 34-7.025(2)(b), F.A.C.

<sup>28</sup> Florida Commission on Ethics Op. 13-24 (2013).

<sup>29</sup> *Id.*

<sup>30</sup> § 112.3144(1), Fla. Stat.

<sup>31</sup> § 112.3144, Fla. Stat. *See also* Rule 34-8.001, et seq., F.A.C.

<sup>32</sup> § 112.3144(6), Fla. Stat.

<sup>33</sup> *Id.*

<sup>34</sup> § 112.31455, Fla. Stat..

<sup>35</sup> [www.ethics.state.fl.us/Documents/Ethics/FinancialDisclosure/Fines%20placed%20with%20Collections.pdf?cp=201894](http://www.ethics.state.fl.us/Documents/Ethics/FinancialDisclosure/Fines%20placed%20with%20Collections.pdf?cp=201894)

<sup>36</sup> § 112.31455(4), Fla. Stat.

<sup>37</sup> § 112.311(5), Fla. Stat.

<sup>38</sup> § 112.312(8), Fla. Stat.

<sup>39</sup> § 286.012, Fla. Stat.

<sup>40</sup> *See* §§ 112.3143, Fla. Stat.

<sup>41</sup> § 286.012, Fla. Stat.

<sup>42</sup> § 112.3143(3)(a), Fla. Stat.

<sup>43</sup> *Id.*

<sup>44</sup> *See* Florida Commission on Ethics Op. 00-13 (2000).

<sup>45</sup> *See id* and Florida Commission on Ethics Op. 90-56 (1990).



- <sup>46</sup> See Florida Commission on Ethics Op. 85-46 (1985).
- <sup>47</sup> See Florida Commission on Ethics Op. 78-74 (1978). See also Florida Commission on Ethics Op. 83-50 (1983).
- <sup>48</sup> See Florida Commission on Ethics Op. 88-3 (1988).
- <sup>49</sup> See Fla. Atty. Gen. Op. 074-289 (1974).
- <sup>50</sup> § 286.012, Fla. Stat..
- <sup>51</sup> § 112.313(12)(b), Fla. Stat.
- <sup>52</sup> See § 112.313(12)(e), Fla. Stat.
- <sup>53</sup> Florida Commission on Ethics Op. 17-15 (2017).
- <sup>54</sup> *Id.*
- <sup>55</sup> Art. II, § 5(a), Fla. Const.
- <sup>56</sup> See Fla. Atty. Gen. Op. 01-28 (2001).
- <sup>57</sup> *State ex rel. Clyatt v. Hocker*, 22 So. 721 (Fla. 1897); see also Fla. Atty. Gen. Op. 2009-48 (2009).
- <sup>58</sup> Fla. Atty. Gen. Op. 2005-59 (2005).
- <sup>59</sup> *Id.*
- <sup>60</sup> *Black's Law Dictionary* 575 (6<sup>th</sup> ed., West 1990).
- <sup>61</sup> Fla. Atty. Gen. Op.. 94-66 (1994).
- <sup>62</sup> *Id.*
- <sup>63</sup> *Id.*
- <sup>64</sup> § 112.3125(2), Fla. Stat.
- <sup>65</sup> §§ 112.3125(1)-(2), Fla. Stat.
- <sup>66</sup> § 112.3125(3), Fla. Stat.
- <sup>67</sup> § 112.3125(4), Fla. Stat.
- <sup>68</sup> §838.21, Fla. Stat.
- <sup>69</sup> See § 112.317, Fla. Stat.
- <sup>70</sup> § 112.313(2), Fla. Stat.
- <sup>71</sup> § 112.313(4), Fla. Stat.
- <sup>72</sup> § 112.312(12), Fla. Stat.
- <sup>73</sup> § 112.3148, Fla. Stat.
- <sup>74</sup> § 112.3148(7)(a), Fla. Stat.
- <sup>75</sup> *Id.*
- <sup>76</sup> § 112.3148(7), Fla. Stat.
- <sup>77</sup> § 112.3149(1)(a), Fla. Stat.
- <sup>78</sup> § 112.3149(2), Fla. Stat.
- <sup>79</sup> § 112.3149(3), Fla. Stat.
- <sup>80</sup> § 112.3149(6), Fla. Stat.
- <sup>81</sup> § 111.012(1)(a), Fla. Stat.
- <sup>82</sup> § 111.012(2), Fla. Stat.
- <sup>83</sup> *Id.*
- <sup>84</sup> § 111.012(2)(f), Fla. Stat.
- <sup>85</sup> Fla. Atty. Gen. Op. 2003-19 (2003).
- <sup>86</sup> § 111.012(2)(d), Fla. Stat..
- <sup>87</sup> See Fla. Atty. Gen. Op. 88-17 (1988).
- <sup>88</sup> See Gary K. Hunter, Jr. and Douglas M. Smith, *ABCs of Local Land Use and Zoning Decisions*, 84 Fla. B.J. 20, 21 and n.7 (2010).
- <sup>89</sup> *Jennings v. Dade County*, 589 So.2d 1337, 1340 (Fla. 3d DCA 1991).
- <sup>90</sup> *Id.* at 1340-41.
- <sup>91</sup> *Id.* at 1341.
- <sup>92</sup> *Id.*
- <sup>93</sup> See § 286.0115, Fla. Stat.
- <sup>94</sup> § 111.07, Fla. Stat.
- <sup>95</sup> *Thorner v. City of Ft. Walton Beach*, 568 So. 2d 914, 916-17 (Fla. 1990) (citations omitted).
- <sup>96</sup> See *Ellison v. Reid*, 397 So. 2d 352 (Fla. 1st DCA 1981) (successful defense of an ethics complaint); See *Lomelo v. City of Sunrise*, 423 So. 2d 974 (Fla. 4th DCA 1982) (successful defense against a felony indictment).
- <sup>97</sup> See Atty. Gen. Op. 98-12 (1998) (opining that a retired county officer was entitled to reimbursement of reasonable attorneys' fees incurred in successfully defending a civil lawsuit for actions taken while in office).
- <sup>98</sup> See *Chavez v. City of Tampa*, 560 So. 2d 1214 (Fla. 2d DCA 1990), *rev. den.* 576 So. 2d 285 (Fla. 1990). See also *Maloy v. Board of County Commissioners of Leon County*, 946 So. 2d 1260, (Fla. 1<sup>st</sup> DCA 2007), *rev. den.* 962 So. 2d 337 (Fla. 2007) (although cleared of the alleged misconduct, the underlying activity did not serve the public interest).
- <sup>99</sup> See *Lomelo v. City of Sunrise*, 423 So. 2d 974 (Fla. 4th DCA 1982).
- <sup>100</sup> § 112.313(14), Fla. Stat.
- <sup>101</sup> § 112.3144(7), Fla. Stat.



- <sup>102</sup> 18 U.S.C. § 1951(a).
- <sup>103</sup> 18 U.S.C. § 1951(b)(2).
- <sup>104</sup> *United States v. Williams*, 621 F.3d 123,124 (5th Cir. 1980), *cert. den.* 450 U.S. 919 (1981).
- <sup>105</sup> *See United States v. Abbey*, 560 F.3d 513 (6<sup>th</sup> Cir. 2009), *cert. den.* 585 U.S. 1051 (2009).
- <sup>106</sup> *See United States v. Brewer*, 528 F.2d 492, 498 (4th Cir. 1975).
- <sup>107</sup> 18 U.S.C. § 1346.
- <sup>108</sup> *Skilling v. United States* 130 S. Ct. 2896 (2010).
- <sup>109</sup> *McDonnell v. United States*, 136 S. Ct. 2355, 2367-68 (2016).
- <sup>110</sup> § 112.317(4), Fla. Stat.
- <sup>111</sup> *Black's Law Dictionary* 956, 1000 (6<sup>th</sup> ed., West 1990).
- <sup>112</sup> § 112.317(1)(a), Fla. Stat.
- <sup>113</sup> Art. IV, § 7(c), Fla. Const.; § 112.317(5), Fla. Stat.
- <sup>114</sup> § 112.317(3), (5), Fla. Stat.
- <sup>115</sup> *See* § 125.69(1), Fla. Stat.
- <sup>116</sup> 18 U.S.C. §§ 1341, 1343; 18 U.S.C. § 1951(a).
- <sup>117</sup> National Association of Counties, NACo Code of Ethics for County Officials, <http://www.naco.org> (1991).
- <sup>118</sup> § 112.311(6), Fla. Stat.
- <sup>119</sup> *Id.*



---

## 8. *Human Resources*

---

*Robert J. Sniffen, Jeffrey D. Slanker and Jarrett B. Davis*

---

### **EMPLOYMENT AND LABOR RELATIONS**

---

Good employment and labor relations are essential for county government to provide adequate services, maintain cost-efficient operations and avoid expensive and disruptive litigation. Personnel costs comprise most of the budget of County government. Additionally, public employees in Florida have the constitutional right pursuant to Article I, section 6, of Florida's Constitution to engage in collective bargaining. As a result, many county workforces are represented by a union and changes in terms and conditions of employment are subject to the collective bargaining process.

County governments must maintain clear human resource policies. These policies need to be both workable and compliant with federal and state law. Policies must be consistently interpreted and followed. A competent, centralized human resource operation is essential to policy development and enforcement.

Important policies for county administration include continuing employment status, hiring, compensation, discrimination/harassment, ethical conduct, benefits, grievance process, workforce classification, and computer usage.

#### **CONTINUING EMPLOYMENT STATUS**

Generally public employees in Florida serve "at will." This means that in the absence of a legal expectation of continued employment, employees have no legal entitlement to their employment. Of course, an employer cannot terminate an employee for a legally impermissible reason (i.e., discrimination against a member of a protected class). An employee can be granted an expectation of continuing employment (often referred to as a "property" interest) if the county adopts an ordinance, resolution, or policy. A county employee may also have a legal right to their employment if an individual or collective bargaining agreement defines a time period of employment or has a "cause" provision.

If the county employee(s) have a "property" interest in their employment, then the employee cannot be discharged without providing the employee with due process of law (i.e., hearing on the issue of cause).

#### **HIRING**

Emphasis should be placed upon the fair and effective recruitment, selection, and hiring of personnel. Allowing open access to employment opportunities, promoting equal opportunity in hiring, following reliable selection criteria and processes, and employing the skillful employee will obtain a high level of services and avoid litigation. Vacancy information should be widely disseminated and include minimum requirements, salary wages, necessary licenses, and all bona fide occupational qualifications. Policy should spell out the selection process including, where appropriate: interviewing, written examinations, assessment devices, and the appropriate individuals in the hiring decision. County commissioners should ordinarily refrain from influencing a hiring decision except for those positions that directly report to the commission.



## **COMPENSATION**

County commissioners have a significant role in defining the salary and wages of the county workforce. This includes establishing salary ranges, annual wage adjustments, and numerous other wage actions (i.e., pay additions, wage differentials, or overtime). If the county workforce is represented in whole or in part by a union for collective bargaining purposes, salaries are subject to being negotiated. The determination of wages and collective bargaining are discussed later in this chapter.

## **DISCRIMINATION/HARASSMENT**

County government should maintain policies prohibiting discrimination, harassment, or retaliation in the workplace. Policies must at a minimum prohibit discrimination, harassment, or retaliation related to a protected class of employees or protected conduct by an employee. The definition of protected classes or conduct is defined later in this chapter. Of critical importance to a workable policy are procedures for reporting and effectively investigating violations. The process has to specifically identify those authorized to accept reports and complaints and their obligation to respond.

## **ETHICAL CONDUCT**

State law defines the Code of Ethical Conduct that must be followed by public employees and officials.<sup>1</sup> Many counties have promulgated policies that more specifically define or more stringently establish a definition of what constitutes ethical conduct and what constitutes a conflict of interest (outside employment etc.). These policies also often include the rights of the employer in the event there needs to be a search on workplace premises or in the event that an employee is arrested for a crime.

## **BENEFITS**

The benefits provided in health care and retirement/pension benefits are a significant cost to county government. The costs and terms of these benefits often involve complicated considerations of law and finance that have the potential to obligate the county to significant long-term costs.

## **GRIEVANCE PROCESS**

Most county policies include the means to allow employees to raise concerns including any perceived discrimination/harassment or other policy violation. Where there is a public employer unionized workforce, any negotiated collective bargaining agreement should include a grievance procedure that culminates in binding neutral arbitration.<sup>2</sup>

## **WORKFORCE CLASSIFICATION**

The typical county workforce has a policy defining the organization of job positions and the benefits or status of the positions.

## **OVERVIEW OF EMPLOYMENT LAWS**

---

Public employers are faced with numerous laws regulating the workplace that impact of their employment decisions. This section addresses federal and state laws. Importantly, the fact that an employer may be in compliance with state law will *not* protect it from liability under federal law.



## FEDERAL LAWS

There are several major sources of federal legislation that impose equal employment opportunity obligations on employers, including: (1) Title VII of the Civil Rights Act of 1964; (2) the Americans with Disabilities Act; (3) the Age Discrimination in Employment Act; (4) the Equal Pay Act; (5) the Civil Rights Acts of 1866 and 1871; (6) the Civil Rights Act of 1991 and (7) the Fair Labor Standards Act.

### **Title VII of the Civil Rights Act of 1964<sup>3</sup>**

Title VII of the Civil Rights Act of 1964 (“Title VII”) applies to employers in industries affecting commerce with 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, and any agents of such employers. Title VII prohibits employers from failing or refusing to hire or to discharge or to otherwise discriminate against any individual regarding that individual’s compensation, terms, conditions, or privileges of employment because of the individual’s race, color, religion, sex, or national origin. Title VII also prohibits employers from limiting, segregating, or classifying employees and applicants in any way that deprives or tends to deprive them of employment opportunities or adversely affect their status as employees because of their race, color, religion, sex, or national origin.

The federal government expanded the definition of sex discrimination to include pregnancy-based discrimination under Title VII through the Pregnancy Discrimination Act. The coverage includes, but is not limited to, issues involving pregnancy, childbirth, or gender-related medical conditions. Women affected by pregnancy, childbirth, or related medical conditions must be treated the same for employment-related purposes, including benefits under fringe benefit programs, as persons not so affected but similar in their ability or inability to work.

Title VII defines “religion” as all aspects of religious observance and practice, as well as belief, unless the employer shows that it is unable to reasonably accommodate an employee’s or prospective employee’s religious observance or practice without undue hardship on the employer’s business.<sup>4</sup>

A plaintiff may establish a *prima facie* case of discrimination under Title VII by showing direct evidence of discriminatory conduct such as blatantly racist or sexist remarks. If no such direct evidence exists, plaintiffs may use the burden shifting analysis of *McDonnell Douglas* to successfully litigate their claim. The *McDonnell Douglas* burden-shifting analysis is performed in the majority of discrimination lawsuits. Under this framework, plaintiffs must first establish a *prima facie* case of discrimination. This is not a strict set of required evidence, but rather a “flexible evidentiary standard.”<sup>5</sup> To establish a *prima facie* case of discrimination under Title VII, plaintiffs must show that: (1) they are a member of a protected class; (2) they were meeting the employer’s legitimate job expectations; (3) they suffered an adverse employment action; and (4) similarly situated employees outside the protected class were treated more favorably.

### **Harassment in the Workplace**

Over the past several decades, sexual harassment in the workplace has resulted in staggering costs to employers, particularly in claims harassment claims brought under Title VII. The more obvious costs include jury awards, settlements, and legal fees for defending claims. However, claims—even unsuccessful claims—may have less obvious, but still important, detrimental effects on corporate image or employee morale. In addition, judges and juries are increasingly inclined to scrutinize and second-guess employer responses to allegations of sexual harassment, especially in light of the United States Supreme Court cases that attach even greater legal significance to an employer’s approach to preventing workplace sexual harassment. Now more than ever it is imperative for employers to have a basic understanding of sexual harassment law and to implement a companywide sexual harassment policy that is widely disbursed and aggressively enforced.

Precisely what is and is not sexual harassment can be difficult to determine. In evaluating harassment claims, the law looks at whether the conduct would be considered offensive within society



(the objective test), and whether the conduct was actually perceived as offensive by the employee (the subjective component). The EEOC explains “sexual harassment” as follows:

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when: (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment; (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or (3) such conduct has the purpose or effect of unreasonably interfering with an individual’s work performance or creating an intimidating, hostile, or offensive working environment. The totality of the circumstances—such as the nature of sexual advances and the context in which the alleged incidents occurred—determines whether alleged conduct is sexual harassment.<sup>6</sup>

### **Race Discrimination in Contracting**<sup>7</sup>

Section 1981 of Title VII provides in pertinent part that:

All persons within the jurisdiction of the United States shall have the same right in every state and territory to make and enforce contracts, to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens, and shall be subject to like punishment, pains, penalties, taxes, licenses, and exactions of every kind, and to no other.

This provision has been interpreted and applied to prohibit intentional discrimination on the basis of race or ethnicity in the making or enforcing of contracts, including employment contracts. Moreover, this section has been construed to prohibit the same range of intentional race discrimination as is prohibited by Title VII, such as discrimination with respect to hiring, compensation, promotion, assignment, discipline, and discharge.

Significantly, while the prohibition of intentional race discrimination is, in essence, the same as is provided by Title VII, Section 1981 contains differing standards concerning its applicability, administrative procedures, and available remedies. In particular, while Title VII only applies to employers who employ 15 or more employees, Section 1981 applies to all employers regardless of size. Similarly, while Title VII contains extensive administrative prerequisites, Section 1981 does not. As such, while a Title VII litigant must generally bring a charge of discrimination within 300 days in Florida and a lawsuit within 90 days after receiving the EEOC’s administrative “Right to Sue Notice,” a Section 1981 litigant need only file his or her lawsuit within the four-year state statute of limitations. Additionally, compensatory damages are limited under Title VII according to the number of employees. However, no such monetary limitation is applicable to Section 1981 violations. Reasonable costs and attorney’s fees are also available, though punitive damages are not.

### **Americans with Disabilities Act (ADA)**<sup>8</sup>

The ADA prohibits discrimination against covered employees based upon that individual’s actual disability, perceived disability, or record of a disability. As with Title VII, the ADA prohibits disability discrimination with respect to hiring, compensation, promotion, discipline, discharge and any other terms, conditions or privileges of employment.

Significantly, the ADA defines unlawful disability discrimination as including, in addition to typical intentional discrimination claims, claims asserting that the employer failed to provide a reasonable accommodation for an otherwise qualified individual with a disability (absent proof of undue hardship by the employer) and claims that the employer discriminated against an individual because of the individual’s association or relationship with a person with a disability.

Employers are obligated by the ADA to make reasonable accommodations, which do not pose an undue hardship, to qualified individuals with disabilities to enable the individuals to perform the essential functions of a job. Reasonable accommodations can include: Making existing facilities accessible to



disabled individuals; restructuring jobs; modifying work schedules, reassigning an employee to a vacant position; and acquiring special equipment or devices.<sup>9</sup> As with Title VII, the ADA requires aggrieved individuals to file a Charge of Discrimination with the EEOC. Notably, the administrative procedures and remedies available under the ADA are identical to those set forth in Title VII.

To analyze a claim of disparate-treatment under the ADA, courts will use the *McDonnell Douglas* burden-shifting analysis.<sup>10</sup> Under this framework, the plaintiff must first establish a *prima facie* case of discrimination by establishing that he or she was qualified for the job at issue, that they have a disability, and were likely excluded from the position based upon their disability. Once this *prima facie* showing of disparate treatment has been made, the burden then shifts to the employer to establish a legitimate, non-discriminatory reason for its employment action. If the employer meets this burden, the burden then shifts back to the plaintiff to prove that the employer's proffered legitimate reason was merely a pretext for discrimination.

### **Age Discrimination in Employment Act (ADEA)**<sup>11</sup>

The ADEA prohibits failing or refusing to hire, discharging, or otherwise discriminating against any individual protected by the ADEA because of the person's age. The prohibition applies to different treatment of two persons within the protected age group of 40 and above. Notably, however, the ADEA does not provide a cause of action to individuals over the age of 40 that are treated less favorably than older workers. As with the Title VII and the ADA, the ADEA also establishes certain administrative procedures that must be followed prior to implementing suit. In essence, the procedures are nearly identical to those governing Title VII and the ADA, with the exception that an individual may commence an individual lawsuit under the ADEA after the expiration of 60 days following his or her filing of the Charge of Discrimination even without an EEOC determination. If the EEOC issues a determination, the individual has 90 days from its receipt to file a lawsuit. The remedies available under the ADEA include back pay, front pay, reinstatement, attorneys' fees and costs, and liquidated damages (i.e., double damages) if the unlawful conduct in question is determined to be willful.

Similarly to ADA claims, ADEA claims are also analyzed under the *McDonnell Douglas* burden-shifting framework. The *prima facie* case of discrimination also has similar requirements: (1) that plaintiff is in a protected group, (2) he is qualified for the job in question, (3) suffered an adverse employment action, and (4) circumstances support an inference of discrimination. Once this burden is met, the burden shifts to the employer to establish a non-discriminatory reason for the employment action.

### **Immigration and Nationality Act**<sup>12</sup>

The Immigration and Nationality Act, as amended, as well as Title VII of the Civil Rights Act of 1964, prohibit certain types of employment discrimination regarding legal immigrants to the United States. Under the Immigration and Nationality Act, employers with more than three employees are prohibited from discriminating against any person (other than an unauthorized alien) in hiring, discharging, or recruiting or referring for a fee because of a person's national origin or in the case of a citizen or protected individual, because of the person's citizenship status.

In practice, this means that employers must treat all employees the same when completing the Form I-9. Employers cannot set different employment eligibility verification standards or require that different documents be presented by different groups of employees. Employees must be allowed to choose what documents they want to present from the list of acceptable documents. The employer cannot request that an employee present more or different documents than are required or refuse to honor documents that on their face reasonably appear to be genuine and to relate to the person presenting them. An employer cannot refuse to accept a document, or refuse to hire an individual, because the document has a future expiration date. For example, temporary resident aliens have registration cards and persons granted asylum have work authorization documents that will expire, but they may be granted future extensions of employment authorization and thus they are protected by law from discrimination.



Generally, employers who have four or more employees cannot limit jobs to United States citizens to the exclusion of authorized aliens. Such a limitation may only be applied to a specific position when required by law, regulation, or executive order; when required by a federal, state, or local government contract; or when the attorney general determines that United States citizenship is essential for doing business with an agency or department of the federal, state, or local government.<sup>13</sup>

Verification of identity and employment eligibility is not required until an individual actually starts working. Form I-9 should be completed at the same point as the employment process for all employees. A different procedure should not be established based on an individual's appearance, name, accent, or other factors.

### **The Equal Pay Act**

The Equal Pay Act is part of the Fair Labor Standards Act. This act provides for equal pay for equal work performed by both sexes working in the same position at the same establishment. The Act prohibits discrimination on the basis of sex with respect to wages paid for equal work on jobs that require equal skill, effort, and responsibility, performed under similar working conditions. The act allows unequal pay, however, where the disparity results pursuant to a seniority system, a merit system, a system that measures earnings by quantity or quality of production, or a differential based on any factor other than gender.

### **Fair Labor Standards Act**

The Federal Fair Labor Standards Act (FLSA) sets minimum wage, overtime compensation, equal pay, record keeping, and child labor standards for employers covered by the Act. Adopted in 1938 as a means of economic recovery from the Great Depression, the FLSA sought to ensure a maximum number of jobs which paid a minimum, livable wage.

The purpose of the FLSA was essentially threefold. First, by creating a minimum wage standard, Congress was trying to prevent wage exploitation of the lowest paid workers in our society. The purpose of such a standard was to raise the bottom rung of wage earners, create more industrial harmony, and avoid labor disruptions and strikes.

The second purpose of the FLSA was to promote fair competition in interstate commerce. Where labor costs were an important factor in the costs of goods and services, the employer who had the lower labor costs would have a price advantage over its less aggressive competitor. The FLSA put a nationwide floor under which competition could not drive down wages.

Finally, the third purpose was to generate more jobs by encouraging employers to spread the existing work around. During the Depression, Congress believed that limitations on the maximum hours of work by requiring overtime pay would encourage employers to hire more workers rather than work the existing work force harder. This would, it was thought, create jobs and reduce unemployment. By requiring overtime pay, the FLSA created a monetary penalty for employers who did not utilize a greater number of employees to perform the existing work load. Likewise, the FLSA provided an incentive to hire more people rather than increase the hours worked by existing employees.

For purposes of complying with the Fair Labor Standards Act, assuming coverage under the Act, as employees, unless specifically exempt, must receive a minimum wage. Certain states, including Florida, have established minimum wage laws providing for a higher minimum wage than the FLSA. Florida's minimum wage law, enacted in 2005, initially mandated a minimum hourly wage of \$6.15. The Florida Department of Economic Opportunity is charged with increasing the minimum wage each year based upon the rate of inflation. In 2016, the minimum wage in Florida is \$8.05 per hour.

Employees need not be paid on an hourly basis merely because the statute specifies a minimum wage at an hourly rate. Employees may be paid on an hourly, salaried, commission, monthly, piecework or any other basis, so long as the average hourly rate equals or exceeds the minimum wage.

The Fair Labor Standards Act does not limit the number of hours an employee may work. Rather, the FLSA only requires the payment of overtime compensation at a rate not less than one and one-half



times the employee's regular rate of pay for each hour worked in excess of the maximum hours applicable to the type of employment in which the employee is engaged. This usually means overtime for hours in excess of 40 hours per week. The FLSA does not generally require that an employee be paid overtime for hours worked in excess of eight per day, or for work on Saturdays, Sundays, holidays or regular days of rest, so long as the maximum number of hours worked in a work week is not exceeded.

The Fair Labor Standards Act provides an element of flexibility for state and local government employers and employees regarding compensation for statutory overtime hours. The law authorizes a public agency to provide compensatory time ("comp time") off in lieu of monetary overtime compensation, at a rate of not less than one and one-half hours of compensatory time for each hour of overtime worked. The calculation used is the same as that generally used for calculating monetary overtime. Only state and local governments may use compensatory time upon prior notice to the employees; private employers are not eligible and must pay overtime compensation each pay period when it is due.

Pursuant to the Administrative, Executive, and Professional exemptions, various white collar workers are not subject to the minimum wage and overtime provisions of the FLSA. Qualification for the exemption requires satisfaction of a two-part test: (1) the salary test; and (2) duties test.

To be eligible for one of the white-collar exemptions, an employee must now be paid a minimum weekly salary of \$455 per week, or \$23,660 per year. Employees making less than \$455 per week cannot be exempt under these exemptions even if they meet the duties test. Furthermore, an exempt employee's salary cannot be subject to reduction because of variations in the quality or quantity of the work performed. Additionally, the exempt employee must receive his or her full salary for any week in which he or she performs work, without regard to the number of days or hours worked, unless one of the following exceptions is met: (1) the employee is absent from work for one or more full days for personal reasons, other than sickness or disability; (2) the employee is absent for one or more full days because of sickness or disability (including work-related accidents) and the deduction is made in accordance with a bona fide plan, policy or practice of providing compensation for loss of salary occasioned by such sickness and disability; (3) the employer imposes penalties in good faith for infractions of safety rules of major significance; (4) the employer imposes, in good faith, unpaid disciplinary suspensions of one or more full days for infractions of certain workplace conduct rules; (5) the employee takes leave under the Family and Medical Leave Act; or (6) the employee is absent the entire workweek or performs no work during an entire workweek. Also keep in mind that deductions are not permitted for absences occasioned by the employer or by the operating requirements of the business, or for absences "caused by jury duty, attendance as a witness or temporary military leave." In other words, if the exempt employee is ready, willing and able to work, deductions may not be made simply because work is not available.

To satisfy the duties test under the executive exemption, the following must be present: (1) the employee's primary duty must be managing the enterprise, or managing a customarily recognized department or subdivision of the enterprise; (2) the employee must customarily and regularly direct the work of at least two or more other full-time employees or their equivalent; and (3) the employee must have the authority to hire or fire other employees, or the employee's suggestions and recommendations as to the hiring, firing, advancement, promotion or any other change of status of other employees must be given particular weight.

Moreover, the following principles should be observed in determining whether an employee qualifies for the executive exemption: (1) that an employee's primary duty is not limited to performing the duty he or she spends the most time on, but rather is the "principal, main, major or most important duty that the employee performs;" and (2) that "concurrent performance of exempt and non-exempt work does not disqualify an employee from the executive exemption" if the employee otherwise meets the criteria for the executive exemption.

To qualify for the administrative exemption, the employee must have the primary duty of performing office or non-manual work directly related to the management or general business operations of the employer or the employer's customers, which must include the exercise of discretion and independent judgment with respect to matters of significance. Both inquiries must be answered



affirmatively for the employee to qualify for the exemption. The regulations define the type of work directly related to management or general business operations as including, but not limited to,

work in functional areas such as tax; finance; accounting; budgeting; auditing; insurance; quality control; purchasing; procurement; advertising; marketing; research; safety and health; personnel management; human resources; employee benefits; labor relations; public relations; government relations; computer network, Internet and database administration; legal and regulatory compliance; and similar activities.

The next inquiry is whether the employee's primary duty includes the exercise of discretion and independent judgment with respect to matters of significance. The employer must determine whether the employee's primary duty includes "the comparison and the evaluation of possible courses of conduct and acting or making a decision after the various possibilities have been considered" and whether the work is significant, substantial, important or of consequence. This does not require, in all cases, that employees have authority to make an unreviewable independent decision; rather, employees still may be exercising discretion and independent judgment, even if they only recommend action, rather than actually take action.

There are three types of professional exemptions: learned, creative, and computer. For an employee to qualify as a learned professional, all of the following criteria must be met: (1) the employee's primary duty must be the performance of work that requires advanced knowledge—that is, work that is predominantly intellectual in character—and that includes work requiring the consistent exercise of discretion and judgment; (2) the advanced knowledge must be in a field of science or learning; (3) the knowledge must be customarily acquired by a prolonged course of specialized intellectual instruction; (4) the employee must be paid on a salary basis of at least \$455 per week. (This salary basis requirement does not apply to lawyers, doctors, or teachers.)

To qualify for the creative professional exemption, the employee's primary duty must include work requiring invention, imagination, originality, or talent in a recognized field of artistic or creative endeavor as opposed to routine mental, manual, mechanical, or physical work. Additionally, the employee must also receive a minimum weekly salary of \$455 per week, or \$23,660 per year. While exempt status determinations are to be made on a case-by-case basis, the DOL admonishes that "workers who simply collect and organize public information (and do not provide a unique or creative interpretation or analysis) are not likely to be exempt creative professionals." Though, journalists may satisfy the duties requirements for the creative professional exemption.

To qualify for the computer employee exemption: (1) the employee's primary duty must consist of the application of systems-analyst techniques and procedures, including consulting with users to determine hardware, software or systems functional specifications; or, the design, development, documentation, analysis, creation, testing, or modification of computer systems or programs; or the design, documentation, testing, creation, or modification of computer programs related to machine-operating systems; or a combination of these duties; and (2) the employee must be paid on a salary basis of not less than \$455 per week, or, alternatively, if paid on an hourly basis, of not less than \$27.63 per hour. This exemption does not include a requirement that the worker consistently exercise discretion and judgment and is not limited to employees engaged in software functions. However, the exemption is not available to an employee engaged in the manufacture or repair of computer hardware or engineers or drafters who are not otherwise engaged in computer systems analysis and programming.

### **The Family and Medical Leave Act (FMLA)<sup>14</sup>**

The purpose of the FMLA is to allow employees to balance their work and family life by taking unpaid leave of up to 12 weeks per year. To accomplish this purpose, the FMLA allows "eligible employees" of a "covered employer" to take job protected, unpaid leave, or to substitute appropriate paid leave if the employee has earned or accrued it, for up to a total of 12 work weeks in any 12 months because of: the birth of a child; the placement of a child with the employee for adoption or foster care;



because the employee is needed to care for a family member (child, spouse, or parent) with a serious health condition; to care for the employee's spouse, son daughter, parent, or next of kin who is a covered service member recovering from a serious illness or injury sustained in the line of duty or active duty; any qualifying exigency" arising out of the military service of the spouse, son, daughter, or parent of the employee; or because the employee's own serious health condition makes the employee unable to perform the functions of his or her job. Notably, if two individuals who are married work for the same public employer, the 12 weeks of FMLA leave is shared between the two employees.

The FMLA creates a private right of action to seek equitable relief (e.g., reinstatement) and money damages against employers who "interfere with, restrain, or deny the exercise of or the attempt to exercise" FMLA rights. Thus, the FMLA gives rise to two types of claims: (1) interference claims, in which an employee asserts that his employer denied or otherwise interfered with his substantive rights under the FMLA, and (2) retaliation claims, in which an employee asserts that his employer discriminated against him because he engaged in an activity protected by the Act.

## **FLORIDA STATE EMPLOYMENT LAWS**

### **Florida Civil Rights Act of 1992**<sup>15</sup>

The Florida Civil Rights Act (FCRA) prohibits discrimination by public and private employers based on race, color, religion, sex, national origin, handicap, marital status and age. It is therefore very similar in scope to Title VII, except for the addition of marital status. Notably, the Florida Supreme Court has interpreted the FCRA's definition of marital status as the state of being married, single, divorced, widowed or separated. Thus, marital status discrimination does not include discrimination on the basis of being married to a particular individual or disparate treatment based upon a spouse's conduct. It is a topic of legal dispute as to whether pregnancy is intended to be included in the FMLA. In addition, though the ADEA applies to age discrimination for employees over 40 years of age, the FCRA applies to differential treatment based on age for any age group.

As a note, in addition to the general prohibition on handicap discrimination set forth in the FCRA, Florida has also enacted a specific prohibition on employment discrimination against individuals with HIV/AIDS unless the absence of the virus is a bona fide occupational qualification, known as the Florida Omnibus AIDS Act.

As with the federal statutes governing employment discrimination, the FCRA contains an extensive administrative procedure that must be complied with prior to instituting a private lawsuit. In particular, an individual claiming to be aggrieved must file a Charge of Discrimination with the FCHR within 365 days of the alleged discriminatory conduct. The statute further provides that a complaint may be filed with the EEOC or another appropriate local entity in lieu of filing it with the FCHR. As with the EEOC, the FCHR will investigate any charges filed with it unless it has referred them to the EEOC or a local agency for investigation. If the FCHR determines that there is reasonable cause to believe that the FCRA has been violated, the aggrieved individual may either bring a lawsuit within one year after the date of the FCHR's determination or request an administrative hearing before the FCHR.

Pursuant to the FCRA, a successful litigant may recover injunctive relief, back and front pay, compensatory damage, punitive damages and attorneys' fees and costs. Punitive damages however are not recoverable against public employers. If the FCHR determines within 180 days that there is not reasonable cause to believe that a violation of the FCRA has occurred, the aggrieved person may only seek an administrative hearing within 35 days of the date of the FCHR's determination. The individual may not file a private lawsuit unless the FCHR finds in favor of the individual at the administrative hearing. Significantly, the EEOC's determination of *no reasonable cause* is not interpreted as a *no cause* determination by the FCHR.

Lastly, in the event that the FCHR does not issue a determination within 180 days, the aggrieved individual may file a lawsuit or request an administrative hearing within four years from the date of the alleged discriminatory act (assuming they do so before a determination is issued).



As the FCRA was modeled after the federal Civil Rights Act, Title VII, the frameworks used to analyze claims under the FCRA are the same. Additionally, the same case law is applied to the FCRA.<sup>16</sup> To maintain an action for violation of the FCRA, the plaintiff must first establish a *prima facie* case of discrimination by showing that he or she is a member of a protected class and suffered an adverse employment action because of membership in that class. If the plaintiff is able to meet that burden, the court then applies the *McDonnell Douglas* burden-shifting analysis to determine whether the employer had legitimate, non-discriminatory reasons for its action, and whether the plaintiff can prove that this proffered reason is merely pretextual.

### **Florida's Workers' Compensation Law, Anti-Discrimination Provision<sup>17</sup>**

Florida's Workers' Compensation Law (FWCL) also provides for certain reinstatement rights of employees who take leave due to an accidental injury or illness arising out of work performed in the course and scope of employment. Similar to the FMLA, the FWCL prohibits an employer from retaliating against an employee due to the employee's workers' compensation claim or attempt to make such a claim. Specifically, this statute provides, regarding the coercion of employees, that "no employer shall discharge, threaten to discharge, intimidate, or coerce any employee by reason of such employee's valid claim for compensation or attempt to claim compensation under the Workers' Compensation Law."

### **Florida's Domestic Violence Leave Act<sup>18</sup>**

The Florida Domestic Violence Leave Act took effect on July 1, 2007 and there is little case law as of this time interpreting this statute. This section specifically requires employers with 50 or more employees to provide individuals who have been employed with the organization for at least three months with three days of leave in connection with activities related to domestic violence. Examples of covered activities include: (1) seeking an injunction for protection against domestic violence; (2) seeking legal advice for issues pertaining to domestic violence; (3) seeking medical and/or mental health care for domestic violence issues; (4) seeking assistance from organizations such as shelters and crisis centers; and (5) making one's home secure from a perpetrator of domestic violence. Employees are required to give notice of the need for such leave except in emergency situations where notice is impractical. Employers should specifically state in their policies the notice required as well as whether the leave is paid or unpaid. Employers may also require employees to exhaust vacation, sick or personal leave in connection with domestic violence leave; however, this requirement should be in writing.

### **Retaliation**

Retaliation claims are allegations by employees that they suffered some form of adverse employment action in response to their voicing their opposition to the violation of one of the various anti-discrimination laws, such as: Title VII, ADEA, ADA, FMLA, First Amendment, Section 1981, FLSA, Florida's Workers Compensation law, FCRA. Employees may also have retaliation claims for adverse actions taken based on their exercise of free speech under the First Amendment to the United States Constitution. Employees may also have a cause of action under the Florida Public Whistle-Blowers Act if they report an employer's violation of law and suffer an adverse action thereafter. EEOC statistics show that while discrimination claims are leveling off, retaliation claims are increasing faster than other types of claims. The FCHR reports in that retaliation claims are second only to race claims. Retaliation claims are the hardest to defend and many retaliation claims require a trial to resolve. Moreover, if the retaliation claims are deemed to be meritorious, a jury will likely respond with a punishing monetary award. Finally, remember that the law protects not only the alleged recipients of unlawful discrimination from retaliatory conduct but anyone who complains of unlawful discrimination as well. All employers, managers, supervisors, and human resources representatives should become familiar with the law surrounding retaliation, because retaliation claims are becoming far more common.



Juries take retaliation claims very seriously, sometimes returning astounding verdicts for plaintiffs. Proven retaliation claims are especially dangerous because they can easily result in punitive damages against private sector employers since the very nature of retaliatory action, such as termination or demotion, is clearly intentional. This is in contrast to some workplace discrimination complaints, which can be viewed as unintentional, such as an employer policy that inadvertently puts older workers at a disadvantage.

Issues concerning retaliation are of critical importance because an employer can be held liable for retaliation even if it is not liable for the underlying discrimination of which the employee complains. In fact, it is not uncommon for employees to file suits alleging both discrimination and retaliation, and to lose on discrimination but win on retaliation.

While anti-retaliation provisions do not immunize workers from appropriate discipline or discharge, employers should be wary of imposing discipline on an employee who has a claim pending against the employer or who has otherwise engaged in activity afforded special protection by law. Employment actions that closely follow an employee's complaint about discrimination or other protected activity will be closely scrutinized by courts.

Protected employee conduct falls into three broad categories. Employees are protected for certain conduct in their personal lives, for concerns they may raise about workplace issues, and for cooperation in an investigation of the workplace.

In the last several years, the United States Supreme Court has broadened the scope of federal retaliation laws. In *Burlington Northern and Santa Fe Railway Co. v. White*, the Court expanded the scope of actionable retaliation claims to include actions beyond those that affect terms, conditions, or status of employment, or those that occur only at a workplace, meaning the scope of the retaliation provision was held to be broader than that of Title VII's substantive discrimination provision.<sup>19</sup>

The *Burlington Northern* court had been asked to determine what constituted a "materially adverse" action by an employer to substantiate a retaliation claim. Based upon the legislative intent of Title VII and other anti-discrimination statutes, which was to ensure that all persons were free from employment-related discrimination, and the basis of anti-retaliation laws, which were to protect the reporting rights of employees, the Court determined that one could not secure the second objective by focusing only upon employer actions and harm that concern employment. Such a restrictive ruling would allow employers to effectively retaliate against an employee by taking actions not directly related to his employment or by causing him harm outside the workplace. Therefore, the Court concluded, the anti-retaliation provision, unlike the substantive, anti-discrimination provision, is not limited to discriminatory actions that affect the terms and conditions of employment.

### **Florida's Whistle-Blower's Act**

Florida has two statutes that protect "whistle-blowers"; one protects employees in the public sector while the other protects employees in the private sector. The Public-Sector Whistle-Blower's Act is included in Florida Statutes, sections 112.3187–112.31895. The intent of the Florida Legislature in enacting this act was (1) to prevent agencies or independent contractors [with agencies] from taking retaliatory action against an employee who reports to an appropriate agency violations of law on the part of a public employer or independent contractor that create a substantial and specific danger to the public's health, safety, or welfare; and (2) to prevent agencies or independent contractors from taking retaliatory action against any person who discloses information to an appropriate agency alleging improper use of governmental office, gross waste of funds, or any other abuse or neglect of duty on the part of an agency, public officer, or employee.

The Act protects both employees and other persons who disclose information under the act. An employee is defined as "a person who performs services for, and under the control and direction of, or contracts with, an agency or independent contractor for wages or other remuneration." The term "person" is not defined, although it would appear that this term is used to broaden the scope of the coverage beyond current employees.



Under the Act, protected disclosures include: (1) any violation or suspected violation of any federal, state, or local law, rule, or regulation committed by an employee or agent of an agency or independent contractor that creates and presents a substantial and specific danger to the public's health, safety, or welfare; or (2) any act or suspected act of gross mismanagement, malfeasance, misfeasance, nonfeasance, gross waste of funds, or neglect of duty committed by an employee or agent of an agency or independent contractor. The term agency includes any state, regional, county, local or municipal governmental entity.

Significantly, the Act provides that an employee is protected while reporting "[a]ny violation or suspected violation..." or "[a]ny act or suspected act..." Thus, it is not necessary that an actual violation occur before the Act's protections are triggered. On the other hand, the Act also provides that "the provisions of this subsection [regarding employer actions prohibited under the Act] shall not be applicable when an employee or person discloses information known by the employee or person to be false." Thus, to be protected by the Act, the employee or person must have a subjective good faith belief that an agency or independent contractor has committed an act or violation described above.

To be protected by the Act, the employee or person also must have either: (1) disclosed information on his own initiative in a written and signed complaint; (2) requested to participate in an investigation, hearing or other inquiry conducted by any agency or federal governmental entity; (3) refused to participate in any adverse action prohibited by this Act; (4) initiated a complaint through the "whistleblower's hotline"; or (5) filed a written complaint to their supervisory officials, to the Chief Inspector General in the Office of the Governor, or to the Office of Public Counsel. The Act does not protect those engaged in whistle-blowing activity while incarcerated in state prison or those who have committed or intentionally participated in the wrongful act which they are attempting to report.

Further, to be protected an employee or person must also have disclosed information only to "any agency or federal governmental entity having authority to investigate, police, manage or otherwise remedy the violation or the act, including but not limited to, the Office of the Chief Inspector General, any agency inspector general or chief internal auditor, the Office of Public Counsel, and the whistleblower's hotline..." However, for disclosures concerning a local government entity, including any regional, county, or municipal entity, special district, community college district, or school district or any political subdivision of any of the foregoing, the information must be disclosed to a chief executive officer or other appropriate official."

An agency "shall not dismiss, discipline, or take any other adverse personnel action against an employee for disclosing information pursuant to the provisions of [the Act]," or "take any adverse action that affects the rights or interests of a person in retaliation for the person's disclosure of information under [the Act]." <sup>20</sup> "Adverse personnel action" means the discharge, suspension, transfer, or demotion of any employee or withholding of bonuses, the reduction in salary or benefits, or any other adverse action taken against an employee within the terms and conditions of employment by an agency or independent contractor." Remedies available to employees if successful include reinstatement, lost wages, benefits, attorney's fees among others.

## **PUBLIC SECTOR LABOR LAW**

---

In 1968, the Florida Constitution was amended to include Article I, Section 6:

**SECTION 6. Right to Work.** – The right of persons to work shall not be denied or abridged on account of membership or non-membership in any labor union or labor organization. The right of employees, by and through a labor organization, to bargain collectively shall not be denied or abridged. Public employees shall not have the right to strike.



Thereafter, the Florida Supreme Court,<sup>21</sup> held that Article I, Section 6 is not self-executing and directed the Florida Legislature to enact enabling legislation. In 1974, the Florida Legislature enacted the Public Employees Relations Act (PERA) Chapter 447, Part II, Florida Statutes. The PERA creates a Public Employees Relations Commission.

Since collective bargaining rights are protected by the Florida Constitution, limits upon the exercise of these rights require a compelling state interest and must be achieved through the least intrusive means.<sup>22</sup>

The Florida Public Employees Relations Commission is comprised of three members appointed by the Governor and confirmed by the Florida Senate. One member is designated as the chairperson and possesses the authority to administer the Agency's functions. The members serve four-year staggered terms. The Public Employees Relations Commission has jurisdiction to review a variety of employment and labor actions. Its core purpose is to serve as a labor relations board to administer the PERA and resolve labor disputes in Florida's public sector. Specifically, the Public Employees Relations Commission shall: (1) Resolve questions and controversies concerning claims for recognition as the bargaining agent for a bargaining unit; (2) Determine or approve units appropriate for purposes of collective bargaining; (3) expeditiously process charges of unfair labor practices; and (4) resolve such other questions and controversies as it may be authorized to undertake.<sup>23</sup>

Because the right to collectively bargain is constitutional, this constitutional right has authority over conflicting statutes or ordinances. For example, collective bargaining rights are paramount to statutory civil service systems or local civil service ordinances.<sup>24</sup>

All public employees of the state, local governments, and other political subdivisions enjoy the right of collective bargaining. The following criteria define which individuals and groups are not "public employees." However, for the purposes of the PERA a managerial or confidential employee is not covered. Individuals excluded from the definition of a public employee because of the status as managerial employees are employees who perform jobs that are not of a routine, clerical, or ministerial nature and require the exercise of independent judgment in the performance of such jobs and to whom one or more of the following applies: (1) they formulate or assist in formulating policies which are applicable to bargaining unit employees; (2) they may reasonably be required on behalf of the employer to assist in the preparation for the conduct of collective bargaining negotiations; (3) they have a role in the administration of agreements resulting from collective bargaining negotiations; (4) they have a significant role in personnel administration; (5) they have a significant role in employee relations; (6) they are included in the definition of administrative personnel contained in s. 228.041(10); or (7) they have a significant role in the preparation or administration of budgets for any public agency or institution or subdivision thereof. Police chiefs, fire chiefs, and directors of public safety departments are managerial employees.

Confidential employees for the purposes of the PERA are persons who act in a confidential capacity to assist or aid a managerial employee. The definition of a confidential employee is narrowly applied and requires a labor nexus.<sup>25</sup>

Public employees have the right to be represented or refrain from being represented by an employee organization for the purposes of collective bargaining. The PERA sets forth a process for the registration and certification of an employee organization. The obligation of the public employer to recognize and bargain with an employee organization occurs with the certification of the employee organization.

Every employee organization seeking to become a certified bargaining agent is required to register with the Public Employees Relations Commission. Registration requires the employee organization to disclose through public record information about the organization including names of any parent organization, names and addresses of principal officers, amount of initiation fee and dues, a current financial statement, the name of its business agent, and copies of current constitutions and bylaws. If granted, registration must be renewed on an annual basis.

An employee organization may seek certification as the exclusive bargaining agent by requesting recognition by the public employer. The public employer may recognize the organization if it is satisfied that the majority of the unit desires the organization's certification. Otherwise, the employee organization



may file a representation-certification petition with the Public Employees Relations Commission seeking certification. The petition must be supported by dated statements from at least thirty percent (30%) of the employees indicating their desire to be represented for the purposes of collective bargaining by the petitioning employee organization.

An election bar and contract bar apply to the filing of a representation-certification petition with the Public Employees Relations Commission. Where a contract or collective bargaining agreement is in place, it shall bar the filing of a representation-certification, including a decertification petition, except during a defined window period.<sup>26</sup> The window period occurs between 150 and 90 days preceding the date of expiration of the contract. Expired contracts do not bar representation-certification proceedings. In instances where a representation election has been conducted by the Public Employees Relations Commission, no new representation petition may be filed within twelve months.

### **Defining the Bargaining Unit**

The Public Employees Relations Commission has the authority to define the employee unit that is appropriate for the purposes of collective bargaining. In defining a proposed bargaining unit the Commission considers the following factors: (1) the principles of efficient administration of government; (2) the number of employee organizations with which the employer might have to negotiate; (3) the compatibility of the unit with the joint responsibilities of the public employer and public employees to represent the public; (4) the power of the officials of government at the level of the unit to agree or make effective recommendations to another administrative authority or to a legislative body, with respect to matters of employment upon which the employee desires to negotiate; and (5) the organizational structure of the public employer.

PERC will also determine if the employees share a community of interest. PERC considers (1) the manner in which wages and other terms of employment are determined; (2) the method by which jobs and salary classifications are determined; (3) the interdependence of jobs and interchange of employees; (4) the desires of the employees; and (5) the history of employee relations within the organization of the public employer concerning organization and negotiation and the interest of the employees and the employer in the continuation of a traditional, workable, and accepted negotiation relationship.

Because Florida Statutes directs the Public Employees Relations Commission to avoid the over-fragmentation of bargaining units, such units are typically defined in a comprehensive manner. Unless special circumstances exist, departmental units are not permitted.<sup>27</sup> Over-fragmentation occurs when a workforce is splintered by a multitude of various bargaining units or bargaining representatives. Over-fragmentation results in ineffective collective bargaining, lack of labor peace, and an excessive number of potentially conflicting contracts.

The types of bargaining units ordinarily defined include operational services (often referred to as service and maintenance), clerical, professional, non-professional, non-professional healthcare, professional healthcare or departments with certified unique skills such as firefighters, law enforcement, or teachers.

Employees possessing supervisory authority over other employees in a proposed unit shall not be included in the unit due to a potential conflict of interest. A supervisory conflict of interest exists where an employee exercises “effective authority in personnel matters in areas of hiring, firing, evaluations, promotions, scheduling, resolution of grievances or discipline.”<sup>28</sup> Unlike managerial or confidential employees, supervisory employees may seek and obtain a separate unit comprised of supervisory employees.

Upon the definition of an appropriate bargaining unit, the Public Employees Relations Commission conducts a secret ballot election to determine whether the proposed unit members desire collective bargaining representation by the petition organization.

Employees no longer desiring to be represented by the certified bargaining organization or agent may file a petition to revoke certification. The petition shall be accompanied by signed statement by at least 30 percent of the employees in the unit indicating that they no longer desire to be represented for purposes of collective bargaining by the certified bargaining agent. If the petition is found to be sufficient,



the Public Employees Relations Commission will direct a secret ballot election to determine if the majority of employees favor decertification.

### **Scope of Collective Bargaining**

Once certified, the employee organization and employer have the obligation to meet and negotiate at reasonable times and places for the purposes of obtaining a collective bargaining agreement. The parties must negotiate over mandatory subjects of bargaining and may negotiate over permissive subjects of bargaining.

Mandatory subjects of bargaining include all wages and terms and conditions of employment such as: compensation, holidays, vacation periods, sick leave, demotion, insurance, and retirement. Permissive subjects typically involve the relinquishment of an established legal right. No party may insist on taking a permissive subject to impasse.

The public employer maintains certain rights referred to as management rights. A management right reflects an action that is the prerogative of management, the decision to exercise a management right is not mandatorily negotiable.<sup>29</sup> The PERA recognizes the following managerial rights: (1) to determine unilaterally the purpose of each of its constituent agencies; (2) to set standards of service to be offered to the public; (3) to exercise control and discretion over its organization and operations; (4) to direct employees; (5) to take disciplinary action for proper cause; and (6) to relieve employees from duty because of lack of work or for other legitimate reasons. In instances where an employer exercises a management right, the certified employee organization may request bargaining to discuss the impact of the action.

### **Resolution of a Bargaining Impasse**

In the event the parties to negotiations cannot reach agreement upon a contract, an impasse may be declared. Either party may declare an impasse by written notice to the Public Employees Relations Commission and the other party. The parties must proceed through an impasse resolution process. Following the resolution of the disputed issues at impasse the parties must submit all resolved and otherwise agreed to items to the parties for contract ratification. If such contract is not ratified the legislative action taken to resolve the disputed items take effect as of the date of the legislative body's action and remain for the duration of the fiscal year. During negotiations for a collective bargaining agreement, for a successor agreement, or after the Legislature has set forth terms through the resolution of an impasse but in the absence of an agreement, the parties observe the status quo of terms and conditions of employment.

### **Unfair Labor Practices**

Public employers are prohibited from engaging in the following practices: (1) Interfering with, restraining, or coercing public employees in the exercise of any rights guaranteed them under this part; (2) encouraging or discouraging membership in any employee organization by discrimination in regard to hiring, tenure, or other conditions of employment; (3) refusing to bargain collectively, failing to bargain collectively in good faith, or refusing to sign a final agreement agreed upon with the certified bargaining agent for the public employees in the bargaining unit; (4) discharging or discriminating against a public employee because he or she has filed charges or given testimony under this part; (5) dominating, interfering with, or assisting in the formation, existence, or administration of, any employees organization or contributing financial support to such an organization; or (6) refusing to discuss grievances in good faith pursuant to the terms of the collective bargaining agreement with either the certified bargaining agent for the public employee or the employee involved.

Public employee organizations or anyone acting in its behalf are prohibited from engaging in the following practices: (1) interfering with, restraining, or coercing public employees in the exercise of any rights guaranteed them under this part or interfering with, restraining, or coercing managerial employees



by reason of their performance of job duties or other activities undertaken in the interest of the public employer; (2) causing or attempting to cause a public employer to discriminate against an employee because of the employee's membership or non-membership in an employee organization or attempting to cause the public employer to violate any of the provisions of this part; (3) Refusing to bargain collectively or failing to bargain collectively in good faith with a public employer; (4) discriminating against an employee because he or she has signed or filed an affidavit, petition, or complaint or given any information or testimony in any proceedings provided for in this part; (5) participating in a strike against the public employer by instigating or supporting, in any positive manner, a strike; or (6) instigating or advocating support, in any positive manner, for an employee organization's activities from high school or grade school students or students in institutions of higher learning.

An employee, employer, or employee organization may file a charge of an unfair labor practice with the Public Employees Relations Commission within six months of the alleged commitment of the violation. A charge must include the names of parties involved, the provisions of the status allegedly violated and a sworn statement and documentary evidence sufficient to establish a prima facie violation.

The Public Employees Relations Commission will review the charge for sufficiency and, if sufficient, will direct the alleged violator to provide an Answer. Thereafter, the Commission may direct an evidentiary hearing. As a result of the hearing, a recommended order will issue. The parties may submit exceptions to the recommended order for the consideration of the Public Employees Relations Commission. In the event the Public Employees Relations Commission finds a violation it may order an appropriate remedy including one or more of the following: (1) to cease and desist from the unfair labor practice; (2) to take such action as to implement the general policies of the PERA including reinstatement of an employee with or without back pay; (3) posting of notices; (4) filing of periodic reports showing compliance with the order; and (5) attorney's fees and the costs of litigation.

If the Public Employees Relations Commission finds that an unfair labor practice has not been or is not being committed, it issues an order dismissing the case.

### **Judicial Review**

Final orders of the Public Employees Relations Commission are subject to review by the district courts of appeal. Orders certifying a bargaining agent, dismissing a petition or finding an unfair labor practice violation are final orders.<sup>30</sup> Interim orders defining a bargaining unit or directing a hearing or election are non-final and not subject to interlocutory review.

### **Other Acts Prohibited**

Employee organizations, their members, agents or representatives or any persons acting on their behalf are prohibited from: (1) soliciting public employees during working hours of any employee engaged in the solicitation; (2) distributing literature during working hours in areas where actual work is performed; and (3) directly or indirectly pay any fines or penalties assessed against individuals for the above violations.

Circuit courts may enforce these prohibitions by injunction and contempt proceedings. A public employee convicted of a violation may be discharged.

### **Prohibition of Strikes and Remedies**

No public employee or organization may participate in a strike against a public employer. Circuit courts are vested with jurisdiction to hearing allegation of prohibited strikes and to enjoin a strike action.

### **Government-in-the-Sunshine Implications**

Petitions and dated statements signed by employees concerning representation by a bargaining unit are confidential and exempt from disclosure under Florida Statutes Chapter 119.07(1). An exception



to this exemption exists when an employee, employer, or employee organization seeks to verify or challenge the employee signatures.<sup>31</sup>

All discussions between the chief executive officer of a public employer and his/her representative and the legislative body or the public employer relative to collective bargaining including all work products developed by the public employer in preparation for and during collective bargaining, are confidential and exempt from disclosure.<sup>32</sup>

## NOTES

<sup>1</sup> Ch. 112 (Part III), Fla. Stat.

<sup>2</sup> § 447.401, Fla. Stat.

<sup>3</sup> 42 U.S.C. § 2000e.

<sup>4</sup> 42 U.S.C. § 2000e(j)

<sup>5</sup> Swierkiewicz v. Sorema N.A., 534 U.S. 506, 512 (2002).

<sup>6</sup> Harris v. Forklift Systems, Inc., 510 U.S. 17, 23 (1993).

<sup>7</sup> 42 U.S.C. § 1981.

<sup>8</sup> 42 U.S.C. § 12112.

<sup>9</sup> 42 U.S.C. § 12111.

<sup>10</sup> Raytheon Co. v. Hernandez, 540 U.S. 44 (2003).

<sup>11</sup> 29 U.S.C. § 621, et seq.

<sup>12</sup> 8 U.S.C. § 1101, et seq.

<sup>13</sup> 8 U.S.C. § 1324a.

<sup>14</sup> 29 U.S.C. § 2601(b); 29 C.F.R. § 825.101

<sup>15</sup> § 760.01, Fla. Stat., et seq.

<sup>16</sup> Castleberry v. Edward M. Chadbourne, Inc., 810 So. 2d 1028 (Fla. 1st DCA 2002); Florida Dept. of Comm. Affairs v. Bryant, 586 So. 2d 1205, 1209 (Fla. 1st DCA 1991).

<sup>17</sup> § 440.205, Fla. Stat.

<sup>18</sup> § 741.313, Fla. Stat.

<sup>19</sup> 548 US 53 (2008).

<sup>20</sup> §112.3187(4) (a), (b), Fla. Stat.

<sup>21</sup> Dade County Classroom Teachers Assoc. Inc. v. The Legislature of the State of Florida, 269 So. 2d 684(Fla. 1972).

<sup>22</sup> Lawton Chiles v. State Employees Attorneys Guild, 734 So. 2d 1030 (Fla. 1999).

<sup>23</sup> § 447.207, Fla. Stat.

<sup>24</sup> Hillsborough County Governmental Employees Association, Inc., et al. v. Hillsborough County Aviation Authority, et al, 522 So. 2d 358 (Fla. 1988).

<sup>25</sup> McLean v. City of Miami et al., 20 FPER ¶ 25305 (1994).

<sup>26</sup> Grissom v. PBA v. State of Florida, 19 FPER ¶ 24119 (1993).

<sup>27</sup> CWA v. Bay Medical Center, 18 FPER ¶ 23232 (1992).

<sup>28</sup> Hallandale Professional Fire Fighters, Local 2238 v. City of Hallandale, 478 So. 2d 63 (Fla. 4th DCA 1985)478 So. 2d 63).

<sup>29</sup> Pensacola Junior College, 18 PFER ¶ 23144 (1992) (college's decision to retitle position was within its managerial prerogative and was not mandatorily negotiable).

<sup>30</sup> § 447.509, Fla. Stat.

<sup>31</sup> § 447.307 (2), Fla. Stat.

<sup>32</sup> §§ 447.605(1), 605(3), Fla. Stat.







---

## 9. *Contracting, Purchasing, and Sale of County Property*

---

*Ellie Neiberger*

---

### POWER TO CONTRACT

---

A county's governing body has broad authority to take any action to "carry on county government," so long as it is not specifically prohibited by statute or the Florida Constitution<sup>1</sup> and, for charter counties, not otherwise restricted by the county charter.<sup>2</sup> This authority includes, but is not limited to, certain statutorily enumerated powers and all implied authority necessary to effectively exercise those express powers—including the authority to contract, purchase, and sell.<sup>3</sup>

Generally, a contract only becomes binding on a county when properly approved or ratified by the board of county commissioners.<sup>4</sup> No single commissioner or county officer has the power to bind the county in contract unless such power to contract is expressly authorized by law.<sup>5</sup>

In exercising its general authority to act for county purposes, a county is constrained by various provisions of the Florida Constitution. The following constitutional provisions bear on a county's contracting and purchasing powers:

Article VII, section 9, authorizes counties to levy ad valorem taxes, and any other taxes the Legislature may authorize by general statute, for county purposes. While a county's power to impose taxes and use tax revenue is generally limited to county purposes, the county may also exercise its taxing power "within the limits fixed for municipal purposes" when it is furnishing municipal services.

Article VII, section 10, prohibits counties from engaging in financial and property dealings for the benefit of private interests.<sup>6</sup> Subject to limited exceptions,<sup>7</sup> no county may become "a joint owner with, or stock holder of, or give, lend, or use its taxing power or credit to aid any corporation, association, partnership or person."<sup>8</sup> However, the term "joint owner" for constitutional purposes does not necessarily have the same meaning as statutory or common law definitions of "partnership" or "joint venture," and a public agency does not necessarily pledge its credit when a private party obtains arguably below-market or other financially favorable terms in a transaction.<sup>9</sup>

The Constitution also restricts a county's power to create indebtedness.<sup>10</sup> Under article VII, section 12, counties may not issue debt if it is repayable from ad valorem tax revenue and will mature more than twelve months after the date the debt is issued, unless (1) the debt is used to finance capital projects authorized by law, and (2) the issuance is approved by vote of the property owners subject to the ad valorem taxes.<sup>11</sup> Furthermore, in absence of the requisite referendum vote, a county cannot enter into any contract directly, indirectly, or contingently binding the county to expend ad valorem revenues.<sup>12</sup>



## **PERSONAL INTEREST**

The Florida Ethics Code<sup>13</sup> provides standards of conduct for public officers, employees of agencies and local government attorneys. The Florida Ethics Code prohibits solicitation and acceptance of gifts, doing business with one's agency, unauthorized compensation, misuse of public position and conflicting contractual relationships.<sup>14</sup> Generally, county commissioners and advisory board members should abstain from voting on any matter in which they have such personal interests.<sup>15</sup>

Purchasing agents with authority to make any purchase exceeding \$100 are required to file an annual report disclosing their financial interests and quarterly reports disclosing clients they represent for a fee before agencies.<sup>16</sup>

Criminal penalties for self-dealing (taking advantage of one's position to advance one's own interests rather than the interests of those served) and other misuses by public officials and employees are found in Chapter 839, Florida Statutes.

To discourage unethical conduct, a county should consider a policy restricting lobbying activity related to procurement and specifically incorporate such provision in all bid solicitation documents.

## **PURCHASING**

---

### **PURCHASING AND CONTRACTING POLICY DEVELOPMENT**

There is no common law requirement for counties to competitively bid or award to the lowest qualified and responsive bidder. However, public policy favors competitive procurement whenever possible even in the absence of controlling laws.<sup>17</sup> Under their home rule authority, counties have broad powers to regulate and set policy relating to purchasing and contracting.<sup>18</sup> Generally, county commissions set policy in these areas, although they can delegate authority to their appointed officials to administer that policy.

### **OFFICE SUPPLIES**

Generally office supplies are purchased through a blanket purchase order, which is an agreement that simplifies the purchase of repetitive requirements for similar products. A period of time (usually one year) and a not-to-exceed dollar amount will be specified prior to approval, and there is a competitive process for issuance. Office supplies may also be procured through a purchasing card program.

### **WMBE AND SBE**

Section 287.093, Florida Statutes, authorizes counties to set aside up to 10 percent or more of the total funds allocated for procurement of personal property and services for the purpose of entering into contracts with minority business enterprises (MBEs). In the event a county elects to do so, such contracts must only be competitively solicited among MBEs.

A business is an MBE if it is (1) a "small business" organized to engage in commercial transactions, (2) domiciled in Florida, (3) at least 51-percent-owned by minority persons who are members of an insular group that is of a particular racial, ethnic, or gender makeup or national origin that has been subjected historically to disparate treatment due to identification in and with that group resulting in an underrepresentation of commercial enterprises under the group's control, and (4) whose management and daily operations are controlled by such persons.<sup>19</sup> A "small business" means any business that (1) employs no more than 200 full-time employees and has a net worth or no more than \$5 million; or (2) has a federal Small Business Administration 8(a) certification.<sup>20</sup>



The statute requires that the set-aside be used for the purpose of redressing the present effects of prior discrimination. The county must periodically review and readjust the set-aside to account for changing needs and circumstances.

Section 255.101, Florida Statutes, states that a county may set aside funds allocated for county construction projects in accordance with the same conditions set forth above unless the project is federally funded or a project to which federal law regarding MBEs is applicable.

The Consultant's Competitive Negotiation Act ("CCNA"),<sup>21</sup> sets forth the process and criteria for selecting professional services of an architect, professional engineer, landscape architect, registered entities performing land surveying or mapping, design-builder or contract manager. As part of the proscribed evaluation process, public entities must consider whether a firm is a certified MBE.<sup>22</sup>

## **LOCAL PREFERENCE (DEFINITION AND IMPLICATIONS)**

Local preference policies are usually provided by ordinances with the goal of providing employment opportunities for local contractors and to ensure continuous work for local businesses in an effort to provide local economic benefits. Local preferences are generally granted to a contractor or vendor in a specified geographic area or location, and automatically grant a fixed percentage preference to their bids or proposals. The application of such preference provisions often has a number of requirements, which include minimum dollar threshold amounts at which such preferences are granted, reciprocity to other cities or counties utilizing similar preferences and waiver provisions for certain agreements such as federal grant funded contracts, CCNA and professional service type agreements.<sup>23</sup>

The most common application is a local preference in the event of a tie bid, but percentage preferences are also common.

Local preferences have been held permissible by the Attorney General and the courts.<sup>24</sup> However, where there was not state or local law or provision in published specification, it has been held to be an abuse of discretion to award to a local firm.<sup>25</sup> Sometimes, grant funds preclude the utilization of local preferences.

## **CONSULTANTS' COMPETITIVE NEGOTIATIONS ACT**

The Consultant's Competitive Negotiations Act ("CCNA") is applicable to counties seeking the professional services of an architect, professional engineer, landscape architect, registered entities performing land surveying or mapping, or design-builders.<sup>26</sup> The application of this law depends on whether the services are needed for a "project," which is "a fixed capital outlay or planning activity."<sup>27</sup>

The selection process entails three steps. First, there must be a uniform and consistent public announcement for all public projects.<sup>28</sup> Second, there must be a competitive selection, by evaluation of all statements of qualification and a ranking in order of preference of a minimum of three firms.<sup>29</sup> There are minimum criteria set forth in the CCNA, but counties may add additional criteria.<sup>30</sup> Third, the county must negotiate the compensation amount with the top ranked firm after the three firms are selected.<sup>31</sup>

## **PURCHASING CARDS**

Generally, purchasing card programs are designated to improve efficiency in processing low dollar purchases from any vendor that accepts the chosen type of credit card. It allows the county cardholder to purchase approved commodities directly from vendors. Normally the purchasing card is issued to a named individual and the county's name is clearly shown on the card as the governmental buyer of goods. The cards usually have a single purchase limit, a monthly spending limit, and approved Merchant Category Codes identifying the types of goods that can be purchased. Use of purchasing cards can streamline procurement and accounting when used appropriately. It is appropriate to have a purchasing card policy adopted by resolution, training on the use of purchasing cards for county employees, and disciplinary measures in place to punish abuses of the use of the card.



## INTERGOVERNMENTAL CONTRACTS

---

An interlocal agreement is an agreement entered into between two or more governmental entities, pursuant to the Florida Interlocal Cooperation Act of 1969 (the “Act”).<sup>32</sup> The Act seeks to “permit local governmental units to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage and thereby to provide services and facilities” in a manner designed to best serve local communities.<sup>33</sup>

Pursuant to the Act, a county may exercise jointly with any other “public agency”<sup>34</sup> of Florida, another state, or of the United States, any “power, privilege, or authority which such agencies share in common and which each might exercise separately.”<sup>35</sup> However, the Act may not be used to convey a power not already possessed by each party.<sup>36</sup> Furthermore, it does not authorize delegation of statutory or constitutional duties of county officers.<sup>37</sup>

In order to jointly exercise any such powers, the governmental entities must enter into a contract called an “interlocal agreement.”<sup>38</sup> The interlocal agreement may be administered or executed by one or more of the parties, or the parties may designate or create a separate entity to do so.<sup>39</sup> However, the powers of any entity created to administer or execute the agreement are limited to those provided by the interlocal agreement or that are implied as necessary to finance, operate, or manage the program set forth in the agreement.<sup>40</sup>

The contract terms that may be addressed in an interlocal agreement are set forth in section 163.01(5)-(6), Florida Statutes. For example, the agreement may include provisions regarding the duration of the agreement; manner of providing financial support for its purposes; manner of employing, engaging, compensating, transferring, or discharging necessary personnel; fixing and collecting of charges, rates, rents, or fees; acquisition, ownership, custody, operation, maintenance, lease, sale or disposition of real or personal property; manner of responding for any liabilities and insuring such risks; and any other necessary and proper matters agreed upon by the contracting parties.

In instances where the local agreement provides for a complete transfer of a power or authority, to or from a county from or to another governmental entity, the parties must comply with article VIII, section 4, of the Florida Constitution.<sup>41</sup> Article VIII, section 4, provides that counties, cities, and special districts may transfer powers by law or resolution, provided that they obtain prior approval of the electors of the transferor and transferee governmental entities.

Prior to becoming effective, the interlocal agreement and any subsequent amendments thereto shall be filed with the clerk of the circuit court of each county where a party to the agreement is located.<sup>42</sup> However, if the parties to the agreement are located in multiple counties and the agreement provides for a separate legal entity or administrative entity to administer the agreement, the interlocal agreement and any amendments thereto may be filed with the clerk of the circuit court in the county where the legal or administrative entity maintains its principal place of business.<sup>43</sup>

## CONTRACTS

---

### CONTRACTUAL AUTHORITY

Under their broad home rule powers, counties may exercise any power for county purposes, except when expressly prohibited by law.<sup>44</sup> However, the powers and duties of county commissioners, including those relating to contracts, must be prescribed by law.<sup>45</sup> As such, the authority vested in county commissioners is limited to the powers expressly set forth in the constitution or by statute and the powers necessarily implied for the effective exercise of those express powers.<sup>46</sup> The board of county commissioners’ authority may be further limited by the county charter.

The power to contract is an implied power of the board of county commissioners.<sup>47</sup> However, the board must follow certain procedures in order to validly enter into a contract on behalf of the county. To



bind the county, the contract generally must be approved by action of the board in the manner authorized by law, in a meeting of the board in its county of domicile.<sup>48</sup>

A board of county commissioners cannot lawfully delegate its governmental powers to any county officer, employee, or committee, unless the delegation is expressly authorized by statute or the constitution.<sup>49</sup> However, a board's administrative duties may be carried out by others under the board's supervision.<sup>50</sup> A board should adopt contract review policies and procedures that set forth clear criteria and parameters for how county officers or employees must implement any delegated administrative duties. The policies and procedures should also require that such officers or employees notify the board of all actions taken on behalf of the county.

## **LIMITATIONS ON AUTHORITY TO NEGOTIATE CONTRACTS**

In addition to the constitutional limitations on counties' contractual authority,<sup>51</sup> counties are subject to general contract law principals, as well as the requirements and limitations imposed by applicable statutes<sup>52</sup> and local legislation.

First, a county contract is generally governed by the same contract law principals that govern private agreements.<sup>53</sup>

Second, a contract entered into without following all statutory requirements is generally void.<sup>54</sup> Counties may not evade statutory requirements by engaging in "bid splitting."<sup>55</sup> Bid splitting generally occurs when a county intentionally divides a contract or purchase into two or more smaller contracts or purchases so that the cost does not exceed the amount triggering the requirement to obtain formal bids.<sup>56</sup> Such contracts are void because they fail to comply with statutory mandates.<sup>57</sup>

Finally, counties are permitted to adopt policies for awarding contracts, provided that such policies do not conflict with state statutes or rules prescribing the competitive bidding process. Because counties are bound to follow their own policies, a county's policies may place additional limitations on the ability to contract.

## **BIDDING REQUIREMENTS**

Competitive bidding refers to the process whereby a county publishes a notice soliciting submission of bids or proposals to complete a project, bidders submit bids or proposals pursuant to the requirements set forth in the notice, and the county then awards the contract to the bidder who is best suited to complete the project.<sup>58</sup> Not all contracts and purchases are subject to competitive bidding and negotiation requirements. Therefore, a county must first determine whether or not a particular contract or purchase is subject to any such requirements pursuant to statute or local legislation.

There is no requirement that counties adopt local rules prescribing a general procedure for county contracts. Absent controlling statute or local legislation, counties are free to deal with each contract or purchase on an individual basis with, or without competitive bidding, as may best serve the public interest.<sup>59</sup> However, Florida has a strong public policy that provides that even in the absence of controlling statutes or local legislation, expenditures of public funds must be made on competitive bids whenever possible.<sup>60</sup> Additionally, where a county has adopted administrative procedures, those procedures must be followed.<sup>61</sup>

There are two basic types of procurement vehicles used in competitive bidding: competitive bids ("bids") and Requests for Proposals (RFPs). With bids, the bidding process begins with a notice called an Invitation to Bid ("ITB"). The Scope of Work is defined according to detailed specifications, which present a specific solution to a problem.<sup>62</sup>

In contrast, an RFP is not based on a defined set of specifications. Instead, contractors are requested to submit a proposal that best meets a general set of objectives. RFPs are generally used when the public entity is incapable of completely defining the scope of work required, when the service may be provided in several different ways, when the qualifications and quality of service are considered the primary factors instead of price, or when responses contain varying levels of service which may require subsequent negotiation and specificity.



Typically, a county soliciting bids or proposals will describe its technical requirements in a solicitation package. The requirements cannot be so narrowly or specifically drawn as to render them exclusionary. However, narrow or specific terms may be justified if they are supported by actual need rather than a desire to discourage competition.<sup>63</sup> On the other hand, the requirements are impermissibly vague if they do not notify bidders of the standards that are expected.<sup>64</sup> Unreasonably indefinite specifications render a contract void.<sup>65</sup>

A fundamental rule of competitive bidding is that responses must conform to the specifications or requirements. A response that materially deviates from such requirements may not be accepted. However, it is well-established that a response that substantially conforms may be accepted if the deviation is non-material.<sup>66</sup> The critical factor in determining whether a variance is material or non-material is whether the deviation would give one bidder a substantial advantage over other bidders.<sup>67</sup> Typically, a deviation is considered material, and thus non-waivable, if it affects the price of the bid, gives the bidder an advantage or benefit not enjoyed by other bidders, or adversely impacts the interests of the county.<sup>68</sup>

When a response is submitted under requirements for competitive bidding, it generally must remain open for the period of time stated in the solicitation documents or, if no time period is specified, a reasonable time, so that the public entity has sufficient time to consider the responses and make an award.<sup>69</sup>

A bidder is not permitted to reform or otherwise change a submitted response. However, a bidder may be permitted to withdraw an erroneous response prepared by an employee if all of the following factors are present: (1) the bidder submitted the response in good faith; (2) due to the gravity of the error, enforcement of the bid would cause a severe hardship to the bidder; (3) the error was a miscalculation; (4) the miscalculation was not due to the bidder's gross negligence; and (5) the bidder promptly notified the county upon discovery of the error.<sup>70</sup> If the bidder itself (or its president, CEO, or similar officer) committed the mistake, withdrawal will not be allowed unless more compelling circumstances exist.<sup>71</sup>

While a county is generally allowed to reject all bids, it is prudent to expressly reserve the right to do so in the solicitation documents.<sup>72</sup> Furthermore, a county may terminate a contract after it is formed if the contract contains an express provision stating that the county is entitled to terminate the contract without breach upon giving notice.<sup>73</sup>

A county may provide a "piggyback" exemption from the competitive procurement process otherwise required under its local legislation. Piggyback exceptions generally provide that a county is allowed to procure goods or services from another public entity's existing, competitively-awarded contract with the same vendor. However, a county cannot use its piggyback exception as a device to skirt competitive bidding requirements. Instead, the exception can be used only if the county's piggybacked agreement does not significantly expand the terms and conditions in the prior, competitively-awarded contract.

## **THE SUCCESSFUL BIDDER**

The successful bidder is usually the lowest responsible and responsive bidder. A bidder is responsive if it complies with all the requirements set forth in the county's solicitation documents (or the county waives a non-material deviation).

A bidder is considered responsible if it can perform the contract as required. Responsible bidder requirements are usually set forth in the solicitation documents, statute, rule or local policy. For example, section 287.012(24), Florida Statutes, defines a "responsible vendor" as "a vendor who has the capability in all respects to fully perform the contract requirements and the integrity and reliability that will assure good faith performance." Factors that are generally considered in determining whether a bidder is responsible include: the bidder's qualifications, resources, experience, financial ability, track record on prior contracts, and satisfaction of MBE or certification requirements.<sup>74</sup> Submission of a response containing misrepresentations will typically result in disqualification.

When the procurement method used is a competitive bid, the factors considered in selecting a bidder are often limited to price and capability to perform the work. Selection of the lowest responsible responsive bidder is often governed by controlling legislation (e.g., state statute, ordinance, or resolution).



Unlike bids, in RFPs, a bidder's ability and experience generally carry more weight than cost. RFPs provide greater flexibility because the county may award the contract to the contractor with the best value in regard to price and services.

The general rule with respect to public bidding contests is that a contract is formed between the county and the successful bidder at the time the county provides notice to the successful bidder; even if the county fails to execute a written contract.<sup>75</sup>

## **FAILURE TO TAKE BOND**

Usually bonds are required for professional services or construction work, but not for the procurement of goods. Performance and payment bonds are required for certain contracts for repairs, renovations, new construction or other public works under Florida law.<sup>76</sup> Payment bonds assure payment to all persons supplying labor or material for work under a contract. Bid bonds are a sum of money or bond guarantee that a bidder will not withdraw the bid for a specified period of time, will furnish bonds as required and will accept the contract if awarded or forfeit the deposit of the money or the bond. Bid bonds are therefore available to make the county whole if the vendor or contractor fails to provide the bonds required under the contract.

## **SELECTION COMMITTEE**

Membership in a selection committee to evaluate proposals is generally established by the purchasing administrator and set forth in bid documents. The committee must operate in compliance with Florida's Government in the Sunshine Law.<sup>77</sup> These committees are generally advisory to the elected officials making the award.

## **AWARDING THE CONTRACT**

Bids or proposals are evaluated based on the criteria set forth in the county's procurement documents. Where a county reserved the right to consider factors other than price in their procurement documents it may exercise its discretion to award to a party other than a low bidder.<sup>78</sup> Even where procurement documents indicated that the "lowest responsible bid" would be selected, a local government has no mandatory obligation to consider the lowest dollars and cents bid to the exclusion of all other pertinent factors.<sup>79</sup> Where a bidder submitted a bid on only one of two alternate asphalt types for which bids were requested a county could award to that low bidder on a road resurfacing contract.<sup>80</sup> However, where a low bidder refused to submit samples of material on time, a county had discretion to award to another bidder.<sup>81</sup>

## **NOTICE AND ADVERTISING**

Chapter 50, Florida Statutes, contains extensive and detailed requirements for the publication of legal notice and advertisement. When required by statute, a county must comply with such procedures in notifying the public of its solicitation.

Section 50.011, Florida Statutes, provides that any statutorily required legal notice, advertisement, or publication must be published in a newspaper that has been in existence for at least one year<sup>82</sup> and is:

- printed and published periodically once a week or more often;
- contains at least 25 percent of its words in English;
- entered or qualified to be admitted and entered as second-class 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.

Additionally, a county must obtain an affidavit of proof of publication.<sup>83</sup>

## **CONTACT PROVISIONS MANDATORY**

In Florida, specified agreements must be in writing or evidenced by some sort of memorandum to be enforceable.<sup>84</sup> The writing must contain the identity of the parties, the identification of the subject matter, terms and conditions of the agreement, a recital of consideration, and the signatures of the parties.<sup>85</sup> If there is local legislation mandating a contract provision, like an ordinance, charter provision or special act, a county's discretion will not be interfered with by a court unless exercised arbitrarily or capriciously, or unless based upon misconception of law, or upon ignorance through lack of inquiry, or in violation of law, or was the result of improper influence.<sup>86</sup>

## **EXCEPTIONS**

If a bidder takes an exception to a bid, generally the bidder will be disqualified because it is not providing the goods or services as requested. However, counties may waive informalities if there are non-material deviations from the bid documents. For example, security in the form of a check rather than a bid bond does not constitute a material variation from the county's invitation to bid and thus could be waived by the county.<sup>87</sup> However, no injunction would lie against a county to prohibit it from awarding to the next low bidder where the lowest bidder had a material irregularity based on its failure to provide certain information relative to a landfill liner.<sup>88</sup>

## **BIDDER'S OATH**

In certain circumstances, a bidder must submit a sworn statement regarding "public entity crimes." In making such a sworn statement, bidder is required to certify that it is aware of the meaning of the term "public entity crime," make disclosures regarding convictions of public entity crimes, and promise to inform the public entity of any changes in the information provided in the statement.<sup>89</sup>

Additionally, the soliciting public entity will typically require the bidder to certify that the bidder:

- 1) Will not withdraw the bid for a certain period of time;
- 2) Agrees to abide by all the terms and conditions set forth in the solicitation documents;
- 3) Has provided truthful information;
- 4) Is authorized to submit the bid;
- 5) Is ready, willing and able to perform if selected; and
- 6) Made the bid without any prior understanding, agreement, connection, discussion, or collusion with any other bidder.

## **BONDS REQUIRED PERFORMANCES AND PAYMENT**

Performance and payment bonds are required in connection with all contracts for repairs, renovations, new construction and other public works.<sup>90</sup> It is executed by a surety or bonding company after an award to a successful bidder in order to protect the county from a loss due to the bidder's inability to complete the contracts as agreed.<sup>91</sup> The bond secures the fulfillment of all contract requirements.<sup>92</sup> It shall be equal to 100% of the contract price except for contracts in excess of \$250,000.00.<sup>93</sup>



## **PROTEST PROCEDURES**

Any actual or prospective bidder or offeror who has a substantial interest in and is aggrieved in connection with the solicitation or proposed award of a contract may protest. Protest procedures vary widely among local governments in Florida and are governed by local procedures enacted by local government officials. The procedures may be governed by the Florida Administrative Code or may be local in nature.

## **PERSONAL SERVICES**

---

Counties are generally not subject to statutory competitive bidding requirements. However, under the Consultant's Competitive Negotiation Act ("CCNA"),<sup>94</sup> counties are subject to certain procedural requirements and criteria for selecting "professional services." Generally, the CCNA requires counties to select professional services based on qualifications rather than on a "lowest bid" basis. Professional services include services of an architect, professional engineer, landscape architect, registered entities performing land surveying or mapping, design-builder or contract manager.

The required procedures include: utilization of written procedures for selection and evaluation of professional services; uniform and consistent public announcements; and competitive selection, by evaluation of all statements of qualification and ranking in order of preference of a minimum of three firms. The CCNA also requires public entities to consider whether a firm is a certified Minority Business Enterprise as part of the evaluation process.

Furthermore, the CCNA requires public entities to rate and compare the qualifications of the bidders and to select and rank a minimum of three bidders in order of preference based on those qualifications. Then, the public entity must negotiate a contract with the firm ranked as the most qualified for compensation that the agency deems fair, competitive, and reasonable. These requirements do not apply unless the contract meets a certain threshold dollar amount.<sup>95</sup>

CCNA does not provide criteria for negotiating an engagement to contract for professional services under a continuing contract, and a county may develop its own procedures for evaluating such a contract. A contract is a "continuing contract" if the amount of construction costs for each individual project under the contract does not exceed \$2 million or, for study activities, the cost for each individual study under the contract does not exceed \$200,000. The maximum amount applies to each individual project (or each individual study) under contract rather than the aggregate amount under contract.

## **SALE OF REAL PROPERTY**

---

Section 125.35, Florida Statutes, authorizes the board of county commissioners to sell and convey any real or personal property belonging to the county, whenever the board determines that it is in the best interest of the county, to the highest and best bidder for the particular use the board determines to be the highest and the best.<sup>96</sup>

However, if the real property's value is \$15,000 or less and, due to its size, shape, location, and value, is of use only to one or more adjacent property owners, the board of county commissioners may effect a private sale after sending notice of its intentions to the adjacent property owners by certified mail.<sup>97</sup> In the event that two or more such owners notify the board of their desire to purchase the property within 10 working days after receiving notice, the board is required to accept sealed bids from each owner and may convey the property to the highest bidder or reject all offers.<sup>98</sup>



As an alternative to either of the foregoing procedures, the board of county commissioners may by ordinance prescribe disposition standards and procedures to be used by the county in selling and conveying real property, provided that the county adopts certain minimum procedures.<sup>99</sup>

## **DISPOSING OF OR LEASING PROPERTY NOT NEEDED FOR ROADS**

---

A board of county commissioners may lease real property owned by the county upon a determination that it is in the best interest of the county.<sup>100</sup> The same competitive bidding procedures applicable to sales of real property also apply to leases of real property.<sup>101</sup>

However, a board may enter into any of the following on such terms and conditions negotiated by the board: (1) negotiate the lease of an airport or seaport facility; (2) modify or extend an existing lease of real property for an additional term not to exceed 25 years, where the improved value of the lease has an appraised value in excess of \$20 million; or (3) lease a professional sports franchise facility financed by revenues received pursuant to section 125.0104 or section 212.20.<sup>102</sup>

A board of county commissioners is authorized and empowered to exchange real property if it determines that the county owns or possesses real property that is not needed for county purposes, and it is in the best interest of the county to exchange such property for other real property that the county desires to acquire for county purposes.<sup>103</sup>

## **MISCELLANEOUS STATUTES CONCERNING CONTRACTING AND PURCHASING**

---

The following state statutes require a competitive procurement process by counties:

- §101.293, Fla. Stat. (2012), Voting Machines and Equipment Purchases.
- §125.012, Fla. Stat. (2012), Transportation and Port Facilities, Concession Franchises—Counties defined in §125.011(1), Fla. Stat. (2012).
- §125.031, Fla. Stat. (2012), Lease or lease—Purchases of Property for Public Purpose—County.
- §125.3401, Fla. Stat. (2012), Purchase, Sale, or Privatization of Water, Sewer, or Wastewater Reuse Utility—County.
- §125.35, Fla. Stat. (2012), Property Sale or Lease—County.
- §125.355, Fla. Stat. (2012), Purchases of Real Property—County.
- §130.01-07, Fla. Stat. (2012), Bonds—County.
- §153.10, Fla. Stat. (2012), et seq., Water and Sewer System Construction Contracts—County.
- §155.12, Fla. Stat. (2012), County Hospitals; general powers of Trustees.
- §157.03-157.07, Fla. Stat. (2012), Drainage Projects—County.
- §190.033, Fla. Stat. (2012), Community Development Districts—Bids required.
- §217.15-19, Fla. Stat. (2012), Federal Surplus Property Procurement—City and county, school board, city and county officers.
- §218.385, Fla. Stat. (2012), Sale of local government bonds.



§218.391, Fla. Stat. (2012), Auditor selection procedures.

§218.415, Fla. Stat. (2012), Bid requirements for local government investments.

§255.20, Fla. Stat. (2012), Local bids and contracts for public construction works—Counties, cities and special districts; projects exceeding \$300,000 or \$75,000 for electrical work.

§255.103, Fla. Stat. (2012), Authorizes public entities to procure construction management services under the same process outlined in section 287.055, Fla. Stat.

§286.043, Fla. Stat. (2012), Airport Automobile Rental Concession—City, county, and other units of local government.

§287.055, Fla. Stat. (2012), “Consultants Competitive Negotiation Act”—(City, county, or school district), regulates contracting with architects, professional engineers, landscape architects, registered land surveyors and design-builders.

§287.093, Fla. Stat. (2012), Permits set asides of up to 10% or more of the total funds allocated for procurement of personal property and services for the purpose of entering into contracts with Minority Business Enterprises.

§489.145, Fla. Stat. (2012), Guaranteed Energy, Water, and Wastewater Performance Savings Contracting Act—State, City, or political subdivision.

§705.103, Fla. Stat. (2012), Abandoned property procedure—City or county.

The following state statutes relate to competitive procurement by counties:

§50.011, Fla. Stat. (2012), et seq., Language of legal and official advertisements.

§50.061, Fla. Stat. (2012), Legal and official advertisements charges by size of counties.

§119.011, Fla. Stat. (2012), Definition of “agency” under public records law includes private corporations acting on behalf of public agencies.

§ 119.71, Fla. Stat. (2012), Public records exemption for sealed bids, proposals, and replies until earlier of agency’s notice of an intended decision or 30 days after the bids, proposals, or final replies are opened.

§218.70-218.80, Fla. Stat. (2012), Local Government Prompt Payment Act—purpose is to provide for prompt payments by local governmental entities, their institutions, and agencies.

§218.80, Fla. Stat. (2012), Public Bid Disclosure Act—requires disclosure on bid documents if fees or permitting are required by the governmental entity; subset act of previously referenced act.

§252.38(3), Fla. Stat. (2012), Emergency management powers of political subdivisions.

§255.05, Fla. Stat. (2012), Bond of Contractor Constructing Public Buildings—County, City or other Public Authority.

§§283.32; 287.045; 336.044, Fla. Stat. (2012), Statutes dealing with recycled products.

§286.011, Fla. Stat. (2012), Sunshine Law—applicable to Bid Evaluation Committees.

§287.042, Fla. Stat. (2012), State Purchasing Contracts.

§287.084, Fla. Stat. (2012), Commodities Purchases, Preference to Florida Businesses when home state or out-of-state vendor has local preference.

§287.087, Fla. Stat. (2012), Preference to businesses with Drug Free Workplace Programs.



§287.133, Fla. Stat. (2012), Public Entity Crimes, prohibits vendors/contractors placed on the state's convicted vendor list from submitting bids/proposals and/or contracting with public entities.

§§336.41; 336.44, Fla. Stat. (2012), describes Invitation's to Bid on county roadwork.

§403.70605, Fla. Stat. (2012), Solid Waste Collection Services in Competition with Private Companies

Chapter 489, Fla. Stat. (2012) *generally*, Contracting—Construction, Electrical and Alarm Systems, and Septic Tanks.

§§627.727; 627.7275, Fla. Stat. (2012), Motor Vehicle Insurance and liability.

The following state statutes relate to expenditures of public funds:

§28.235, Fla. Stat. (2012), authorizes advanced payments by Clerk of Circuit Court pursuant to Chief Financial Officer's rules or procedures.

§129.07, Fla. Stat. (2012), prohibits county commissioners from expending or contracting for more than the amount budgeted in the fund and provides for personal liability for excess indebtedness.

§129.08, Fla. Stat. (2012), prohibits county commissioners from incurring indebtedness or paying a claim not authorized by law.<sup>104</sup>

## NOTES

<sup>1</sup> § 125.01(1), (1)(w), Fla. Stat. (2009).

<sup>2</sup> § 125.86(8), Fla. Stat. (2009).

<sup>3</sup> § 125.01(3), Fla. Stat. (2009).

<sup>4</sup> Ormond v. Jackson, 74 So. 26, 26 (Fla. 1917).

<sup>5</sup> Atty. Gen. Op. 78-95 (1995)(citing Kirkland v. State, 97 So. 502, 508 (Fla. 1923)).

<sup>6</sup> *C.f.*, Atty. Gen. Op. 79-14 (1979) (concluding that under article VII, section 10, a municipality may not lawfully expend public funds to repair privately maintained streets).

<sup>7</sup> Art. VII, § 10(a)-(d), Fla. Const.

<sup>8</sup> Art. VII, § 10, Fla. Const. This has been construed to also restrict indemnification by a city commission. Atty. Gen. Op. 084-103, (Dec. 19, 1984), *but see* American Home Assurance Co. v. Nat'l R.R. Passenger Corp., 908 So.2d 459 (Fla. 2005) (relating to the impact of §768.28, Fla. Stat. (2009)., on sovereign immunity waiver for municipalities).

<sup>9</sup> Jackson Shaw Co. v. Jacksonville Aviation Auth., 8 So. 3d 1076 (Fla. 2008).

<sup>10</sup> Art. VII, §12, Fla. Const.

<sup>11</sup> *Id.*

<sup>12</sup> *C.f.*, Betz v. Jacksonville Transportation Authority, 277 So.2d 769 (Fla. 1973)(regarding city's ability to enter into contract requiring it to pay fees from ad valorem revenue).

<sup>13</sup> §§ 112.311-.326, Fla. Stat. (2009).

<sup>14</sup> § 112.313, Fla. Stat. (2009).

<sup>15</sup> 112.3136(3)(requiring abstention when measure would result in private gain or loss and setting forth procedures for such abstention); *see also* Fla. Commission on Ethics Op. 85-55 (Aug. 8 1985).

<sup>16</sup> § 112.3145(1)(a), (2)(b), (3), Fla. Stat. (2009).

<sup>17</sup> Atty. Gen. Op. 66-9 (1966)

<sup>18</sup> Art. VIII, Fla. Const. (1968).

<sup>19</sup> § 287.012(18); § 288.703(2), Fla. Stat. (2009).

<sup>20</sup> § 288.703(1), Fla. Stat. (2009).

<sup>21</sup> § 287.055, Fla. Stat. (2009).

<sup>22</sup> Certification is governed by section 287.0943, Fla. Stat.

<sup>23</sup> Atty. Gen. Op. 01-65 (2001).



- <sup>24</sup> *City of Port Orange v. Leechase Corp.*, 430 So.2d 534 (Fla. 5th DCA 1983).
- <sup>25</sup> *Marriott Corporation v. Dade County*, 383 So.2d 662 (Fla. 3d DCA 1980).
- <sup>26</sup> §§ 287.055(2)(a), (2)(h), Fla. Stat. (2009).
- <sup>27</sup> § 287.055(2)(f), Fla. Stat. (2009).
- <sup>28</sup> § 287.055(4), Fla. Stat. (2009).
- <sup>29</sup> § 287.055(4), Fla. Stat. (2009).
- <sup>30</sup> § 287.055(5), Fla. Stat. (2009).
- <sup>31</sup> § 287.05, Fla. Stat. (2009).
- <sup>32</sup> § 163.01, Fla. Stat. (2009).
- <sup>33</sup> § 163.01(2), Fla. Stat. (2009).
- <sup>34</sup> The term “public agency” is broadly defined and encompasses most federal, state, and local governmental entities. *See* § 163.01(3)(b)(definition of “public agency”).
- <sup>35</sup> § 163.01(4), Fla. Stat. (2009).
- <sup>36</sup> *See* Atty. Gen. Op. 03-03 (2003) (concluding that two municipalities may not by interlocal agreement agree that one city may use the facilities of the other to hold city commission meetings outside of the geographic boundaries of the city because the city did not have that extraterritorial power); Atty. Gen. Op. 97-10 (1997); Atty. Gen. Op. (1986) 86-13; Atty. Gen. Op. 84-86 (1984); Atty. Gen. Op. 82-1 (1982) (holding that the City of North Lauderdale was without the requisite extraterritorial power to operate and maintain, or contract for the operation and maintenance of a private utility system owned by a private nonprofit corporation for the use and benefit of persons and properties located outside of its corporate limits and to utilize city personnel to carry out such operational functions and services); *but see* Atty. Gen. Op. 84-40 (1984) (where a special district was authorized to extend such power).
- <sup>37</sup> § 163.01(14), Fla. Stat. (2009).
- <sup>38</sup> § 163.01(5), Fla. Stat. (2009).
- <sup>39</sup> § 163.01(6)-(7), Fla. Stat. (2009).
- <sup>40</sup> *See* §§ 163.01(7)(c)(1); 163.01(7)(c)(3); and 163.01(7)(h)(1)-(6), Fla. Stat. (2009).
- <sup>41</sup> Atty. Gen. Op. 95-49 (1995)(concluding that an interlocal agreement between Palm Beach County and the Palm Beach County Health Care district whereby the district would manage and operate the Palm Beach County Home and General Care Facility and provide funding for Medicaid Match in return for annual cash payments from the county does not constitute a transfer of power that would require a referendum as provided in section 4, because the terms of the interlocal agreement provided that the district would not be responsible for any of the county's other health care obligations).
- <sup>42</sup> § 163.01(11), Fla. Stat. (2009).
- <sup>43</sup> *Id.*
- <sup>44</sup> *See* § 125.01, Fla. Stat. (2009). (non-charter counties); Art. VIII, section 1(g), Fla. Const. (charter counties).
- <sup>45</sup> Art. 9, § 5, Fla. Const. *See also* *Crandon v. Hazlett*, 26 So.2d 638, 642 (Fla. 1946).
- <sup>46</sup> *Crandon*, 26 So.2d at 642.
- <sup>47</sup> § 125.01(3), Fla. Stat. (2009). However, counties are expressly authorized to contract with insurance companies to provide hospitalization insurance coverage for its officers and employees. *See* § 112.151, Fla. Stat. (2009).
- <sup>48</sup> *State v. Keller*, 176 So. 176 (1937); *Okeechobee County v. Florida Nat. Bank of Jacksonville*, 150 So. 124 (1933).
- <sup>49</sup> Atty. Gen. Op. 78-130 (1978)(concluding that committee created by motion or resolution of the county commission could not bind the county in contract)(citing Atty. Gen. Op. 78-95 (1978); Atty. Gen. Op. 78-77 (1978); Atty. Gen. Op. 78-68 (1978); *Crandon v. Hazlett*, 26 So.2d 638, 642 (Fla. 1946); *Pinellas County v. Jasmine Plaza, Inc.*, 334 So.2d 639 (Fla. 2d DCA 1976); *Flesch v. Metropolitan Dade County*, 240 So.2d 504 (Fla. 3d DCA 1970); *Barrow v. Holland*, 125 So.2d 749 (Fla. 1960); *Florida Dry Cleaning and Laundry Board v. Economy Cash & Carry Cleaners, Inc.*, 197 So. 550 (Fla. 1940)).
- <sup>50</sup> *See* *Thursby v. Stewart*, 138 So. 742 (1931).
- <sup>51</sup> *See supra* Part a.1.
- <sup>52</sup> *See supra* Part b.2.
- <sup>53</sup> *C.f. City of Tampa v. City of Port Tampa*, 127 So.2d 119 (1961)(interpreting a municipal contract in accordance with general contract law principles).
- <sup>54</sup> *See* *Mayes Printing Co. v. Flowers*, 154 So. 2d 859, 863-64 (Fla. 1<sup>st</sup> DCA 1963).
- <sup>55</sup> *Id.* at 863 (stating that “invoices for purchases may not be split and the statute thus avoided. Were it otherwise, evasion of competitive bidding would be possible with complete impunity.”).



<sup>56</sup> *Id.* (illegal bid splitting occurred where three sections of a counter were separately bid in excess of statutory requirement for competitive purchase pursuant to §125.08, Fla. Stat.); *Armco Drainage and Metal Products, Inc. v. County of Pinellas*, 137 So.2d 234 (Fla. 2d DCA 1962) (County was not estopped to deny claim of bidder where three separate orders for metal resulted in purchase in excess of statutory amount requiring competition).

<sup>57</sup> *Id.* at 863-64.

<sup>58</sup> See *Marriott Corp. v. Metropolitan Dade County*, 383 So. 2d 662 (Fla. 3d DCA 1980).

<sup>59</sup> *Atty. Gen. Op.* 71-366 (1971); *Atty. Gen. Op.* Fla.84-29 (1984) (in absence of a special law or county ordinance, non-charter county is not required to take competitive bids prior to hiring a county attorney);

<sup>60</sup> *Atty. Gen. Op.* 66-9 (1966); *Ackman v. Dade County*, 308 So.2d 622 (Fla. 3d DCA 1975) (no petition for mandamus would lie where there was no clear legal right to the performance of an administrative act, adherence to competitive bidding procedure).

<sup>61</sup> *City of Opa-Locka v. Trustees of Plumbing Ind. Pro. F.*, 193 So.2d 29 (Fla. 3d DCA 1966) (The city could not waive county code provision requiring a bidder to hold an appropriate certificate of competency qualifying him to perform the work proposed by the bid); *Miami Marinas Assn., Inc. v. City of Miami*, 408 So.2d 615 (Fla. 3d DCA 1981) (City charter of the City of Miami required competitive bidding process and prevented award of waterfront property management contract through competitive negotiation instead).

<sup>62</sup> § 287.012, Fla. Stat. (2009). (defines bids for state agencies; however, while this provision is not binding on counties or municipalities, it provides a good reference point).

<sup>63</sup> See *Westinghouse Electric v. Jacksonville Transportation Authority*, 491 So.2d 1238 (Fla. 1st DCA 1986) (requirement that spiral transitions be included in design for people mover system was not exclusionary where testimony indicated they limit lateral jerk of the vehicles making the ride more comfortable for passengers when negotiating curves, and in light of the fact that the flexibility of the price proposal process encouraged interaction and development of the specifications).

<sup>64</sup> See *Robinson's, Inc. v. Short*, 146 So.2d 108 (Fla. 1st DCA 1962) (specifications were too vague where tax collector specification required forms be "securely fastened" where the tax collector knew he would only accept stapling and not gum, glue or crimping. Court held that the specifications must detail to all bidders the standards anticipated, the test the products must meet, and all factors upon which the product will be judged and the award made).

<sup>65</sup> See *Suburban Investment Co. v. Hyde*, 55 So. 76 (1911).

<sup>66</sup> *E.g.*, *Robinson Elec. Co., Inc. v. Dade County*, 417 So.2d 1032 (Fla. 3d DCA 1982) (security in the form of a check rather than a bid bond did not constitute a material variation from the county's invitation for bids and thus could be waived).

<sup>67</sup> *Tropabest Foods, Inc. v. State, Dept. of General Servs.*, 493 So.2d 50 (Fla. 1st DCA 1986).

<sup>68</sup> *Intercontinental Properties, Inc. v. HRS*, 606 So. 2d 380 (Fla. 3d DCA 1992).

<sup>69</sup> *Hotel China & Glassware Co. v. Bd. of Public Instruction of Alachua County*, 130 So.2d 78 (Fla. 1st DCA 1961).

<sup>70</sup> See *State Board of Control v. Clutter Construction Corp.*, 139 So.2d 153 (Fla. 1st DCA 1962).

<sup>71</sup> Compare *Lassiter Construction Co. v. School Board for Palm Beach County*, 395 So.2d 567 (Fla. 4th DCA 1981) (relief denied where error in transposing figure for concrete work from bid worksheet to final bid summary sheet was negligently made by the president himself; error was less than 4% of intended bid, and he would still receive some profit); with *State Board of Control v. Clutter Construction Corporation*, 139 So.2d 153 (Fla. 1st DCA 1962) (Contractor permitted to withdraw bid where complying in the face of honest mistake of \$100,000.00 would work severe hardship upon the bidder, error was not the result of gross negligence or willful inattention, and the error was discovered and communicated before acceptance).

<sup>72</sup> *Milander v. Department of Water and Sewers of the City of Hialeah*, 456 So.2d 588 (Fla. 3d DCA 1984) (City was free to reject all bids and not sell its property to anyone after request for submission of bids on real property); *Couch Construction Co. v. Dept. of Transportation*, 361 So.2d 172 (Fla. 1st DCA 1978) (Public body should reserve the right to reject all bids when guidelines or specifications are silent on rejection). See *Santa Rosa Island Authority v. Pensacola Beach Pier, Inc.*, 834 So.2d 261 (Fla. 1st DCA 2003) (An implied covenant of fair dealing is not the applicable standard to be applied in reviewing a decision to terminate negotiations for a contract after the receipt of proposals. The correct standard is whether there is illegality, fraud, oppression, or misconduct.).

<sup>73</sup> *Rollins Services v. Metropolitan Dade County*, 281 So.2d 520 (Fla. 3d DCA 1973) (where the contract provided that "the authority may at its option and discretion terminate the contract at any time without any default on the part of the contractor by giving written notice to the contractor and a surety at least ten (10) days prior to the effective



date of the termination set forth in notice,” such unilateral termination provision can be enforced because specifically reserved in the contract).

<sup>74</sup> *City of Opa Locka v. Trustees of Plumbing Industry Promotion Fund*, 193 So. 2d 29, 32 (Fla. 3d DCA 1966).

<sup>75</sup> *Intercontinental Properties, Inc. v. HRS*, 606 So. 2d 380 (Fla. 3d DCA 1992).

<sup>76</sup> §255.05, Fla. Stat. (2009).

<sup>77</sup> *Silver Express Co. v. Dist. Bd. of Lower Tribunal Trustees of Miami-Dade Cmty. College*, 691 So.2d 1099 Fla. 3d DCA 1997).

<sup>78</sup> *Valle-Axelberd and Assoc., Inc., v. Metropolitan Dade County*, 440 So.2d 606 (Fla. DCA 1983).

<sup>79</sup> *Culpepper v. Moore*, 40 S0.2d 366 (Fla. 1949).

<sup>80</sup> *Liberty County v. Baxter's Asphalt & Concrete, Inc.*, 421 So.2d 505 (Fla. 1982).

<sup>81</sup> *Suburban Inv. Co v. Hyde*, 55 So. 76 (Fla. 1911).

<sup>82</sup> § 50.031, Fla. Stat. (2009).

<sup>83</sup> § 50.041, Fla. Stat. (2009).

<sup>84</sup> §725.01, Fla. Stat. (2009); 672.201, Fla. Stat (2009).

<sup>85</sup> §627.201, Fla. Stat. (2009).

<sup>86</sup> *Berbusse v. North Broward Hospital Dist.*, 117 So.2d 550 (Fla. 2d DCA 1960).

<sup>87</sup> *Robinson Elec. Co., Inc. v. Dade County*, 417 So.2d 1032 (Fla. 3d DCA 1982).

<sup>88</sup> *Central Florida Equip. Rentals of Dade County, Inc. v. Lowell Dunn Co.*, 586 So.2d 1171 (Fla. 3d DCA 1991).

<sup>89</sup> § 287.133(3), Fla. Stat. (2009).

<sup>90</sup> § 287.055, Fla. Stat. (2009).

<sup>91</sup> § 287.055, Fla. Stat. (2009).

<sup>92</sup> § 287.055, Fla. Stat. (2009).

<sup>93</sup> § 287.055 (i)(c), Fla. Stat. (2009).

<sup>94</sup> § 287.055, Fla. Stat. (2009).

<sup>95</sup> § 287.055(4)(c), Fla. Stat. (2009).

<sup>96</sup> §§ 125.35(1)(a), (1)(b), Fla. Stat. (2009).

<sup>97</sup> § 125.35(2), Fla. Stat. (2009).

<sup>98</sup> *Id.*

<sup>99</sup> § 125.35(2), Fla. Stat. (2009).

<sup>100</sup> § 125.35(1)(a), Fla. Stat. (2009).

<sup>101</sup> § 125.35(1)(a), Fla. Stat. (2009).

<sup>102</sup> § 125.35(b), Fla. Stat. (2009).

<sup>103</sup> § 125.37, Fla. Stat. (2009).

<sup>104</sup> *Mayes Printing Company vs. Flowers*, 154 So.2d 859 (Fla. 1st DCA 1963).







---

# 10. *Economic Development*

---

*Diane Scholz and contributing authors from  
Enterprise Florida, CareerSource Florida  
and the Florida Department of Economic Opportunity*

---

## ENTERPRISE FLORIDA

---

Enterprise Florida (EFI) was formed in July 1996, when Florida became the first state in the nation to close its Commerce Department and place principal responsibility for economic development, international trade and statewide business marketing in the hands of a public-private partnership organization.

EFI is a not-for-profit public-private partnership between Florida's business and government leaders and is the principal economic development organization for the State of Florida. It is governed by a board of directors, which is chaired by Florida's Governor and is comprised of top business, economic development and government leaders. In 2011, Florida passed legislation to merge minority business development, tourism marketing (VISITFLORIDA) and sports marketing (Florida Sports Foundation) under EFI. Space Florida is now also linked to EFI through its board, which consists of the twelve appointed members on the EFI board.

EFI focuses on attracting, retaining, and growing businesses in Florida with high wage jobs and to that end works collaboratively with a statewide network of regional and local economic development organizations to continually improve Florida's business climate and ensure its global competitiveness.

### ORGANIZATION

Enterprise Florida's Board of Directors is made up of 62 business, government, and community leaders. There are 12 Governor, Senate and House appointees to the board that are all subject to Senate confirmation. State statute requires that appointments be made with consideration of business, geographic, ethnic, and racial diversity. Members are appointed for four-year terms and are eligible for reappointment. Directors include representation from the Legislature and from the private sector, the Commissioner of Education, CFO, Commissioner of Agriculture, Attorney General, the Secretary of State, and other at-large members. The Governor is the Chairman of the Board and the Vice Chairman is an elected private sector leader. Enterprise Florida also collaborates with economic development stakeholders throughout the state through its Stakeholders Council. The President and CEO of Enterprise Florida is hired under a multiyear contract by the Board of Enterprise Florida, but also serves at the pleasure of the Governor. For additional information visit: [www.eflorida.com/board](http://www.eflorida.com/board)

Enterprise Florida manages the state's focused economic development efforts through eight divisions and works closely with the Department of Economic Opportunity & CareerSource to coordinate efforts to create jobs.

### SOURCES OF FUNDING

Enterprise Florida's activities are regularly measured and reported through its performance-based contract with the Governor's Department of Economic Opportunity (DEO). The state of Florida invests annually in Enterprise Florida's operations budget, which includes amounts appropriated for Florida



Sports Foundation and Minority Business Development. The private sector augments the state's efforts by joining as corporate investors on the public-private board.

## COUNTY AND REGIONAL PRIMARY PARTNERS

Enterprise Florida partners with all 67 Florida counties as well with other regional economic development organizations. Enterprise Florida requires an MOU (Memorandum of Understanding) with one primary partner economic development organization per county and one regional partner per the 8 regions. The county decides/appoints the organization they want representing their county for business retention and recruitment efforts in their county.

Below is the list of county and regional partners. For a more detailed list, visit [www.enterpriseflorida.com](http://www.enterpriseflorida.com).

**Table 10.1. Enterprise Florida County and Regional Partners.**

|  |  |
|--|--|
| Baker County Development Commission                        | Jackson County Development Council, Inc.                   |
| Bay County Economic Development Alliance                   | Jefferson County Economic Development Council              |
| Beacon Council   | Lafayette County Chamber of Commerce                       |
| Bradenton Area Economic Development Corporation            | Lake County Economic Development                           |
| Business Development Board of Martin County                | Lee County Office of Economic Development                  |
| Business Development Board of Palm Beach County Inc.       | Liberty County Chamber of Commerce                         |
| Calhoun County Chamber of Commerce                         | Madison County Development Council                         |
| Central Florida Development Council                        | Manatee County Economic Development Council                |
| Clay County Economic Development                           | Marathon Chamber of Commerce                               |
| Collier County Office of Business and Economic Development | Nassau County Economic Development Board                   |
| Columbia County Economic Development Department            | Nature Coast Business Development Council Inc.             |
| Desoto County Economic Development                         | North Florida Regional Chamber of Commerce/Bradford County |
| Dixie County Chamber of Commerce                           | Ocala-Marion County Chamber and Economic Partnership       |
| Economic Development Authority for Citrus County           | Okeechobee EDC   |
| Economic Development Commission of Florida's Space Coast   | Orlando Economic Development Commission                    |
| Economic Development Council of Okaloosa County            | Osceola County Economic Development Department             |
| Economic Development Office of Charlotte County            | Pasco Economic Development Council                         |
| EDC of Sarasota County                                     | Pinellas County Economic Development                       |
| Flagler County Department of Economic Opportunity          | Putnam County Chamber of Commerce                          |
| Franklin County Commission                                 | Santa Rosa Economic Development                            |
| Gadsden County Development Council                         | Seminole County Economic Development                       |



|  |  |
|--|--|
| Gainesville Area Chamber of Commerce             | St. John's County Department of Economic Development |
| Gilchrist County Chamber of Commerce             | St. Lucie Economic Development Council               |
| Glades County Economic Development Council Inc.  | Sumter County Economic Development                   |
| Greater Fort Lauderdale/Broward Alliance         | Suwannee County Office of Economic Development       |
| Greater Pensacola Chamber                        | Tallahassee-Leon County Office of Economic Vitality  |
| Gulf County Economic Development Coalition       | Tampa Hillsborough Economic Development Council      |
| Hamilton County Development Authority            | Taylor County Development Authority                  |
| Hardee County Economic Development Authority     | Union County Board of County Commission              |
| Hendry County Economic Development Council, Inc. | Volusia County Department of Economic Development    |
| Hernando County Office of Economic Development   | Wakulla County Economic Development Council          |
| Highlands County Economic Development Commission | Walton County Economic Development Alliance          |
| Holmes County Development Commission             | Washington County Chamber of Commerce                |
| Indian River Chamber of Commerce                 |  |

**Table 10.2. Economic Development Incentives Granted by County Governments in 2015-2016.**

| County    | Value of Direct Financial Incentives* | Value of Indirect Financial Incentives** | Value of Fee-Based and Tax-Based Incentives | Below Market Rate for Leases or Deed for Real Property | Total Value of All Incentives |
|-----------|---------------------------------------|--|---|--|-------------------------------|
| Alachua   | \$274,000                             | \$0                                      | \$0   | \$0  | \$274,000                     |
| Baker     | \$0                                   | \$0                                      | \$0   | \$0  | \$0 or < \$25,000             |
| Bay       | \$0                                   | \$0                                      | \$162,746                                   | \$0  | \$162,746                     |
| Bradford  | \$0                                   | \$0                                      | \$0   | \$0  | \$0 or < \$25,000             |
| Brevard   | \$2,737,000                           | \$1,400,050                              | \$149,013                                   | \$0  | \$4,286,063                   |
| Broward   | \$59,000                              | \$1,063,650                              | \$0   | \$0  | \$1,122,650                   |
| Calhoun   | \$0                                   | \$0                                      | \$0   | \$0  | \$0 or < \$25,000             |
| Charlotte | \$0                                   | \$0                                      | \$0   | \$0  | \$0 or < \$25,000             |
| Citrus    | \$32,533                              | \$0                                      | \$0   | \$0  | \$32,533                      |
| Clay      | \$176,722                             | \$100,000                                | \$0   | \$0  | \$276,722                     |
| Collier   | \$337,334                             | \$522,615                                | \$0   | \$0  | \$859,949                     |
| Columbia  | \$0                                   | \$0                                      | \$450,406                                   | \$24,378   | \$474,784                     |
| DeSoto    | \$0                                   | \$0                                      | \$0   | \$0  | \$0 or < \$25,000             |
| Dixie     | \$0                                   | \$0                                      | \$0   | \$0  | \$0 or < \$25,000             |
| Duval     | \$4,849,803                           | \$0                                      | \$0   | \$0  | \$4,849,803                   |
| Escambia  | \$5,873,639                           | \$1,011,828                              | \$1,521,384                                 | \$0  | \$8,406,851                   |
| Flagler   | \$0                                   | \$29,000                                 | \$0   | \$0  | \$29,000                      |
| Franklin  | \$0                                   | \$0                                      | \$0   | \$0  | \$0 or < \$25,000             |



**Table 10.2. Economic Development Incentives Granted by County Governments in 2015-2016.**

| <b>County</b> | <b>Value of Direct Financial Incentives*</b> | <b>Value of Indirect Financial Incentives**</b> | <b>Value of Fee-Based and Tax-Based Incentives</b> | <b>Below Market Rate for Leases or Deed for Real Property</b> | <b>Total Value of All Incentives</b> |
|---------------|--|---|--|---|--------------------------------------|
| Gadsden       | \$0  | \$587,575                                       | \$0  | \$0   | \$587,575                            |
| Gilchrist     | \$0  | \$0   | \$0  | \$0   | \$0 or < \$25,000                    |
| Glades        | \$0  | \$0   | \$0  | \$0   | \$0 or < \$25,000                    |
| Gulf          | \$0  | \$0   | \$0  | \$0   | \$0 or < \$25,000                    |
| Hamilton      | \$0  | \$0   | \$0  | \$0   | \$0 or < \$25,000                    |
| Hardee        | \$410,764                                    | \$0   | \$0  | \$0   | \$410,764                            |
| Hendry        | \$0  | \$85,000  | \$3,301  | \$0   | \$88,301                             |
| Hernando      | \$389,156                                    | \$0   | \$0  | \$0   | \$389,156                            |
| Highlands     | \$0  | \$0   | \$0  | \$0   | \$0 or < \$25,000                    |
| Hillsborough  | \$983,416                                    | \$1,380,118                                     | \$655,686  | \$0   | \$3,019,220                          |
| Holmes        | \$0  | \$0   | \$0  | \$0   | \$0 or < \$25,000                    |
| Indian River  | \$183,668                                    | \$917,935                                       | \$259,677  | \$0   | \$1,361,280                          |
| Jackson       | \$0  | \$227,020                                       | \$0  | \$0   | \$227,020                            |
| Jefferson     | \$825,000                                    | \$82,000  | \$0  | \$0   | \$907,000                            |
| Lafayette     | \$0  | \$0   | \$0  | \$0   | \$0 or < \$25,000                    |
| Lake          | \$0  | \$0   | \$0  | \$0   | \$0 or < \$25,000                    |
| Lee           | \$192,000                                    | \$100,000                                       | \$0  | \$0   | \$292,000                            |
| Leon          | \$28,098                                     | \$0   | \$21,105   | \$4,085   | \$53,288                             |
| Levy          | \$0  | \$0   | \$0  | \$0   | \$0 or < \$25,000                    |
| Liberty       | \$0  | \$0   | \$0  | \$0   | \$0 or < \$25,000                    |
| Madison       | \$0  | \$0   | \$0  | \$0   | \$0 or < \$25,000                    |
| Manatee       | \$712,400                                    | \$299,880                                       | \$0  | \$0   | \$1,012,280                          |
| Marion        | \$150,400                                    | \$245,000                                       | \$0  | \$0   | \$395,400                            |
| Martin        | \$0  | \$0   | \$0  | \$0   | \$0 or < \$25,000                    |
| Miami-Dade    | \$2,445,164                                  | \$0   | \$0  | \$0   | \$2,445,164                          |
| Monroe        | \$0  | \$0   | \$0  | \$0   | \$0 or < \$25,000                    |
| Nassau        | \$13,072                                     | \$0   | \$6,757  | \$0   | \$19,829                             |
| Okaloosa      | \$0  | \$132,933                                       | \$98,644   | \$48,356  | \$279,933                            |
| Okeechobee    | \$0  | \$0   | \$0  | \$0   | \$0 or < \$25,000                    |
| Orange        | \$1,005,675                                  | \$1,762,236                                     | \$25,000   | \$0   | \$2,792,911                          |
| Osceola       | \$68,229                                     | \$1,235,773                                     | \$0  | \$0   | \$1,304,002                          |
| Palm Beach    | \$102,959                                    | \$1,625,470                                     | \$2,335,342  | \$0   | \$4,063,771                          |
| Pasco         | \$493,499                                    | \$1,074,000                                     | \$0  | \$0   | \$1,567,499                          |
| Pinellas      | \$131,222                                    | \$767,086                                       | \$7,170  | \$0   | \$905,478                            |
| Polk          | \$156,000                                    | \$1,039,461                                     | \$585,599  | \$0   | \$1,781,060                          |
| Putnam        | \$0  | \$0   | \$0  | \$0   | \$0 or < \$25,000                    |



**Table 10.2. Economic Development Incentives Granted by County Governments in 2015-2016.**

| County     | Value of Direct Financial Incentives* | Value of Indirect Financial Incentives** | Value of Fee-Based and Tax-Based Incentives | Below Market Rate for Leases or Deed for Real Property | Total Value of All Incentives |
|------------|---------------------------------------|--|---|--|-------------------------------|
| Santa Rosa | \$0                                   | \$0                                      | \$0   | \$630,000  | \$630,000                     |
| Sarasota   | \$89,687                              | \$1,006,782                              | \$243,273                                   | \$1,500,000  | \$2,839,742                   |
| Seminole   | \$95,000                              | \$796,490                                | \$0   | \$0  | \$891,490                     |
| St. Johns  | \$87,762                              | \$125,000                                | \$0   | \$0  | \$212,762                     |
| St. Lucie  | \$224,177                             | \$250,000                                | \$269,232                                   | \$0  | \$743,409                     |
| Sumter     | \$66,000                              | \$0                                      | \$0   | \$0  | \$66,000                      |
| Suwannee   | \$0                                   | \$0                                      | \$265,305                                   | \$0  | \$265,305                     |
| Taylor     | \$0                                   | \$0                                      | \$0   | \$0  | \$0 or < \$25,000             |
| Union      | \$0                                   | \$0                                      | \$0   | \$0  | \$0 or < \$25,000             |
| Volusia    | \$242,550                             | \$482,500                                | \$0   | \$0  | \$725,050                     |
| Wakulla    | \$0                                   | \$0                                      | \$0   | \$0  | \$0 or < \$25,000             |
| Walton     | \$0                                   | \$137,000                                | \$6,335                                     | \$0  | \$143,335                     |
| Washington | \$0                                   | \$0                                      | \$30,000                                    | \$0  | \$30,000                      |

*\*Direct financial incentives provide monetary assistance to a business from the local government or through a local government-funded economic development organization*

*\*\* Indirect financial incentives include grants and loans to local government entities, nonprofits, and organizations that are used to spur business investment or development*

## REGIONAL ECONOMIC DEVELOPMENT ORGANIZATIONS

- Cornerstone Regional Development Partnership
- Florida's Great Northwest
- Florida Heartland Economic Region of Opportunity
- Metro Orlando Economic Development Commission
- North Florida Economic Development Partnership
- Opportunity Florida
- Tampa Bay Partnership
- Southwest Florida Economic Development Partnership

## BUSINESS INCENTIVES

**Qualified Target Industry Tax Refund (QTI):** The Qualified Target Industry Tax Refund incentive is available for companies that create high wage jobs in targeted high value-added industries. This incentive includes refunds on corporate income, sales, ad valorem, intangible personal property, insurance premium, and certain other taxes. Pre-approved applicants who create jobs in Florida receive tax refunds of \$3,000 per net new Florida full-time equivalent job created; \$6,000 in a Rural Community (county). For businesses paying 150 percent of the average annual wage, add \$1,000 per job; for businesses paying 200 percent of the average annual salary, add \$2,000 per job; businesses falling within a designated high impact sector or increasing exports of its goods through a seaport or airport in the state by at least 10 percent in value or tonnage in each year of receiving a QTI refund, add \$2,000 per job; projects locating in a designated Brownfield area (Brownfield Bonus) can add \$2,500 per job. The selected local community contributes 20 percent of the total tax refund. No more than 25 percent of the



total refund approved may be taken in any single fiscal year. New or expanding businesses in selected targeted industries or corporate headquarters are eligible.

**Qualified Defense and Space Contractor Tax Refund (QDSC):** Florida is committed to preserving and growing its high technology employment base by giving Florida defense, homeland security, and space business contractors a competitive edge in consolidating contracts or subcontracts, acquiring new contracts, or converting contracts to commercial production. Pre-approved applicants creating or retaining jobs in Florida may receive tax refunds of \$3,000 per net new Florida full-time equivalent job created or retained; \$6,000 in a rural county. For businesses paying 150 percent of the average annual wage, add \$1,000 per job; for businesses paying 200 percent of the average annual salary, add \$2,000 per job.

**Capital Investment Tax Credit (CITC)** The Capital Investment Tax Credit is used to attract and grow capital-intensive industries in Florida. It is an annual credit, provided for up to twenty years, against the corporate income tax. Eligible projects are those in designated high-impact portions of the following sectors: advanced manufacturing, clean energy, biomedical technology, financial services, information technology, silicon technology, transportation equipment manufacturing, or be a corporate headquarters facility. Projects must also create a minimum of 100 jobs and invest at least \$25 million in eligible capital costs. Eligible capital costs include all expenses incurred in the acquisition, construction, installation, and equipping of a project from the beginning of construction to the commencement of operations. The level of investment and the project's Florida corporate income tax liability for the 20 years following commencement of operations determines the amount of the annual credit.

**High Impact Performance Incentive Grant (HIPI):** The High Impact Performance Incentive is a negotiated grant used to attract and grow major high impact facilities in Florida. Grants are provided to pre-approved applicants in certain high-impact sectors designated by the Florida Department of Economic Opportunity (DEO). In order to participate in the program, the project must: operate within designated high-impact portions of the following sectors— advanced manufacturing, clean energy, corporate headquarters, financial services, life sciences, semiconductors, and transportation equipment manufacturing; create at least 50 new full-time equivalent jobs (if a R&D facility, create at least 25 new full-time equivalent jobs) in Florida in a three-year period; and make a cumulative investment in the state of at least \$50 million (if a R&D facility, make a cumulative investment of at least \$25 million) in a three-year period. Once recommended by Enterprise Florida, Inc. (EFI) and approved by DEO, the high impact business is awarded 50 percent of the eligible grant upon commencement of operations and the balance of the awarded grant once full employment and capital investment goals are met.

**Sales Tax Exemptions:** Florida offers several sales and use tax exemptions through the Florida Department of Revenue to include: Tax Exemption for Research and Development Equipment; Machinery and Equipment Sales Tax Exemption; Electricity and Steam Sales Tax Exemption; and Aviation Tax Exemptions. Enterprise Florida is available to shepherd businesses and communities through the entire application process.

## **WORKFORCE TRAINING INCENTIVES**

**Quick Response Training (QRT):** Quick Response Training is an employer-driven training program designed to assist new value-added businesses and provide existing Florida businesses the necessary training for expansion. A state educational facility – community college, area technical center, school district or university – is available to assist with application and program development or delivery. The educational facility will also serve as fiscal agent for the project. The company may use in-house training, outside vendor training programs or the local educational entity to provide training. Reimbursable training expenses include: instructors' and trainers' wages, curriculum development, and textbooks/manuals. This program is customized, flexible, and responsive to individual company needs. To learn more about the QRT program, visit [CareerSource Florida](#).

**Incumbent Worker Training Program (IWT):** Incumbent Worker Training is a program that provides training to currently employed workers to keep Florida's workforce competitive in a global



economy and to retain existing businesses. The program is available to all Florida businesses that have been in operation for at least one year prior to application and require skills upgrade training for existing employees. Priority is given to businesses in targeted industries, HUB Zones, Inner City Distressed areas, Rural Counties and areas, and Brownfield areas. For additional information on the IWT program, visit [CareerSource Florida](#).

## **SPECIAL OPPORTUNITY INCENTIVES**

**Rural Incentives:** Florida encourages growth throughout the state by offering increased incentive awards and lower wage qualification thresholds in its rural counties. Additionally, a Rural Community Development Revolving Loan Fund and Rural Infrastructure Fund exist to meet the special needs that businesses encounter in rural counties.

**Urban Incentives:** Florida offers increased incentive awards and lower wage qualification thresholds for businesses locating in many urban core/inner city areas that are experiencing conditions affecting the economic viability of the community and hampering the self-sufficiency of the residents.

**Brownfield Incentives:** Florida offers incentives to businesses that locate on a brownfield site with a Brownfield Site Rehabilitation Agreement (BSRA). The Brownfield Redevelopment Bonus Refund is available to encourage Brownfield redevelopment and job creation. Approved applicants receive tax refunds of up to \$2,500 for each job created.

## **FLORIDA'S WORKFORCE DEVELOPMENT<sup>1</sup>**

---

Florida's workforce development system is a major contributor to national, state and local economic recovery and growth efforts. The system includes CareerSource Florida Inc., the statewide board of business and government leaders charged with setting state policy; the Department of Economic Opportunity, the state agency responsible for administrative and fiscal affairs and policy implementation; and 24 Regional CareerSource Boards, which oversee the design and delivery of CareerSource services to businesses, job seekers and workers at nearly 100 One-Stop Career Centers throughout the state.

Created by the Florida Workforce Innovation Act of 2000 (WIOA), the system is designed to foster public-private partnership and leadership in responding — through demand-driven, market-relevant strategies and services — to the employment and training needs of businesses, job seekers and workers.

The legislative cornerstones for the publicly funded state system — the federal Workforce Investment and Opportunities Act of 1998 and the Florida Workforce Innovation Act, Chapter 445 Florida Statutes — provide for state and local flexibility in addressing workforce demands and priorities.

CareerSource Florida's workforce vision is for Florida to be the global leader for talent. "The Career Source Florida Board of Directors advances policies and initiatives to increase the prosperity of workers and employers, reduce welfare dependency, increase economic self-sufficiency, and enhance worker productivity and business competitiveness."

While CareerSource Florida provides system-wide oversight and leadership, the contributions of every entity, local and state, are integral to overall effectiveness in promoting an environment that aligns the talent development needs of businesses and job seekers, cultivates a world-class talent base for every business (particularly those in targeted sectors and infrastructure industries, such as energy, healthcare and transportation, that underpin the economy); and makes relevant training and education as well as employment and career advancement opportunities available to Floridians.



## CAREERSOURCE FUNDING, ROLES AND RESPONSIBILITIES

### CareerSource Funding

The federal Workforce Investment and Opportunity Act of 2014 (WIOA) aims “to consolidate, coordinate, and improve employment, training, literacy and vocational rehabilitation programs in the United States.” The Act has five titles, the first of which authorizes the nation’s public workforce development system. “Title 1 – Workforce Investment Systems” authorizes state and local Workforce Investment Boards to establish a formula by which funds for youth, adult and dislocated workers’ programs flow from the federal level, through the states and to the local level; establishes performance metrics; and authorizes the nation’s youth workforce development and One-Stop Career Center systems.

The majority of Florida’s workforce development funding is federal and received annually by the state, in several streams with specific purposes supporting job search, job placement and training needs of job seekers as well as business services such as talent matching and human resources support. Most of these funds, 90 percent in fiscal year 2016-17, are passed on to the state’s 24 local CareerSource Boards for local service delivery. The remaining 10 percent may be retained at the state level for use by the Governor to address statewide workforce needs. The largest funding streams – Workforce Investment and Opportunity Act, Wagner-Peyser and Temporary Assistance for Needy Families – support the majority of the state’s CareerSource services.

- **Workforce Investment and Opportunity Act** funds provide core, intensive and training services to adults, youth, dislocated workers and people facing employment barriers or who have low income. Core services may include activities such as job search assistance and planning or resume help, while intensive services may include more targeted career guidance and planning as well as individual or group counseling. Training services may include programs to help CareerSource customers upgrade skills to better their chances of getting a job or advancing in their current position. Training services also may include customized training to help businesses provide incumbent employees or new hires with the training needed for the business to remain competitive.
- **Wagner-Peyser** funds support labor exchange services at local One-Stop Career Centers to place people in employment by providing a variety of placement-related services at no cost to job seekers and employers seeking qualified workers to fill vacancies. These funds also support public outreach for Employ Florida Marketplace (EFM), Florida’s labor exchange system, which helps to link CareerSource services and partners helping job seekers and businesses connect to employment and training resources.
- **Temporary Assistance for Needy Families (TANF)** funds serve low-income families with children. TANF strongly emphasizes “work first,” combining time limits for participation and sanctions with added assistance in obtaining needed training, starting work, receiving childcare, transportation and transitional supports to retain employment, advance and become self-sufficient.

Other funding streams support dedicated veterans’ employment assistance programs and assist agencies with costs associated with operating the Food Stamp program and administering Reemployment Assistance services.

### Roles and Responsibilities

Opportunities to set the policy direction for the federal CareerSource funds that flow into states exist at multiple levels of government. CareerSource Florida roles and responsibilities are designated by both federal and state law. Roles of state and local elected officials include the following:



Florida's Governor:

- Is liable for workforce funds received by the state. To manage those funds, the Governor designates a state agency – the Department of Economic Opportunity – to receive and disperse the money.
- May align a wide range of funding streams with WIOA funds, creating a core CareerSource development and delivery system and supporting related programs. For instance, the Governor has the option under Title 5 of the WIOA to develop a unified plan covering multiple funding streams within his/her purview. Governors also may go beyond joint planning and require One-Stop Career Centers to be the only delivery point for CareerSource programs under direct state control.
- Is responsible for appointing members and serving on the Board of Directors for CareerSource Florida, the state Workforce Investment Board. CareerSource Florida must produce a State Plan outlining the state's workforce delivery system and submit it to the U.S. Department of Labor Employment & Training Administration for approval.
- Must approve a Chief Elected Official's request to appoint additional members to the Board of Directors of local CareerSource Boards above the minimum required membership established by the WIOA. The Governor also may remove a local CareerSource Board member or executive director for cause.
- Has discretion over funding for statewide employment and training activities and for statewide response to layoffs, called Rapid Response.

Each CareerSource board's Chief Elected Official (CEO):

- Is designated in an interlocal operating agreement covering each of Florida's 24 CareerSource local areas. The CEO's role is critical, as the vast majority of the funds flow to the local level to be invested in alignment with a local plan.
- Is liable for CareerSource funds, which can be administered either by local government or by a fiscal agent designated by the CEO. Local CareerSource Boards must receive CEO approval of annual budgets and must submit them to CareerSource Florida for review.
- Appoints local CareerSource Board members, who are accountable to the CEO for planning and oversight of public CareerSource services delivered in the region.
- Has control over local resource alignment as well as the opportunity to facilitate the connection of WIOA programs with schools, post-secondary institutions, public housing, and other human service agencies and other people-serving entities or organizations.
- Collaborates with local CareerSource Boards to develop the local plan and also approves the plan. This plan should be based on the local labor market and CareerSource needs and aligned with local priorities, which would be defined by the CEO or board of local elected officials. Typically, the local CareerSource board also develops a strategy, documented in the local plan, for connecting employers with services available through the public workforce development system.
- Has many opportunities to leverage resources to achieve economic development goals. Since most CareerSource Florida local boards cover areas governed by multiple elected officials, elected officials are encouraged to collaborate to create a comprehensive economic development plan for their communities. Additionally, local CareerSource Boards are able to inform economic development plans for their communities and invest in workforce development strategies aligned with economic development goals.



The Florida Legislature:

- Must approve the receipt and distribution of federal funding. The Legislature also should be aware of the state plan (or the unified plan, if one is developed), which is the operating blueprint for the state's workforce investment system. The plan also may include discretionary talent development programs that would be part of the Governor's overall budget request.
- Has two representatives – one from the Florida Senate and one from the Florida House of Representatives – who serve on the CareerSource Florida Board of Directors. They are appointed by the Senate President and House Speaker.

## FLORIDA'S WORKFORCE SYSTEM PARTNERS

### CareerSource Florida

The WIOA requires each state to have a statewide workforce investment board. CareerSource Florida fulfills this role. The Board of Directors is composed of a majority of private sector business leaders who are volunteers and appointed by the Governor – at least one-half must be representative of small businesses and at least five members must have economic development experience. The board also includes one member from each legislative chamber, the directors of the Department of Economic Opportunity and the Agency for Persons with Disabilities, the Florida Commissioner of Education and secretaries of Elder Affairs, Children and Families and Juvenile Justice. All members serve voluntarily and are eligible to serve no more than two, three-year terms. CareerSource Florida's governing board and councils meet quarterly. In addition to the Board of Directors, the current governance structure includes an Executive Committee and three policy councils, Finance and Administration, Global Talent Competitiveness and Performance and Accountability.

The board is led by Chairman Kevin Doyle. Supporting the board is a professional staff led by President/CEO Michelle Dennard. Through demand-driven, business-led strategies and investment, CareerSource Florida focuses on statewide strategies for addressing today's and tomorrow's talent needs for Florida. Examples of statewide initiatives funded and advanced by CareerSource Florida include two programs within FloridaFLEX, the Employ Florida Marketplace program and *Hiring Florida's Heroes* program.

**FloridaFLEX** is comprised of Quick Response Training and Incumbent Worker Training grants which encompasses both the needs of new and existing employers and employees which makes it *flexible*.

- **Quick Response Training (QRT) Grants:** Through partial reimbursement, this nationally recognized program provides customized training for new or expanding businesses. The QRT program has already helped more than 700 businesses in Florida increase productivity and profitability with well-trained new hires. The grants have helped fund training for more than 123,500 employees over the last 20 years. \$9 million has been allocated for the Quick Response Training program in 2018/2019 with a maximum of \$500,000 per grant/per company. Applications are reviewed on a first-come, first-served basis until available funding has been awarded. Priority will be given to businesses applying for the first time. A notification will be posted on [careersourceflorida.com](http://careersourceflorida.com) when funds are no longer available.
- **Incumbent Worker Training (IWT) Grants:** Incumbent Worker Training grants help established businesses maintain a competitive workforce by partially reimbursing training to upgrade employees' skills. Businesses need only one full-time employee to potentially qualify. In 2017-2018 the IWT program awarded \$4.3 million through 161 grants to train 5,431 employees. From July 1, 2018, through June 30, 2019, the maximum amount a company can receive through an Incumbent Worker Training grant is \$200,000. If a company has more than



one location in the state of Florida, operating under different Federal Employer Identification Numbers (FEIN), each location will be considered as a separate company and may submit separate grant applications and receive separate awards.

- The current allocation in the state budget is \$9 million which will provide funding in support of new jobs and provide skills upgrade training existing full-time employees. Trainees' wages have increased more than 25 percent on average within a year of completing IWT-supported training.
- **The Employ Florida Marketplace (EFM):** The Employ Florida Marketplace at [www.EmployFlorida.com](http://www.EmployFlorida.com) is the state's comprehensive online employment resource and virtual gateway to CareerSource services and resources, providing access 24 hours a day, seven days a week at no cost. More than 100,000 Florida companies are registered and use the Marketplace for employee recruitment, screening and training services and resources. The Marketplace provides businesses access to more than 400,000 job seekers' resumes; job seekers can access more than 150,000 job listings as well as resume building assistance, skills assessment tools and more.
- **Hiring Florida's Heroes:** A partnership between Workforce Florida, the Florida National Guard and the departments of Economic Opportunity, Military Affairs and Veterans Affairs as well as leading state business organizations, *Hiring Florida's Heroes* connects returning National Guardsmen and military veterans with employers using a toll-free hotline (866-352-2345) and website – [veterans.employflorida.com](http://veterans.employflorida.com). When employers call, they are connected to a workforce specialist who can directly assist them by helping enter job listings, providing referrals for qualified candidates and creating customized lists of qualified candidates based on the skill sets they need. The point of contact for this program is DEO Shawn Forehand at 850.921.3867 or [Shawn.Forehand@deo.myflorida.com](mailto:Shawn.Forehand@deo.myflorida.com) or access online information at: <https://veteran.employflorida.com/vosnet/Default.aspx##>

At both the state and local levels, working collaboratively with education partners is critical to improving Florida's talent pipeline and talent supply. System-wide performance and accountability also are paramount. Through its evaluation of outcomes and financial resources, CareerSource Florida measures performance by local CareerSource Boards, identifies best practices, rewards high performance and, through the leadership of the Department of Economic Opportunity, identifies and addresses performance problems that may require technical assistance. Examples of performance measures consistently examined include job placements, employment retention, earnings and occupational credentials.

While there are many tools used to track performance, a relatively new management resource is the Daily and Monthly Job Placement Report, which was created to provide better, real-time measurement of job placement performance by regional boards and One-Stop Career Centers. It provides local and state workforce partners with a performance overview of the number of reported job placements by each regional board as well as a statewide total. The goal of the report is to highlight and share job placement successes so that workforce system partners can identify and replicate best practices and strategies to help job seekers gain employment. The monthly reports are available online through the Department of Economic Opportunity's website at [www.floridajobs.org/MonthlyRWBJobPlacementReport](http://www.floridajobs.org/MonthlyRWBJobPlacementReport).

### **The Department of Economic Opportunity**

The Department of Economic Opportunity (DEO) was created in October 2011 to streamline state community planning and development as well as workforce and economic development functions and promote economic opportunities for all Floridians. DEO, led by Executive Director Cissy Proctor, is responsible for receiving Florida's federal CareerSource funds. It houses Florida's Labor Market Statistics Center and administers the state's Reemployment Assistance program, which provides unemployment compensation to eligible unemployed Floridians seeking new jobs. Through a performance-based contract with CareerSource Florida, as required by state law, DEO performs fiscal and



administrative duties affecting local CareerSource Boards including financial and programmatic monitoring and implementation of all policies set by the CareerSource Florida Board of Directors.

In collaboration with CareerSource Florida and Enterprise Florida Inc., DEO is the cross-agency for state-led economic development efforts to a high-level, one-stop business, marketing and sales effort with reduced response times and barriers to business expansion opportunities. In partnership with EFI, DEO supports statewide strategies to attract out-of-state businesses to Florida, promote the expansion of existing businesses and establish measures to track the success of these efforts over time.

### **Local CareerSource Boards**

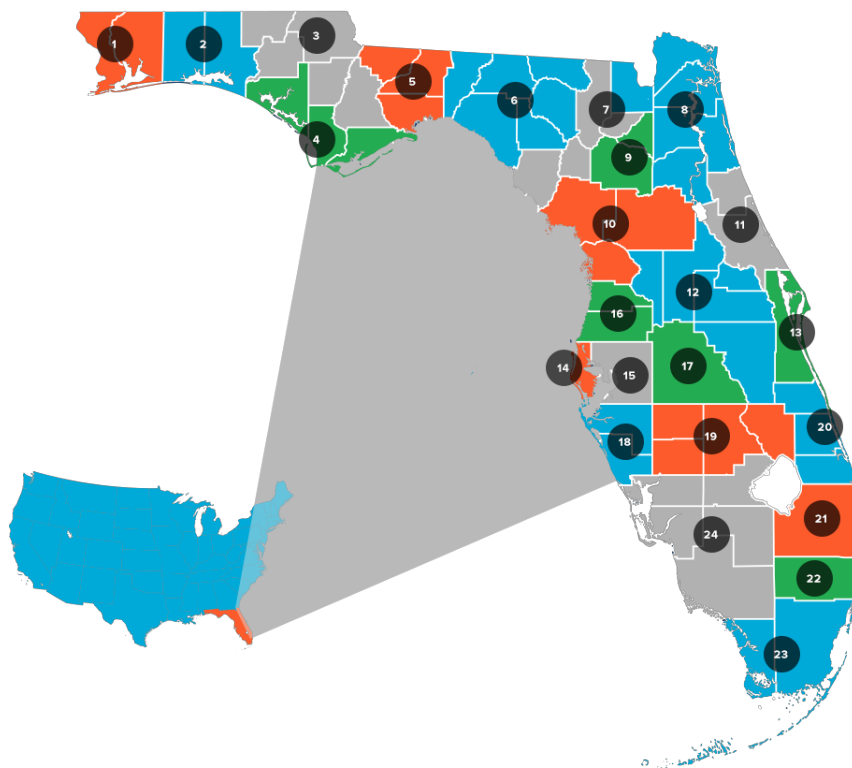
Florida has 24 local CareerSource Boards responsible for overseeing the local delivery of services to job seekers and businesses through nearly 100 bricks-and-mortar One-Stop Career Centers statewide (See Figure 10.3). Available services include job placement and recruitment assistance as well as funding for skills training. Local boards' efforts often are geared toward specific industries as targets due to demand and wage potential. The flexibility built into the system allows each region to collaboratively determine with its local leadership – including Chief Elected Officials among others – what employment and training services are most needed in their communities, and to support economic development priorities that are most likely to lead to job placement and advancement

while bolstering business competitiveness. Regional boards are essential to the state's efforts to strengthen the economy through business attraction and retention.

Like CareerSource Florida, each of the 24 local boards is led by a public-private volunteer Board of Directors with majority representation from the business community along with leaders from education and economic development. Each local board has performance measures and contracts to strengthen accountability.

Contact information for local CareerSource Board leaders can be found by visiting [www.CareerSourceFlorida.com](http://www.CareerSourceFlorida.com).

**Figure 10.1. Map of Florida's 24 CareerSource Local Areas.**



### **RECENT STATE LAW CHANGES AT-A-GLANCE**

Governor Rick Scott's focus on jobs and growing Florida's economy – as well as his recognition of the workforce development system as a critical partner in achieving state economic development goals – has cultivated new opportunities to foster greater collaboration among state and local leaders and



enhance accountability and transparency. Among recent major policy changes is the Regional Workforce Accountability Act, which was signed into law by Governor Scott on March 28, 2012.

The Regional Workforce Boards Accountability Act, which took effect July 1, 2012, strengthens the oversight, accountability, efficiency and transparency of regional boards while preserving existing local authority to appoint and remove board members and chief executives. The new law also maintains important local flexibility to develop workforce strategies and programs that best serve each region's needs.

Key provisions include: a reduction of the number of members appointed to Regional Workforce Boards to streamline membership in accordance with federal and new state law, while allowing communities the option of increasing the board size with approval from the Governor; additional reviews of regional board budgets and expenditures; a mechanism for the Governor — who, as noted above, is liable for public workforce funds along with local elected officials — to remove regional board members and chief executives for cause, when warranted; a call for a single, statewide brand identity for the workforce system to improve awareness, access and use of services by job seekers and businesses.

Among the entities that worked with the Governor's Office and House and Senate legislative leaders who advanced the legislation were Workforce Florida, the Department of Economic Opportunity, the Florida Association of Counties, the Florida Chamber of Commerce, the Florida Workforce Chairs' Alliance and the Florida Workforce Development Association.

## **FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY**

---

### **RURAL PROGRAMS**

***Rural Economic Development Initiative (REDI).*** The Rural Economic Development Initiative (REDI) is a statutorily authorized effort involving more than 17 state and regional agencies and organizations that assist rural communities solve problems which affect their fiscal, economic or community viability.<sup>2</sup>

Two primary objectives of REDI are (1) to be responsive to the communities' issues, questions, needs, and objectives, and (2) to deliver, either directly or indirectly, by coordinating the work of other agencies and organizations, the best possible service to the communities. Two of the main vehicles used to assist Rural Communities are the Rural Economic Development Initiative (REDI) and the Rural Areas of Opportunity (RAO).

***Rural Areas of Opportunity (RAO).*** Section 288.0656(7) of the Florida Statutes was created by the 1999 Legislature and signed by the Governor in recognition that the growth and prosperity enjoyed by many communities in Florida has not been shared by Florida's rural areas. The Legislation recognized that many Florida communities were finding it increasingly difficult to support or enhance investments in infrastructure, education, or job creating activity.

Because regional partnerships have long been identified as ways to maximize both state and local resources s 288.0656(7), authorizes the Rural Economic Development Initiative (REDI) to recommend the Governor designate three regions as Rural Area of Opportunity for 5-year designation periods. Florida's three RAOs consist of the following counties and communities:

- Northwest RAO: Calhoun, Franklin, Gadsden, Gulf, Holmes, Jackson, Liberty, Wakulla, Walton, and Washington Counties. (South Walton County's Coastal Area is excluded).
- South Central RAO: Desoto, Glades, Hardee, Hendry, Highlands, Okeechobee Counties plus the Cities of Pahokee, Belle Glade, and South Bay (Palm Beach County), plus the area around Immokalee included within the Round II Federal Rural Enterprise Community designation (Collier County).



- North Central RAO: Baker, Bradford, Columbia, Dixie, Gilchrist, Hamilton, Jefferson, Lafayette, Levy, Madison, Putnam, Suwannee, Taylor, Union.

**Regional Rural Development Grants Program.** The Rural Regional Staffing Initiative was created in Chapter 96-320, Laws of Florida, to award matching grants to regional organizations created by rural counties for the purpose of operating economic development activities to benefit their areas. This initiative is funded as part of the Rural Community Development Revolving Loan Fund.

The Regional Rural Development Grants Program encourages the use of regional economic development organizations by rural counties to leverage limited resources to the fullest extent possible and to build professional capacity of the organizations and region.

DEO is authorized to approve, on an annual basis, grants to such regionally based economic development organizations. The maximum amount an organization may receive in any year will be \$35,000, or \$150,000 in a Rural Area of Opportunity recommended by the Rural Economic Development Initiative and designated by the Governor, and must be matched each year by an equivalent amount of non-state resources.

**Rural Community Development Revolving Loan Fund Program.**<sup>3</sup> The Rural Community Development Revolving Loan Fund Program provides financial assistance to units of local governments, or economic development organizations substantially underwritten by a local government within a RACEC, in the form of either a loan or loan guaranty. The purpose of the program is to provide financial assistance for a specific project that will lead to the creation of new jobs that maintains or increases the economic vitality of Florida's rural counties.

**Rural Infrastructure Fund (RIF).**<sup>4</sup> The Rural Infrastructure Fund (RIF) program was created to facilitate the planning, preparing, and financing of infrastructure projects in rural communities that encourage job creation, capital investment, and the strengthening and diversification of rural economies. The RIF can fund three types of projects:

- 1) Total Participation Grants are used to fill 'gaps' in infrastructure funding from other sources including CDBG, EDA, and USDA-Rural Development and are therefore critical to the success of such projects.
- 2) Feasibility Studies are used to develop the base line data and plans needed before applications for significant economic development funding can be submitted to major funding sources or permitting review.
- 3) Preclearance Review provides access to the resources of Section 403.973(19), Florida Statutes, providing surveys and other materials necessary for preparing sites for significant economic development projects. (50% match for rural counties/33% match for RAOs).

**Florida Resource Directory.** The Florida Resource Directory is a one-stop source for obtaining information on state and federal programs and resources for community projects such as, but not limited to:

- infrastructure,
- housing,
- health services,
- training,
- tourism development, and
- community parks.

The database is searchable by agency, category of assistance, program, and keyword.

To access the Florida Resource Director, visit: [http://redi.state.fl.us/apps/redi/main\\_page.search](http://redi.state.fl.us/apps/redi/main_page.search).



## SMALL BUSINESS PROGRAMS

***Brownfield Areas Loan Guarantee Program.***<sup>5</sup> The Legislature created the Brownfield Areas Loan Guarantee Program in 1997 to make loan guarantees for projects that redevelop Brownfield areas. The guarantee applies only to 50 percent of the primary lenders' loans. If the redevelopment project is for affordable housing or includes the construction and operation of a new health care facility or a health care provider, the guarantee applies to 75 percent of the primary lender's loan.

***Florida Capital Access Program (DEO Administration).*** A Capital Access Program (CAP) is a loan portfolio insurance program that enables small businesses to obtain credit to help them expand their businesses. When a participating lender originates a loan, the lender and borrower combine to contribute a percentage of the loan or line of credit, from 2% to 7%, into a reserve fund, held by the lender.

The state of Florida matches the combined lender/borrower contribution and sends the state contribution to the lender-held reserve fund. Each lender's total CAP reserve fund is available as cash collateral to cover losses on all loans in the lender's CAP portfolio.

Participating loans are originated and serviced by the lender, and the lender may make claims to withdraw from the reserve for losses incurred in the case of a default.

***Small Business Loan Support Program (EFI Administration).*** A Loan Guarantee Program enables small businesses to obtain term loans or lines of credit to help them grow and expand their businesses. The program provides a lender with the necessary security, in the form of a partial guarantee, for the lender to approve a loan or line-of-credit.

***Venture Capital Program (EFI Administration).*** A Venture Capital Program provides investment capital to create and grow start-up and early-stage businesses. State Venture Capital Programs often take one of two forms: a state-run venture capital fund (which may include other private investors) that invests directly in businesses; or a fund of funds, which is a fund that invests in other venture capital funds that in turn invest in individual businesses. Many factors, particularly resources and available talent, inform a state's decision on which form to choose.

***Rural Job Tax Credit Program.***<sup>6</sup> The Rural Job Tax Credit Program was established in 1997 by the Florida Legislature to encourage the creation of jobs in Rural Areas of Florida. The program offers tax credits (corporate or sales tax) to qualified businesses that create the required number of new jobs within one of the 36 designated Rural Areas.

The 36 designated Rural Areas were selected as a result of their "rural" status. The program employees are not required to reside within the rural area and entire counties have been designated.

There are \$5 million tax credits available each calendar year.

***Urban Job Tax Credit Program.***<sup>7</sup> The Urban "High-Crime" Job Tax Credit Program was established in 1997 by the Florida Legislature to encourage the creation of jobs in Urban "High-Crime" Areas of Florida. The program offers tax credits (corporate or sales tax) to qualified businesses that create the required number of new jobs within one of the 13 designated Urban "High-Crime" Areas.

The 13 designated Urban "High-Crime" Areas were selected by DEO based on application packages submitted by units of local government. The nominated areas with the highest crime rates were designated.

There are \$5 million tax credits available each calendar year.

## COMMUNITY DEVELOPMENT PROGRAMS

***Community Contribution Tax Credit Program.***<sup>8</sup> The Community Contribution Tax Credit Program was established by the Florida Legislature in 1980 to induce private sector donations to community development projects and housing for low-income persons. A total of \$14.0 million tax credits is allocated each year. The program offers tax credits of up to 50% of donations against the following:

1. Florida Corporate Income Tax
2. Florida Insurance Premium Tax
3. Florida Sales and Use Tax (refund)



**Opportunity Zones Program.** In December 2017, President Donald Trump signed the Tax Cuts and Jobs Act of 2017, which created a new tool for community economic development, the Opportunity Zones program. This new tool provides tax incentives, including a temporary deferral on capital gains taxes, when investors reinvest those gains in qualified Opportunity Funds. The funds must in turn invest in low-income communities from designated census tracts, called Opportunity Zones. The act allowed the Governor of each state to nominate up to 25 percent of eligible low-income census tracts as Opportunity Zones. The U.S. Department of Treasury will be developing rules regarding the necessary qualifications of Opportunity Funds and eligible investments. More guidance about the funds and investments can be found at: <https://home.treasury.gov/news/press-release/sm0283>

### ***Additional Opportunity Zone Resources***

Economic Innovation Group: [EIG Opportunity Zones](#)

Enterprise Community Partners: [Enterprise Community - Focus Opportunity Zone Program](#)

National Development Council: [NDC Online - Unpacking the Investment in Opportunity Act](#)

Opportunity Zone Eligibility Tool: [Enterprise Community - Opportunity360](#)

Department of Treasury Opportunity Zone Resources: [CDFIFund - Opportunity Zones](#)

Contact: Grey Dodge, Policy Director at 850.245.7130 or by email at: [Grey.Dodge@deo.myflorida.com](mailto:Grey.Dodge@deo.myflorida.com)

## **RESOURCES**

Monthly Regional Workforce Board Job Placement Reports:

<http://www.floridajobs.org/MonthlyRWBJobPlacementReport>

Online Employment & Training Assistance: [www.EmployFlorida.com](http://www.EmployFlorida.com)

Regional Workforce Accountability Act:

Regional Workforce Boards Accountability Act overview and supplemental information:

<http://www.floridajobs.org/local-workforce-development-board-resources/programs-and-resources/program-resources>

Regional Workforce Board contact information:

<http://www.workforceflorida.com/ResourcesLinks/RegionalWorkforceBoards/RWBMap.php>

State Strategic Plan for Workforce Development:

<http://www.workforceflorida.com/PrioritiesInitiatives/StateStrategicPlan.php>

State Strategic Plan for Economic Development:

<http://www.floridajobs.org/office-directory/division-of-strategic-business-development/fl5yrplan>

Quick Response Training & Incumbent Worker Training:

<https://careersourceflorida.force.com/applications/CustomLogin> or contact Malissa Counts, Grants Manager at 850-601-0857 or [mccounts@careersourceflorida.com](mailto:mccounts@careersourceflorida.com)

Quick Response Training Program Resources:

<https://careersourceflorida.com/qrt/>

[https://careersourceflorida.com/wp-](https://careersourceflorida.com/wp-content/uploads/2018/06/Quick_Response_Training_Guidelines.pdf)

[content/uploads/2018/06/Quick\\_Response\\_Training\\_Guidelines.pdf](https://careersourceflorida.com/wp-content/uploads/2018/06/Quick_Response_Training_Guidelines.pdf)

[https://careersourceflorida.com/wp-content/uploads/2017/10/QRT\\_Sample\\_Application.pdf](https://careersourceflorida.com/wp-content/uploads/2017/10/QRT_Sample_Application.pdf)

<https://careersourceflorida.force.com/applications/CustomLogin>



#### Incumbent Worker Training Program Resources:

<http://www.workforceflorida.com/PrioritiesInitiatives/FundingOpportunities/IWT.php>  
<https://careersourceflorida.com/training-grant/>  
[https://careersourceflorida.com/wp-content/uploads/2018/06/Incumbent\\_Worker\\_Training\\_Guidelines.pdf](https://careersourceflorida.com/wp-content/uploads/2018/06/Incumbent_Worker_Training_Guidelines.pdf)  
[https://careersourceflorida.com/wp-content/uploads/2016/06/2016-2017\\_SampleIWTApplication.pdf](https://careersourceflorida.com/wp-content/uploads/2016/06/2016-2017_SampleIWTApplication.pdf)  
<https://careersourceflorida.force.com/applications/CustomLogin>

#### Local Training & Employment Resources:

<http://www.workforceflorida.com/ResourcesLinks/RegionalWorkforceBoards/RWBMap.php>

Visit and select the area of interest for contact information.

#### Workforce Roles and Responsibilities

Workforce 101: A guide for elected officials: [www.nawb.org/documents](http://www.nawb.org/documents)

National Association of Workforce Boards publications: <http://www.nawb.org/publications.asp>

Veterans Employment: [veterans.employflorida.com](http://veterans.employflorida.com) or 866.352.2345

#### Workforce News and Perspectives

Connect to Workforce Florida:

- on Twitter @WorkforceFLA
- on Facebook at [www.facebook.com/WorkforceFlorida](http://www.facebook.com/WorkforceFlorida)
- at Workforce Florida's News Sign-Up:  
<http://www.workforceflorida.com/Media/MediaSignUp.php>

## NOTES

<sup>1</sup> Portions of this chapter have been adapted from Workforce 101: A Toolkit for Elected Officials, a publication produced by the National Association of Workforce Boards in collaboration with the National Association of Counties, the National Governors Association, the National League of Cities and the United States Conference of Mayors.

<sup>2</sup> Section 288.0656, Florida Statutes.

<sup>3</sup> Section 288.065, Florida Statutes.

<sup>4</sup> Section 288.0655, Florida Statutes.

<sup>5</sup> Section 376.86, Florida Statutes.

<sup>6</sup> Section 212.098, Florida Statutes.

<sup>7</sup> Section 212.097, Florida Statutes.

<sup>8</sup> Sections 212.08(5)(p), 220.183, and 624.5105, Florida Statutes.







---

# 11. Planning and Growth Management

---

Diane Scholz

---

## INTRODUCTION

---

The State of Florida has one of the most comprehensive and progressive land use planning programs in the country. The authority and responsibility for establishing and implementing the roles, processes, and powers of comprehensive planning programs to guide and control future development in Florida is vested in local governments because local governments have regulatory authority over the use of land. Regulatory authority over the use of land means that local governments are the agencies that issue development permits. The land use planning program in Florida is commonly referred to as “Growth Management” and is found in a broad collection of laws, rules, regulations, and policies affecting all planning and development activities of the state and local governments.

In 1985 Florida enacted the Local Government Comprehensive Planning and Land Development Regulation Act, Chapter 163, Part II, Florida Statutes. This statute requires that all local governments adopt, maintain, and implement land use plans and development regulations for all future development actions. It also requires that all geographic areas within the state be included within the jurisdiction of a local comprehensive plan and that all development actions be consistent with the adopted plan. All 67 counties and all of the cities and towns, as well as the Walt Disney World area, the Reedy Creek Improvement District, have adopted local comprehensive plans. In 2011, the Florida Legislature revised the State Planning Statutes renaming the “Local Government Comprehensive Planning and Land Development Regulation Act” the “Community Planning Act.”

---

## HISTORY OF GROWTH MANAGEMENT AND PLANNING LAW IN FLORIDA

---

As stated in the introduction to this chapter, the State of Florida has one of the most comprehensive and progressive land use planning programs in the country. The current body of growth management legislation establishing the primary authority and responsibility for county government planning was enacted in 1985 and has been amended several times in recent years. However, the 1985 Growth Management Act was not the first planning legislation in Florida. The following listings discuss the major historic comprehensive land use planning and growth management legislation of the state.

### THE 1928 ZONING ENABLING ACT

The first land use planning legislation in Florida was enacted in 1928. This legislation was known as the 1928 Zoning Enabling Act. Today, the State of Florida has constitutionally established *home rule* authority for local governments. This means that local governments, cities and counties, may adopt local ordinances without state approval as long as the ordinances are not in conflict with the laws of the state. This *home rule* provision was included in amendments to the State Constitution in 1968. Prior to that, local governments could not adopt local ordinances without approval of state legislation.



The 1928 Zoning Enabling Act was adopted to allow local governments to approve zoning regulations to control local development and land use issues. This legislation was voluntary and did not mandate that local governments adopt land use controls, but it did allow for zoning codes to be enacted by ordinance, which gave these local ordinances legal status. This legal status was important because it provided the basis for counties to enforce the codes.

## **THE 1972-1973 STATE AND REGIONAL COMPREHENSIVE PLANNING ACTS**

For almost fifty years the voluntary zoning enabling legislation was the only land use planning laws in Florida. However, in the 1972 and 1973 legislative sessions, the state passed two more planning acts and drafted a third.

Chapter 186, Florida Statutes, was adopted to create the Regional Planning Councils (RPC). There are currently ten Regional Planning Councils in Florida. All counties within the state are members of one of the RPCs, and the RPCs' geographic boundaries are drawn along county lines. Regional Planning Councils are the primary agencies responsible for planning for regional land use issues and for addressing inter-jurisdictional impacts of developments.

Chapter 380, Florida Statutes, was adopted creating Developments of Regional Impact (DRI) and the Areas of Critical State Concern. Developments of Regional Impact are developments that, based upon their size, scale, location and/or magnitude, have a substantial effect on the citizens of more than one county. These large-scale developments must be consistent with the local government plans, and they must go through a special approval process where all the impacts of the development are mitigated, including extra-jurisdictional impacts. As of 2018, Florida Statute 380.06(12) confers all DRI approval processes to the local government (for new projects).

Areas of Critical State Concern are geographic areas within the State of Florida, which the Legislature has designated in statute, that include natural resources that are significant enough to be protected by the state. These areas include the Florida Keys, the Big Cypress Preserve, Apalachicola Bay, and the Green Swamp. Within these areas, the state has oversight of local government development approval and may object to the issuance of development permits that negatively impact the environmental resources.

The third planning act that was drafted but not enacted was the first State Comprehensive Plan. This was intended to be a comprehensive future development plan for the state. This would later become The State Comprehensive Plan, Chapter 187, Florida Statutes.

## **THE 1975 LOCAL GOVERNMENT COMPREHENSIVE PLANNING ACT, CHAPTER 163, PART II, FLORIDA STATUTES**

In 1975, Florida enacted the Local Government Comprehensive Planning Act. This was the state's first planning legislation that required that all local governments have comprehensive land use plans. For the first time, all counties and cities were required to prepare plans that addressed the same statewide issues and elements. However, these plans were not required to be adopted and the statute did not give the state the authority to approve these plans.

These plans, because they were not adopted and recognized by the state, did not have the legal status of today's plans, and therefore were not really enforceable by local governments or property owners. Local development permits did not necessarily have to be consistent with these plans. The plans that were prepared pursuant to the 1975 legislation did not require a Future Land Use Map and did not require any implementing land development regulations.

Despite these limitations, the 1975 Local Government Comprehensive Planning Act was a very positive experience for the state with regard to land use planning. That act resulted in a tremendous educational effort for the state. For the first time local governments, regional agencies, and the state were focused on land planning and learning how to manage develop in orderly and efficient patterns while protecting the natural environment.



## **THE 1984 STATE COMPREHENSIVE PLANNING ACT, CHAPTER 187, FLORIDA STATUTES**

In 1984, Florida finally adopted a State Comprehensive Plan. Chapter 187 of the Florida Statutes provides a series of planning goals for the State of Florida, and for each goal there are multiple implementing policies that establish action steps for achieving these goals. This state plan is written in very general terms and covers many issues that are not directly related to land use.

## **THE 1985 LOCAL GOVERNMENT COMPREHENSIVE PLANNING AND LAND DEVELOPMENT REGULATION ACT, CHAPTER 163, PART II, FLORIDA STATUTES**

The 1985 Act, commonly referred to as the Growth Management Act, updated the 1975 Act and was based upon the successes and failures of previous years' planning efforts experienced by the state and local governments since the adoption of the original planning legislation. One of the major revisions was the requirement that all local government plans and plan amendments be adopted by ordinance and that all plans and amendments must be reviewed and approved by the state. This process results in the current legal status of county plans.

The 1985 Act establishes the right for citizens and adjacent local governments to have legal standing to challenge plans and amendments. That act requires that all plans be financially feasible and that the plans include a concurrency management system, which ensures that the infrastructure needed to support development is available when the impacts of the development occur. The 1985 Act also requires that all plans include an adopted Future Land Use Map (FLUM) and that all local governments adopt implementing land development regulations (LDRs). (Please refer to later sections of this chapter, which discuss what is included in the plan elements).

Since the passage of the Growth Management Act, all cities and counties within the state have adopted comprehensive plans consistent with the 1985 legislation. There have been several statewide study commissions that have reviewed and recommended changes to the 1985 Act. Some specific changes have been enacted, some have been repealed, and others are currently being studied for possible revision. However, the majority of the requirements for county plans are still contained in the original language of the 1985 Growth Management Act.

Some of the more significant revisions to the 1985 Growth Management Act relate to joint planning and coordination between counties and cities and the school districts. In 1995 the act was amended to: require joint planning efforts with the school districts; require that the land use element specifically identify land use categories that allow school facilities; and require interlocal agreements for joint planning efforts.

Later, the statute was amended to allow for a school facilities element and for optional school concurrency. In 2002, a new section 163.31777, Florida Statutes, was added that requires local governments and school boards to enter into an interlocal agreement that addresses school siting, enrollment forecasting, school capacity, infrastructure and safety needs of schools, schools as emergency shelters, and sharing of facilities. In 2005 the Legislature mandated that local plans include a public-school facilities element.

In addition to planning for schools, the Growth Management Act has been amended multiple times changing requirements and adding new ones. There have been many revisions to the concurrency requirements and to transportation planning, as well as water resources planning. For example, in 2004 the Act was revised to require local governments to identify adequate water supply sources to meet future demand for the established planning period. Like local plans, the Growth Management Act is dynamic and evolving as new and different issues arise.



## **THE 2011 COMMUNITY PLANNING ACT**

### **CHAPTER 163, PART II, FLORIDA STATUTES**

The 2011 Community Planning Act not only renamed the Florida planning program, but it also greatly reduced the State and Regional agency oversight of planning and land development activity. This Act revised and shortened the agency review periods and limited these agencies authority to object to local government decisions regarding planning and land development. State and regional agencies comments on plans and plan amendments are now limited to important state resources and facilities. State agencies can only comment when these important state resources and facilities are “adversely” or “negatively” impacted.

The Community Planning Act removed the twice a year limitation on plan amendments and repealed Chapter 9J-5, Florida Administrative Code, the minimum criteria rule for local plans. It also reverted the Public-School Facilities Element to an optional element of the Comprehensive Plan. However, the Act did not significantly reduce the planning requirements for Florida’s county governments. All local governments must still adopt, maintain and implement local land use plans.

## **WHAT IS A COMPREHENSIVE PLAN?**

---

The local government comprehensive plan is a document that is prepared and adopted pursuant to Chapter 163, Florida Statutes. Once a county’s plan is adopted and found to be in compliance by the Department of Community Affairs, it is the public policy decision making guide for all decisions regarding development actions within the county.

The Growth Management Act, now named the Community Planning Act, was enacted by the Florida Legislature for the purposes of strengthening the existing role, processes, and powers of local governments in the establishment and implementation of comprehensive planning programs to guide and control future development. In part, the act states that local governments shall adopt a comprehensive plan so that they can preserve and enhance present advantages; encourage the most appropriate use of land, water, and resources consistent with the public interest; overcome present handicaps; and deal effectively with future problems that may result from the use and development of land within their jurisdictions. Through the process of comprehensive planning it is intended that units of local government can preserve, promote, protect, and improve the public health, safety, comfort, good order, appearance, convenience, law enforcement and fire prevention, and general welfare; prevent the overcrowding of land and avoid undue concentration of population; facilitate the adequate and efficient provision of transportation, water, sewerage, schools, parks, recreational facilities, housing and other requirements and services; and conserve, develop, utilize, and protect natural resources within their jurisdictions.

The local government comprehensive plan is intended to be a guide for making land use decisions for future development and redevelopment. Florida does not have a “stop growth” planning program. The Growth Management Act is intended to help local officials make decisions regarding the distribution, extent, and timing of future growth. Distribution of growth means the geographic location of new development and the relationships between that development and existing development and supporting infrastructure and the environmental resources of the area. The extent of growth refers to the amount. It helps local officials determine how much density of housing would be appropriate for certain locations, or how much intensity of commercial or industrial development will be compatible in a specific location. The final characteristic of future growth that the Growth Management Act attempts to manage is the timing of future development. Local governments must decide when permitting development, if the specific area proposed for development has the necessary supporting infrastructure and other development characteristics that support the new development.



## **LEGAL STATUS OF THE COMPREHENSIVE PLAN**

---

Section 163.3194(1)(a), Florida Statutes, establishes the legal status of comprehensive plans, stating:

...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.

This section of the statute means that before a county issues any development order, adopts any local ordinance that relates to the development of property or takes any other action in regard to development orders, the county must ensure that the action is consistent with the adopted provisions of the comprehensive plan. There is no variance to a comprehensive plan. If a local government decides to approve a development that is not consistent with the plan, the plan must be amended first.

## **PUBLIC PARTICIPATION IN THE PLANNING PROCESS**

---

The Planning Act requires public participation in the comprehensive planning process, including preparation, adoption, and amendment of the plan. The local governing body and the local planning agency shall adopt procedures to provide for and encourage public participation in the planning process, including consideration of amendments to the comprehensive plan and evaluation and appraisal reports.

The procedures shall include provisions to assure that real property owners are put on notice, through advertisement in a newspaper of general circulation in the area or other method adopted by the local government, of official actions that will affect the use of their property. There should be provisions for notice to keep the general public informed and provisions to assure that there are opportunities for the public to provide written comments. The required public hearings must be public noticed and held and there must be provisions to assure the consideration of and response to public comments.

Local governments are encouraged to make executive summaries of comprehensive plans available to the general public and should, while the planning process is ongoing, release information at regular intervals to keep its citizenry apprised of planning activities.

## **GENERAL REQUIREMENTS OF A COMPREHENSIVE PLAN**

---

In general, the adopted comprehensive plan consists of the required element goals, objectives and policies, and the future conditions maps depicting future land use and future transportation conditions. All data and analysis, reports, and studies that support the plan do not need to be adopted. These materials are important but are not considered part of the adopted plan that regulates development decisions.

The required elements are as follows:

- Future Land Use Element
- Housing Element
- Sanitary Sewer, Solid Waste, Stormwater Management, Potable Water and Natural Groundwater Aquifer Recharge Element. (Infrastructure Element)
- Coastal Management (for those governments identified in Section 380.21, Florida Statutes).
- Conservation Element
- Intergovernmental Coordination Element



- Capital Improvements Element
- Transportation Element
- The 2011 Community Planning Act made the previously required Public School Facilities Element and Public School Concurrency optional

A Recreation and Open Space Element was a required element but now is considered an optional element, specifically with regards to concurrency for recreation and open space facilities. Other optional elements that some counties have adopted include economic development elements, historical elements and public safety elements. While these elements are optional, it is important to understand that once adopted these optional elements have the same legal status as the required elements, which means that all development actions must be consistent with these optional adopted elements as well.

Each element of the plan includes at least one long-range goal, several intermediate objectives, and multiple implementation policies. “Goal” means the long-term end toward which programs or activities are ultimately directed. “Objective” means a specific, measurable, intermediate end that is achievable and marks progress toward a goal. “Policy” means the way in which programs and activities are conducted to achieve an identified goal.

## **FUTURE LAND USE ELEMENT**

This is the most recognized element of the comprehensive plan. This element includes the Future Land Use Map (FLUM), which depicts the future land use categories. This element also contains the policies that establish the maximum densities for residential development and the maximum intensities for non-residential development. The following details the requirements for the FLUM:

- (a) The proposed distribution, extent, and location of the following generalized land uses shall be shown on the future land use map or map series:
  1. Residential use;
  2. Commercial use;
  3. Industrial use;
  4. Agricultural use;
  5. Recreational use;
  6. Conservation use;
  7. Educational use;
  8. Public buildings and grounds;
  9. Other public facilities; and
  10. Historic district boundaries and designated historically significant properties meriting protection.
  11. Transportation concurrency management area boundaries or transportation concurrency exception area boundaries, if any such areas have been designated.
  12. Multimodal transportation district boundaries, if any such areas have been designated.
- (b) The following natural resources or conditions shall be shown on the future land use map or map series:
  1. Existing and planned public potable water wells and wellhead protection areas;
  2. Beaches and shores, including estuarine systems;
  3. Rivers, bays, lakes, flood plains, and harbors;
  4. Wetlands;
  5. Minerals and soils; and
  6. Coastal high hazard areas.



- (c) Mixed use categories of land use are encouraged. If used, policies for the implementation of such mixed uses shall be included in the comprehensive plan, including the types of land uses allowed, the percentage distribution among the mix of uses, or other objective measurement, and the density or intensity of each use.
- (d) If determined by the local government to be appropriate, educational uses, public buildings and grounds, and other public facilities may be shown as one land use category on the future land use map or map series.
- (e) If the local government has determined it necessary to utilize other categories of the public and private use of land, such categories of land use shall be shown on the future land use map or map series.

The Future Land Use Element is based upon surveys, studies, and data and analysis of the county, including the amount of land required to accommodate anticipated growth; the projected population, including seasonal population; the character of undeveloped land; and the availability of public services needed to serve new development and the need for development and redevelopment. This combination of data and analysis must support the land use designations depicted and the Future Land Use Map. This data and analysis should also form the basis for the determination of whether the plan discourages the proliferation of urban sprawl.

“Urban sprawl” means urban development or uses that are located in predominantly rural areas, or rural areas interspersed with generally low-intensity or low-density urban uses, and that are characterized by one or more of the following conditions: (a) the premature or poorly planned conversion of rural land to other uses; (b) the creation of areas of urban development or uses which are not functionally related to land uses which predominate the adjacent area; or (c) the creation of areas of urban development or uses which fail to maximize the use of existing public facilities or the use of areas within which public services are currently provided. Urban sprawl is typically manifested in one or more of the following land use or development patterns: Leapfrog or scattered development; ribbon or strip commercial or other development; or large expanses of predominantly low-intensity, low-density, or single-use development.

## **HOUSING ELEMENT**

The primary objective of the Housing Element is to address the affordability and the availability of housing for all segments of the county population. This element addresses the maintenance of the housing stock, including identification and protection of historically significant structures, rehabilitation of substandard units, and provision of adequate sites for future housing with supporting infrastructure and public facilities.

## **INFRASTRUCTURE ELEMENT**

The local government plan must include a sanitary sewer, solid waste, drainage, potable water, and natural groundwater aquifer recharge element. This element is generally referred to as the Infrastructure Element. The goals, objectives, and policies of this element must address establishing priorities for replacement of deficient facilities and the provision of future infrastructure facilities to serve the existing and projected population. This element also establishes “level of service standards” (LOS standards) for all water, sewer, drainage, and solid waste facilities. These LOS standards are used in the concurrency management system to ensure that future infrastructure is available to serve existing and future development.



## **COASTAL MANAGEMENT**

All counties that abut the Gulf of Mexico or the Atlantic Ocean shall include a Coastal Management Element in the local plan. This element addresses the maintenance, restoration, and enhancement of the overall quality of the coastal zone environment. The objectives and policies provide for the conservation of viable population of species of marine life, the avoidance of loss of coastal zone resources, and the preservation of historic and archaeological resources. This element also addresses the dangers of natural disasters such as hurricanes and provides for hurricane evacuation from coastal high hazard areas (CHHA). This element also limits the expenditure of public resources that subsidize development in the CHHA.

In 2015, the Florida Legislature added “Peril of Flood” language to the statute (163.3178(f)1-6), detailing the required parts of a Redevelopment Component that can lead to better protection from and resilience to coastal flooding.

## **CONSERVATION ELEMENT**

The local comprehensive plan must include an element for the conservation, use, and protection of natural resources, including water, air, water recharge areas, wetlands, waterwells, marshes, soils, beaches, shores, flood plains, rivers, bays, lakes, harbors, forests, fisheries, wildlife and marine habitats, minerals, and other natural resources. The purpose of the Conservation Element is to promote the conservation, use and protection of natural resources.

This element includes goals, objectives, and policies that protect air quality, conserve and appropriately use water sources, and protect minerals, soils, wetlands, floodplains, and native vegetative communities.

## **INTERGOVERNMENTAL COORDINATION ELEMENT**

A county’s comprehensive plan should provide for and facilitate coordination with the plans of adjacent counties, municipalities within the county and those that are adjacent to the county boundaries, and with the county school district. The plan should also establish mechanisms that ensure coordination with state and regional agencies in the maintenance and implementation of the plan.

The Intergovernmental Coordination Element (ICE) has been historically viewed as the weakest and least effective elements of local plans. However, over the past several years statutory amendments and plan updates have resulted in significant improvements to this element.

## **CAPITAL IMPROVEMENTS ELEMENT**

The purpose of the capital improvements element is to:

- Evaluate the need for public facilities as identified in the other comprehensive plan elements and as defined in the applicable definitions for each type of public facility.
- Estimate the cost of improvements for which the local government has fiscal responsibility.
- Analyze the fiscal capability of the local government to finance and construct improvements.
- Adopt financial policies to guide the funding of improvements.
- Schedule the funding and construction of improvements in a manner necessary to ensure that capital improvements are provided when required based on needs identified in the other comprehensive plan elements.



The element shall also include the requirements to ensure that an adequate concurrency management system (CMS) will be implemented. The CMS is based upon a 5-year Schedule of Capital Improvements. This is commonly referred to as the Capital Improvements Plan (CIP).

The schedule of capital improvements includes all projects for which the local government has fiscal responsibility. The projects are selected for the first five fiscal years, by year, after the adoption of the comprehensive plan. The CIP shall reflect the need to reduce existing deficiencies, remain abreast of replacements, and meet future demand. The schedule shall include a description of each project, the general location of the project, and the projected costs and revenue sources being dedicated to fund the project by year for each of the five years.

The financial policies established in the element and the five-year schedule of the CIP, along with the adopted Level of Service (LOS) standards established in the other elements, form the basis of the Concurrency Management System (CMS). The purpose of the CMS is to establish an ongoing mechanism that ensures that public facilities and services needed to support development are available concurrent with the impacts of such development.

“Level of service” means an indicator of the extent or degree of service provided by, or proposed to be provided by, a facility based on and related to the operational characteristics of the facility. Level of Service shall indicate the capacity per unit of demand for each public facility. Level of Service standards for public facilities are adopted in policies in other elements and are also included in the Capital Improvements Element. LOS standards are established for potable water systems, sanitary sewer systems, transportation facilities, solid waste facilities, drainage facilities, and school facilities. These units of capacity per demand are used to calculate the existing demand on public facilities and to project the need for additional future capacity.

## TRANSPORTATION ELEMENT

The requirements for the Transportation Element vary for differently sized jurisdictions, however the general purpose is to plan for a multimodal system that places emphasis on public transportation options. A local government that has all or part of its jurisdiction included within the urban area of a Metropolitan Planning Organization (MPO) must consider the MPO’s *Long Range Transportation Plan* (LRTP) and projects therein when creating or amending its own Transportation Element. Reciprocally, the MPO must consider the local government’s Future Land Use Element when writing its LRTP. Local governments with a population of greater than 50,000 (determined in accordance with §186.901, Fla. Stat.) that are not located within the urban area of an MPO shall address traffic circulation, mass transit, and ports, aviation, and related facilities within their element. Local governments with a population of 50,000 or less are required only to address transportation circulation.

The Transportation Element must establish level of service standards at peak hours for roads and public transit facilities within the local government’s jurisdiction. For facilities on the Florida Intrastate Highway System as defined in section 338.001, Florida Statutes, the local governments shall adopt the level of service standards established by the Florida Department of Transportation by rule. With the concurrence of the Florida Department of Transportation, a local government may establish level of service standards for general lanes in urbanized areas as specified in Section 163.3180(10), Florida Statutes. For all other facilities on the future traffic circulation map, local governments shall adopt adequate “level of service” standards. These “level of service” standards shall be adopted to ensure that adequate facility capacity will be provided to serve the existing and future land uses.

All county plans must include a Future Transportation Map. This future conditions map is adopted in this element just like the Future Land Use Map is adopted in the Future Land Use element.

### Future Transportation Map.

- (a) The general location of the following transportation system proposed features shall be shown on the future transportation map or map series:
  1. Road System:
    - a. Collector roads;



- b. Arterial roads;
    - c. Limited and controlled access facilities;
    - d. Local roads, if being used to achieve mobility goals;
    - e. Parking facilities that are required to achieve mobility goals;
  - 2. Public transit system:
    - a. Public transit routes or service areas;
    - b. Public transit terminals and transfer stations;
    - c. Public transit rights-of-way and exclusive public transit corridors;
  - 3. Transportation concurrency management areas if any;
  - 4. Transportation concurrency exception areas if any;
  - 5. Significant bicycle and pedestrian facilities;
  - 6. Port facilities;
  - 7. Airport facilities including clear zones and obstructions;
  - 8. Freight and passenger rail lines; and
  - 9. Intermodal terminals and access to such facilities.
- (b) The future transportation map or map series shall identify the following:
- 1. The functional classification and maintenance responsibility for all roads;
  - 2. The number of proposed through lanes for each roadway;
  - 3. The major public transit trip generators and attractors based upon the future land use map or map series;
  - 4. Projected peak hour levels of service for all transportation facilities for which level of service standards are established; and
  - 5. Designated local and regional transportation facilities critical to the evacuation of coastal population prior to an impending natural disaster.

#### **PUBLIC SCHOOL FACILITIES ELEMENT FOR PUBLIC SCHOOL CONCURRENCY**

The 2011 Community Planning Act changed the status of the Public-School Facilities Element. This element was a required element, but now it is optional. However, since all counties had adopted a School Element, that includes school concurrency, it will take a plan amendment to remove these requirements from the local plan. If a local government chooses to keep the adopted Public-School Facilities Element, then the follow requirements still apply.

Public school concurrency is intended to ensure that the capacity of schools is sufficient to support development at the adopted level of service standard. These minimum criteria are intended to assure coordination between local governments and the school board in planning and permitting development and in building and adding capacity to schools so that school capacity at the adopted level of service standard is available at the time of the impacts of development.

This element must include policy language that adopts a level of service (LOS) standard for school facilities. The LOS standard is based upon the Florida Inventory of School Houses (FISH) and has the meaning described in section 235.15, Florida Statutes. Local governments adopting level of service standards using a measurement of capacity other than FISH shall include appropriate data and analysis in support of the alternative measure.

Through interlocal agreements with the school district, counties coordinate the approval of residential development with the school district and ensure that the school capacity at the adopted level of service standard is available at the time of the impacts of the development.

This element also includes a future conditions map. A school facilities future conditions map or map series that depicts the planned general location of public-school facilities and ancillary plants by year for the five-year planning period and for the end of the long-range planning period of the county is required to be adopted.



## THE COMPREHENSIVE PLAN AMENDMENT PROCESS

---

The procedure to amend a comprehensive plan has been a lengthy, multiple-step state review and approval process that begins with the county preparing the draft amendment, holding public hearings on the draft, transmitting the proposed amendment to the state, and having the state comment on the proposal and return it to the local government. Then the local government prepares the adoption transmittal document and must hold additional public hearings to adopt the final amendment. The final adopted amendment is then transmitted back to the state for the determination of compliance with state law. This process can easily take six or more months. The 2011 Community Planning Act revised and shortened this process for most plan amendments. The new process is called the expedited state review process and it applies to all future plan amendments except those that are small scale amendments, in areas of critical state concern, propose a rural land stewardship area, propose a sector plan, are EAR based amendments, or are new plans.

The new review process begins with the local government holding at least one public hearing and then transmitting the amendment(s) to the review agencies. The state land planning agency is the Florida Department of Economic Opportunity (DEO). This agency has final review and approval authority over the local plans and plan amendments. The plan amendment is also transmitted to external review agencies for their comments. The external review agencies are the appropriate regional planning council and water management district, the Florida Department of Environmental Protection, the Florida Department of Transportation, and any other unit of local government or government agency in the state that has filed a written request with the governing body for the plan or plan amendment.

These agencies are to consider whether the plan or plan amendment raises any planning issues of state or regional concern, such as those that impact the State Comprehensive Plan or the strategic regional policy plans. Under this new process these review agencies are limited to comments concerning adverse impacts on important state resources and facilities. The external review agencies have 30 days to submit comments regarding the proposed amendment to the local government.

After receipt of review agency comments, the local government holds an adoption public hearing and transmits the adopted amendments to the state review agencies. The State Land Planning Agency shall have 30 days to review the transmittal and determine if any petition(s) have been filed which require administrative proceedings. If no petitions have been filed, the amendment becomes effective after 31 days.

Small scale amendments are not reviewed by the state agencies. All future plan amendments that are in areas of critical state concern, propose a rural land stewardship area, propose a sector plan, are EAR based amendments, or are new plans must go through the State Coordinated Review Amendment Process (Figure 11.2).

## COMPREHENSIVE PLAN IMPLEMENTATION

---

After the comprehensive plan has been adopted and approved, implementation is required. The plan elements contain policy recommendations for implementation. These policies established programs and action steps that the county must now put in place. The legal status of the plan dictates that all development undertaken, and all actions taken by the local government shall be consistent with the plan. Plan implementation can occur in many ways, including the adoption of land development regulations, the allocation of public funds for improvements, and the creation of incentives and regulations to encourage private development within the parameters of the local plan.



Figure 11.1. Expedited State Review Amendment Process.

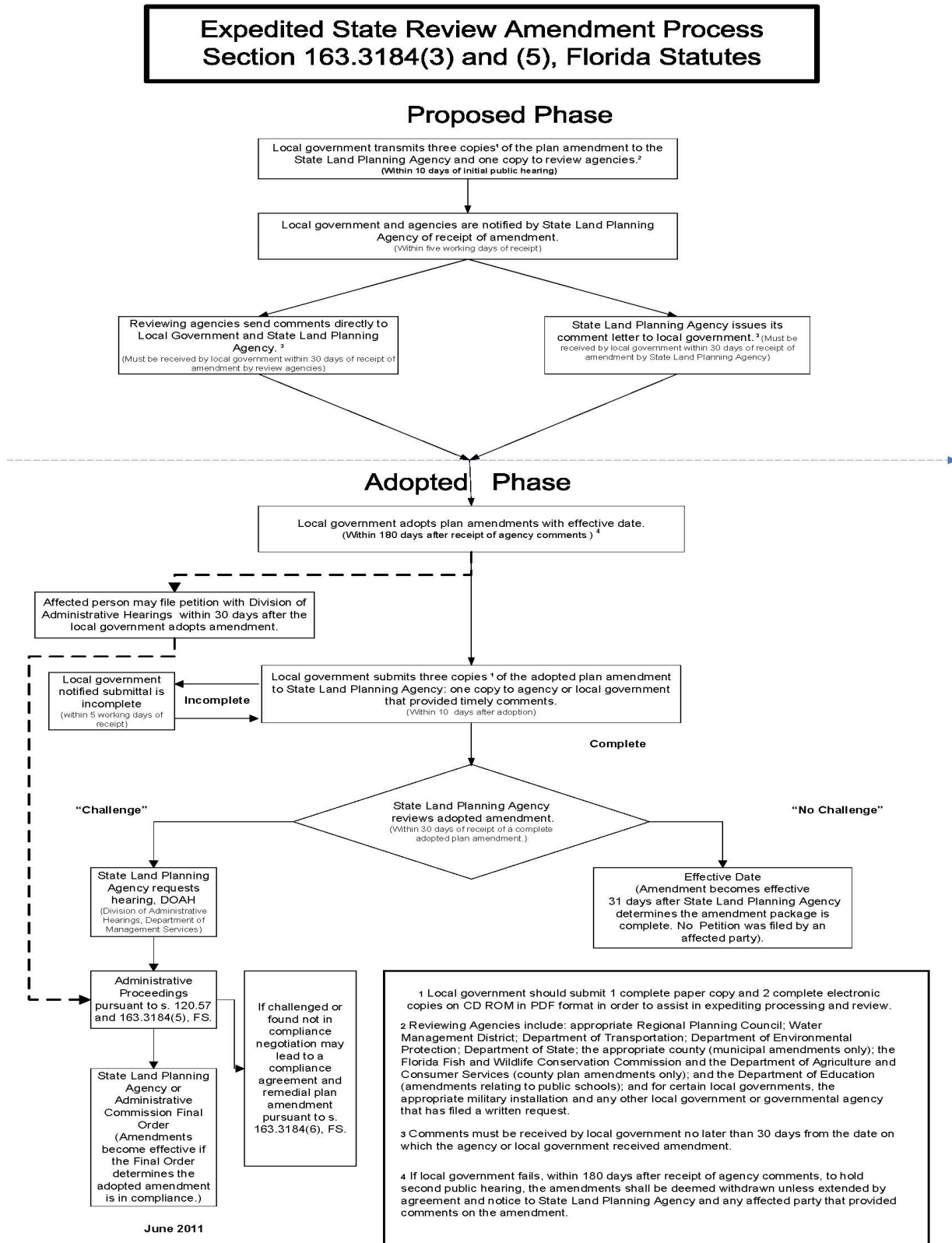
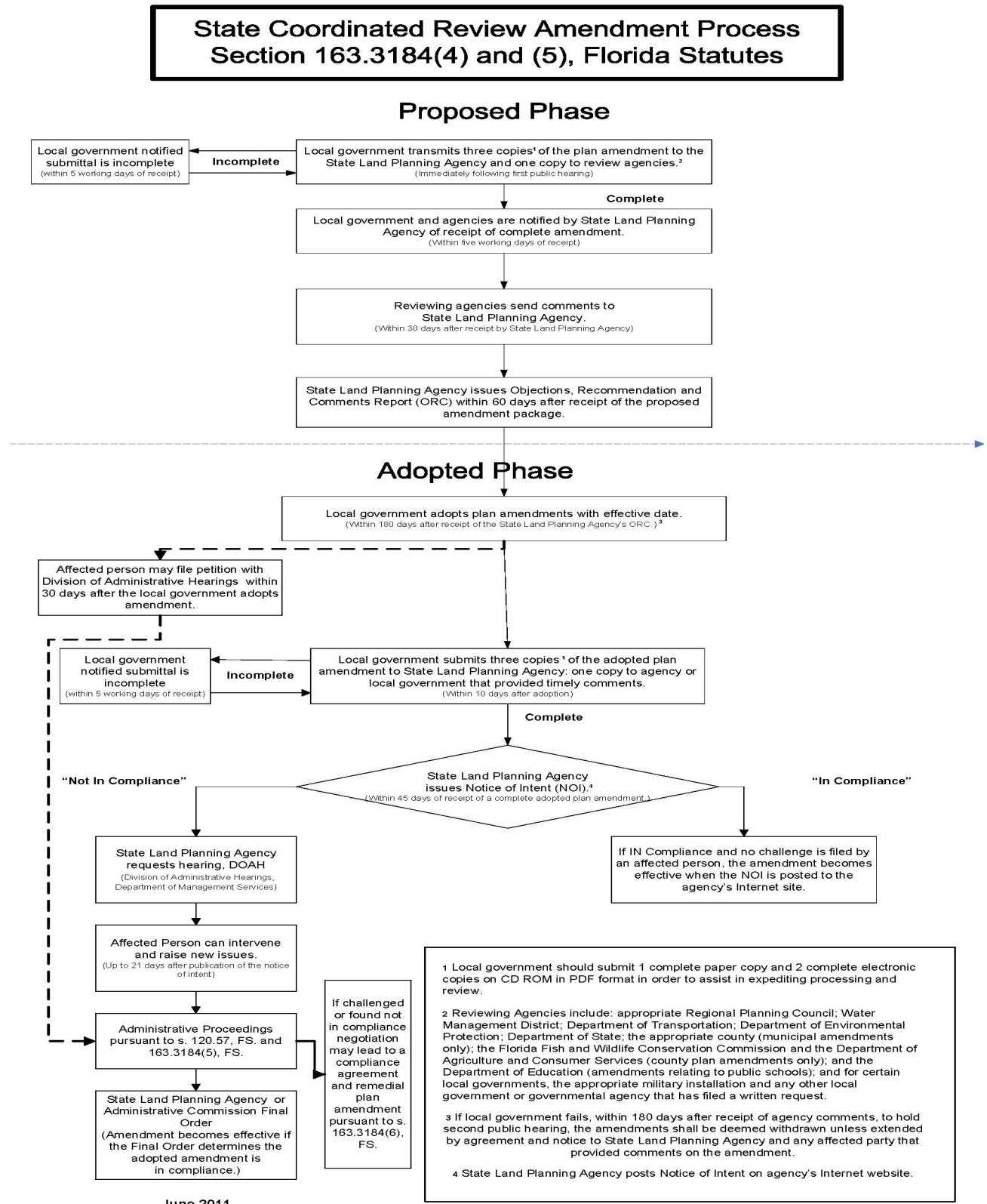




Figure 11.2. State Coordinated Review Amendment Process.





## **LAND DEVELOPMENT REGULATIONS**

---

Land development regulations (LDRs) are local ordinances that the county has adopted for the purpose of implementing the policy actions of the plan elements. Within one year after submission of its plan or plan amendment for review, the local government shall adopt or amend and enforce land development regulations that are consistent with the implementation of the comprehensive plan.

Local land development regulations shall contain specific and detailed provisions necessary or desirable to implement their adopted comprehensive plan and shall at a minimum include provisions that:

- 1) Regulate the subdivision of land.
- 2) Regulate the use of land and water for those land use categories included in the land use element and ensure the compatibility of adjacent uses and provide for open space.
- 3) Provide for protection of potable water wellfields.
- 4) Regulate areas subject to seasonal and periodic flooding and provide for drainage and stormwater management.
- 5) Ensure the protection of environmentally sensitive lands.
- 6) Regulate signage.
- 7) Provide that public facilities and services meet or exceed the standards established in the capital improvements element.
- 8) Ensure safe and convenient onsite traffic flow, considering needed vehicle parking.

## **SMALL-SCALE FUTURE LAND USE MAP AMENDMENTS**

---

There are small-scale amendments that do not have to go through the amendment review process. An amendment qualifies for small-scale adoption process if the use is 10 acres or fewer, cumulative annual acreage of small-scale amendments amounts to less than 120 acres, it does not involve a text change to the goals, objectives and policies, and the property is not located in an Area of Critical State Concern (Florida Statute 163.3187). These amendments may be adopted by ordinance by the county commission with only one public hearing. The state does not review these small-scale amendments; however, public participation is still required and affected parties still have the right to petition these amendments at the local level.

## **THE EVALUATION AND APPRAISAL REPORT**

---

The Evaluation and Appraisal Report (EAR) process is the principal process for updating local comprehensive plans to reflect changes in local conditions and state policy concerning planning and growth management.

The purpose of the EAR is to assess and evaluate the success and failure of the local comprehensive plan. The report is also required to address changes in local conditions, changes in state and regional policies on planning and growth management, and, through adoption of related amendments, to update the local comprehensive plan to address the issues raised in the EAR.

The first EAR must be prepared no later than seven years after the adoption of the comprehensive plan, and subsequent EARs must be prepared every five years thereafter. These time periods and the exact due dates for adoption and transmittal of a county's EAR may vary based upon the State Land Planning Agency publication of the exact due dates. EARs are not reviewed by the state, but each local government must submit a letter to the State Planning Agency confirming that the process has been completed and listing any needed revisions to the local plan which the EAR process identified.



## REFERENCES

1928 Zoning Enabling Act.

1972-1973 State and Regional Comprehensive Planning Acts.

Chapter 163, Part II, Florida Statutes, The 1985 Local Government Comprehensive Planning and Land Development Regulation Act (Florida's Growth Management Act).

Chapter 163, Part II, Florida Statutes, The 1975 Local Government Comprehensive Planning Act.

Chapter 187, Florida States, The State Comprehensive Plan.

Florida Department of Economic Opportunity. <http://www.deo.state.fl.us/>.

Florida Department of Community Affairs. A Guide to Preparing an Evaluation and Appraisal Report, March 2004.







## 12. Natural Resources Management

*Contributing Authors from the  
Florida Department of Environmental Protection*

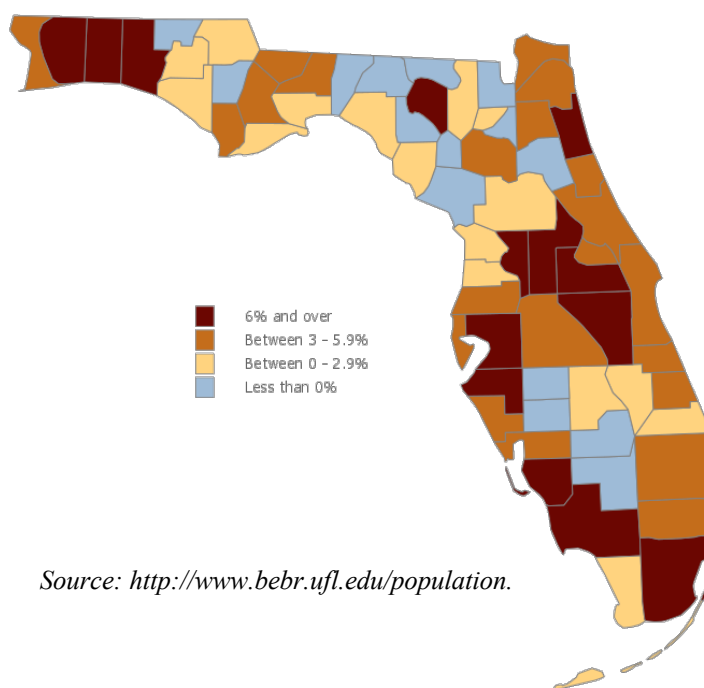
The role of counties in environmental management has changed tremendously in the past three decades. Advances in environmental sciences and technologies, a greater understanding of the connection between human health and the health of ecosystems, and growing citizen awareness have led to federal and state legislation that directly impacts the work done by county governments. In addition, growing populations will continue to put a strain on the environment unless county governments make natural resource management a priority.

In Florida, the Department of Community Affairs (DCA) is the primary authority over land use, comprehensive planning, service delivery strategies. While these functions impact Florida's natural resources, it is the Florida Department of Environmental Protection (DEP) that serves as the lead agency in state government for environmental management and stewardship.

DEP is one of the more diverse agencies in state government, protecting Florida's air, water and land. The Department is divided into three primary areas: Regulatory Programs, Land and Recreation and Planning and Management. Florida's environmental priorities include restoring America's Everglades, improving air quality, restoring and protecting the water quality in our springs, lakes, rivers and coastal waters, conserving environmentally-sensitive lands and providing citizens and visitors with recreational opportunities, now and in the future.

The Department of Environmental Protection protects, conserves, and manages Florida's natural resources and enforces the state's environmental laws. In addition to managing Florida's state park system, the Department also conserves environmentally-sensitive land, restores waterways, and preserves important cultural and historical resources through the *Florida Forever* program. Together with the South Florida Water Management District, the Department is implementing the state-federal partnership to restore America's Everglades—the largest environmental restoration project in the history of the world.

**Figure 12.1. Florida's Estimated Population Growth, 2010-2016.**



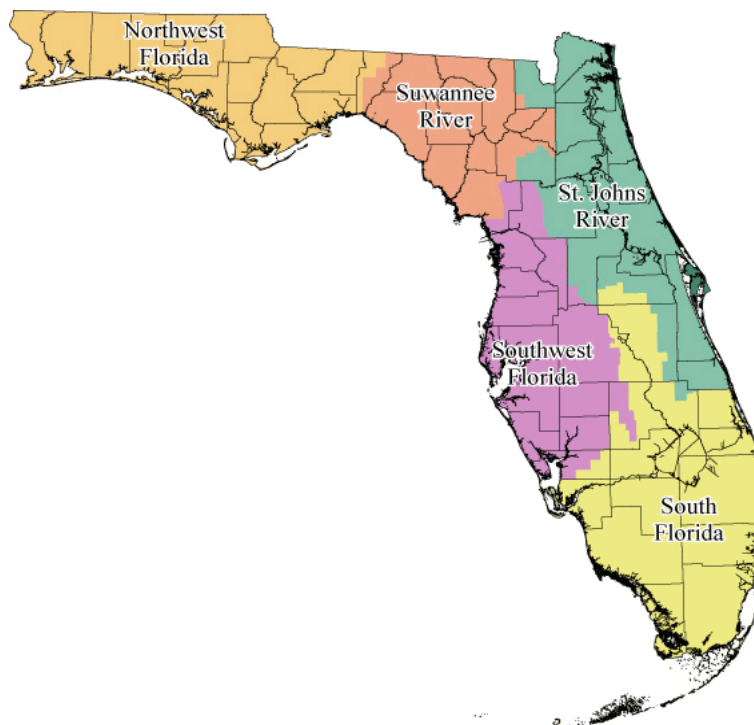
Source: <http://www.bebr.ufl.edu/population>.



The state's five water management districts (WMD) are multipurpose regional agencies charged with a wide range of responsibilities including water supply, flood protection and floodplain management, water quality protection and natural systems management. Chapter 373, Florida Statutes, provides the Department general supervisory authority over the districts and directs the Department to delegate water resources programs to them whenever possible. The Department is involved in managing the quality and quantity of water through its relationship with the WMD's. Regulatory programs delegated to the water management districts include programs to manage the consumptive use of water, aquifer recharge, well construction, surface water management, disaster preparation and recovery, and environment resource permitting.

The Environmental Regulation Commission (ERC) is the standard-setting authority for the Department. Created under Section 20.255(7), Florida Statutes, and appointed by the Governor, the ERC approves for adoption most standards relating to air pollution, water quality and waste management. In exercising its authority, the ERC considers scientific and technical validity, economic impacts and relative risks and benefits to the public and the environment.

**Figure 12.2. Florida's Five Water Management Districts.**



## **COLLABORATING WITH THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION**

---

The responsibilities of the Department of Environmental Protection are wide-ranging and include air quality, coastal management, water quality, land management, and waste and hazardous waste management.

### **LAND MANAGEMENT**

In managing and monitoring land use, county officials will work closely with the Department of Community Affairs (DCA) and with the Department of Environmental Protection (DEP). Several counties have special assessments approved by the voters dedicating funds to local land management programs. DCA's role in land use and comprehensive planning is outlined in a separate chapter in this book. DEP is responsible for:

- Acquiring land for conservation, recreation, water resource protection, and state universities and buildings. (Chapters 253 and 259, Florida Statutes)



- Serving as Florida’s land steward for the management of its publicly owned lands and land records. (Chapters 253 and 259, Florida Statutes)
- Increasing recreational opportunities for public use within the state park system and through the establishment of a statewide system of greenways and trails. (Chapters 258, 260, and 375, Florida Statutes)
- Preventing crimes against persons, property and resources on state lands to ensure personal safety and the full enjoyment of the resources. (Chapters 20, 376, 403, and 943, Florida Statutes)
- Conducting geoscience research projects and producing reports that support environmental and natural resource conservation needs. Overseeing the regulation of oil and gas exploration and production. (Chapter 377, Florida Statutes)
- Conducting research projects and producing reports that support the regulation of oil and gas exploration and production. (Chapter 377, Florida Statutes)

## **COASTAL MANAGEMENT**

Florida’s coastline is perhaps its greatest natural resource, and coastal counties as well as counties with ecosystems tied to coastal ecosystems work closely with the Florida Department of Environmental Protection, whose coastal management responsibilities include:

- Increasing the miles of beaches under active beach management to protect, preserve and restore the state’s beach coastal systems. (Chapters 161, 253, 258, 373, and 403, Florida Statutes)
- Managing and enhancing Florida’s submerged lands and coastal uplands. (Chapters 253 and 258, Florida Statutes)
- Identifying new management strategies to achieve the goal of maximizing the protection and conservation of ocean and coastal resources while recognizing their economic benefits. (Chapters 161 and 380, Florida Statutes)
- Identifying new management strategies to achieve the goal of maximizing the protection and conservation of ocean and coastal resources while recognizing their economic benefits. (Chapters 161 and 380, Florida Statutes)

Beaches are an important economic driver in Florida. Coastal counties are often the sponsor of Florida’s beach nourishment and renourishment projects, and they work to maximize the use of federal, state and local dollars in order to preserve our beaches.

## **WATER QUALITY**

Given Florida’s population size and growth patterns, and its unique geologic features, water quality is a constant concern for all public officials. To provide water services, including water supply, wastewater, and stormwater management, the county must have the managerial, technical, and financial capabilities to fulfill its responsibilities under the federal Clean Water Act (CWA) and Total Maximum Daily Load (TMDL) program. Local government wastewater and stormwater utilities must comply with the requirements of this program, which can be costly.



With regard to water quality regulations and monitoring, counties must work with the Florida Department of Environmental Protection, which is responsible for:

- Assessing and improving the quality and ecological health of Florida’s waters and aquatic ecosystems: rivers, streams, lakes, wetlands, estuaries, coastal systems, and ground waters. (Chapters 20, 370, 120, 211, 369, 373, 374, 376, 378, 403, and 487, Florida Statutes)
- Increasing available water supplies, including alternative water supplies, and promoting efficient water use to meet existing and future water supply needs. (Chapters 20, 120, 373, 376, and 403, Florida Statutes)
- Assuring adequate collection, treatment, disposal and reuse by Florida’s domestic and industrial wastewater facilities. (Chapter 403, Florida Statutes)
- Assuring adequate treatment, distribution, and delivery of drinking water by Florida’s public water systems. (Chapter 403, Part VI, Florida Statutes)
- Securing, equitably distributing, and managing funds to assist local governments and other entities finance wastewater, stormwater, drinking water, and other water-related infrastructure and activities.
- Regulating the management and storage of surface waters, both to protect water quality and prevent flooding. (Chapter 373 Florida Statutes)
- Protection water quality and habitat for wetland-dependent wildlife through the regulation of dredging, filling and construction in uplands, wetlands and other surface waters. (Chapter 373, Florida Statutes)
- Regulating the management and storage of surface waters, both to protect water quality and prevent flooding. (Chapter 373, Florida Statutes)
- Protection water quality and habitat for wetland-dependent wildlife through the regulation of dredging, filling and construction in uplands, wetlands and other surface waters. (Chapter 373, Florida Statutes)

## **WASTE AND HAZARDOUS WASTE MANAGEMENT**

A key responsibility of local government officials is the disposal of waste. Under the Solid Waste Management Act of 1988 (Chapter 403, Florida Statutes), counties are responsible for providing for the operation of solid waste disposal facilities to meet the needs of all incorporated and unincorporated areas of the county. Each county is also required to implement a recyclable materials program. Additionally, the Solid Waste Management Act was amended in 2008 to establish a 75% recycling goal to be met by the year 2020. The Act was further amended in 2009 to better outline options for meeting the recycling goal.

Removal of solid waste is costly, and there are four basic options available to counties for reducing waste. The first is to reduce the amount of waste generated, and this entails changing the buying habits of county residents. The next option is recycling. This is a popular option among local governments and residents, and recycling programs continue to increase in the state, particularly in light of the 75% recycling goal. Incineration is another option, and waste can be burned either to reduce the volume or to provide energy. Waste to energy is also an attractive option because it diversifies Florida’s



energy portfolio. The fourth option is land disposal; this is the least-preferred option because of the costs and difficulty in finding appropriate sites.

No matter which options are chosen by county, the county must work closely with the Florida Department of Environmental Protection, whose solid waste management responsibilities include:

- Promoting sound waste management practices and ensuring appropriate and timely cleanup of environmental contamination. (Chapters 376 and 403, Florida Statutes)
- Coordinating the siting of electrical power plants, power lines, natural gas transmission pipelines, and hazardous waste facilities. (Chapter 403, Florida Statutes)
- Reducing and controlling adverse impacts to public health and the environment from releases of hazardous materials and discharges of pollutants. (Chapters 252, 376, and 403, Florida Statutes)

## **AIR QUALITY**

Air pollution is directly related to energy use and conservation as the burning of fossil fuels (e.g., coal, natural gas, oil, and gasoline) is the major cause of air pollution. Counties can cut their energy usage and the energy used by the residents and businesses within the counties by conducting energy audits of county buildings and by making energy conservation a factor in transportation, building code, purchasing procedures, and land use decisions.

In addition, counties can undertake conservation initiatives such as increasing building insulation or purchasing energy-saving equipment. Counties can also assist residents by educating them about energy issues.

The Florida Department of Environmental Protection is responsible for air quality in the state, specifically:

- Increasing the areas of the state that are monitored for air quality and the amount of time that the monitored population breathes good quality air. (Chapters 403, 316, 325, 376, and 120, Florida Statutes)
- Pursuing voluntary agreements to reduce air emissions from power plants in Florida.

## **FDEP AND COUNTY GOVERNMENT**

---

Florida's regulatory priorities include monitoring air quality, implementing the federal Clean Air Act and administering Florida's air pollution control programs to best protect human health; protecting and restoring water quality; managing hazardous waste and cleanups; overseeing beach restorations; and reviewing applications for power plants, transmission lines, natural gas pipelines and hazardous waste facilities. DEP's six District Offices ensure compliance with department rules. Most department permits are issued from the district offices. District staff is available to answer questions and assist the public and local governments.

The Department of Environmental Protection (DEP) continually works with local governments to preserve and protect Florida's environment. Listed below are programs that assist local governments in achieving their environmental goals. Some programs include grants and loans that are offered through DEP.



## BEACH WARNING FLAGS

The safety and enjoyment of Florida's public beaches is affected by changes in tide and surf conditions. To minimize the risks of drowning or serious injury, the Florida Department of Environmental Protection has worked with local and national organizations to develop a uniform warning flag program. As funds are available, the warning flags and interpretive signs are provided free of charge to local governments that provide public beach access.

Many residents and visitors travel to different parts of the state to enjoy Florida's wonderful public beaches, and many beach communities post warning flags. Differences in flag colors, sizes and symbols from place-to-place can confuse beach goers, thereby decreasing the effectiveness of efforts to improve public safety. The Florida Legislature decided that a uniform flag system would provide the best measure of safety and, in 2005, amended Section 380.276, Florida Statutes, to require that all public beaches displaying warning flags use only the flags developed for the state's warning program.

**Figure 12.3. Official Beach Warning Flags.**



## CLEAN VESSEL ACT GRANT PROGRAM

The Clean Vessel Act (CVA) of 1992 was signed into law to reduce pollution from vessel sewage discharges, prohibiting the discharge of raw sewage into fresh water or within coastal salt-water limits. The act established a federal grant program administered by the U.S. Fish and Wildlife Service, which to date has awarded nearly \$150 million for states to install thousands of sewage pumpout stations. The program, housed within DEP's Office of Sustainable Initiatives, provides grants for construction and installation of sewage pumpout facilities and purchase of pumpout boats and educational programs for boaters.

## FLORIDA COASTAL MANAGEMENT PROGRAM GRANTS

The Florida Coastal Management Program is designed to support innovative local-level coastal management projects in four program areas including public access, remarkable coastal places, working waterfronts and community stewardship. Projects can be extremely diverse, ranging from dune revegetation to citizen water quality monitoring efforts to community-wide waterfront revitalization projects.

The FCMP provides grants to state agencies and water management districts for priority needs related to implementation of the statutory authorities included in the federally approved FCMP. Projects should contribute to the protection, management and enhancement of Florida's ocean and coastal resources and achieve the policy issues identified in the Coastal Zone Management Act, including: natural resource protection and management; hazard mitigation; water quality protection; siting of major developments; public access; redevelopment of urban, cultural and historic features; expedited governmental decision making; effective coordination with federal agencies; effective public and local government participation; comprehensive planning and management of living marine resources; shoreline erosion and land subsidence; and ocean resource management.

Through the Coastal Partnership Initiative, the Florida Coastal Management Program makes funds available to local governments in the 35 coastal counties and all municipalities within their boundaries that are required to include a coastal element in their comprehensive plan, for projects and activities that protect and enhance natural and cultural resources. Public colleges and universities, regional planning councils, national estuary programs and nonprofit groups may also apply if an eligible local government agrees to participate as a partner. The Coastal Partnership Initiative provides support for innovative local coastal management projects in four program areas: resilient communities, public access,



working waterfronts, and coastal stewardship. Certain governmental, educational, and non-profit entities may apply for grants for community projects such as dune revegetation, citizen water quality monitoring and waterfront revitalization.

### **INNOVATIVE RECYCLING GRANTS**

The Innovative Recycling/Waste Reduction Grants are available for funding innovative projects that focus on recycling or reducing the volume of municipal solid waste. To be eligible entities must have legal responsibility for the provision of solid waste management services, which may include counties, cities, special districts and nonprofit organizations.

### **LAND & WATER CONSERVATION FUND (LWCF)**

The Land and Water Conservation Fund program provides matching grants to states and local governments for the acquisition and development of public outdoor recreation areas and facilities. The program is intended to create and maintain a nationwide legacy of high-quality recreation areas and facilities and to stimulate non-federal investments in the protection and maintenance of recreation resources across the United States.

### **RECREATION DEVELOPMENT ASSISTANCE PROGRAM (FRDAP)**

The Florida Recreation Development Assistance Program is a competitive grant program that provides financial assistance to local governments for development or acquisition of land for public outdoor recreational purposes. All county governments and municipalities in Florida and other legally constituted local governmental entities with the legal responsibility for the provision of outdoor recreational sites and facilities for the use and benefit of the public are eligible.

### **SOLID WASTE GRANTS**

The Small County Consolidating Grant is awarded to counties with a population fewer than 100,000. It allows the county to be reimbursed for activities relating to solid waste including recycling, litter control and waste tires.

### **WATER AND WASTEWATER OPERATOR CERTIFICATION**

Florida Statutes require anyone who operates a drinking water treatment plant or a domestic wastewater treatment plant in Florida to be licensed by the Department of Environmental Protection. To qualify for licensure an applicant must meet minimum educational and work experience requirements for each class of license and earn a passing score on the exam for the type and level license desired by the applicant.

### **WATER FACILITIES FUNDING**

Grant and loan funds are available for construction of drinking water, waste water, stormwater and nonpoint source facilities. There are certain criteria counties must meet to qualify for the loans and grants.

Funding for wastewater construction began in 1957 with the Federal construction grants program and accelerated dramatically with the passage of the Clean Water Act in 1972. During the next 16 years Florida received an average of \$125 million grant dollars per year. Amendments to the Clean Water Act in 1987 called for the replacement of the long-standing federal Construction Grants program with the innovative CWSRF program. The Safe Drinking Water Act of 1996 established a Drinking Water SRF



program to protect the safety of drinking water. The Safe Drinking Water Act also required the development of Operator Certification guidelines, specifying the minimum standards for certification of the operators of public water systems.

State Revolving Fund (SRF) programs provide financial savings for projects that benefit the environment, including protection of public health and conservation of local watersheds. Federal and state contributions fund loans for a wide variety of water quality projects including all types of stormwater, watershed protection or restoration, and estuary management projects, as well as more traditional municipal wastewater treatment projects including water reuse and conservation projects. It allows states to provide funding for their highest-priority water quality needs. Funds to establish or capitalize the Clean Water State Revolving Fund (CWSRF) programs are provided through federal government grants and state matching funds that are equal to 20 percent of federal government grants. CWSRF monies are loaned to communities at lower than market rate interest-rates, and loan repayments are recycled back into the program to fund additional water quality protection projects. The revolving nature of these programs provides for an ongoing funding source that will last far into the future.

## **RESOURCES**

Florida Department of Environmental Protection: <http://www.dep.state.fl.us>

Land and Water Conservation Fund: <http://www.nps.gov/lwcf/>



---

## 13. Public Works

---

Mariana Llansó

---

### INTRODUCTION: PUBLIC WORKS IS EVERYWHERE

---

Imagine a drive where you are constantly averting or hitting potholes; where you have to take a long detour because a bridge is unsafe to cross; a drive where there are no stop signs or yield signs; imagine the chaos of a major intersection without traffic lights, or a street with no markings (painted lines) to delineate the lanes.

Imagine your community's children walking to school on the road with cars speeding by because there are no sidewalks.

Imagine driving down a road covered with three feet of rain water that does not drain. Or worse, imagine the rain water draining from the road to flood your front yard and then your house.

Imagine you are home and instead of turning on the water faucets, you have to go over to your nearest pond or stream to collect water for drinking, bathing, cleaning your home, washing your dishes, watering your lawn, and filling your toilet water tank.

Now imagine you did have water in your home, but it did not drain. A plumber would not be able to fix the problem because it is not a matter of clogging; there are no sewer pipes to drain your shower, your kitchen sink, or your toilet.

Imagine the trash sitting and rotting in your property or accumulated in huge heaps all over your neighborhood.

Imagine going for a walk after dinner and being swarmed by mosquitoes, bitten, and getting sick from the diseases they carry.

These are some of the more common services of *public works* as seen from the community's or users' perspective. Every single person who lives, visits, or traverses through your community is impacted by your public works. Every resident in the community is a customer of public works every day, in multiple ways.

The examples listed are common services, but the functions and programs of public works are far broader and more complex. In addition, public works departments may be responsible for public facilities management, equipment and fleet management, utility coordination, survey and mapping, parks and forestry, parking lots and garages, airports, public cemeteries, beach management, environmental management, rights of way, and public transportation or transit. The public works department also plays an essential role in emergency management.

The organizational arrangements may vary, and the designation used to identify your public works are equally diverse: Public Services, Technical Services, Transportation, Engineering, Utilities, Capital Improvements, Stormwater (yes, the industry created one word for the term), Road Maintenance, Water Resources, Water and Wastewater, Solid Waste, and the like.

### STEWARDSHIP



The overarching outcome for those who are tasked with the functions and programs of public works is *stewardship*.

Merriam Webster Dictionary defines stewardship as, “the conducting, supervising, or managing of something; *especially*: the careful and responsible management of something *entrusted to one’s care*.”

The citizens of our local governments entrust the design, construction, maintenance, and management of the public infrastructure, and the provision of certain municipal services, to the public works professionals. Although our public trust extends to each activity, below are some of the most important areas of stewardship focus.

***Inspections.*** Whether the local government is performing work using in-house forces or a private contractor, inspection is an essential function in public works. Among other duties, Inspectors ensure that:

- roads have been properly constructed or repaved
- storm water systems efficiently convey water off the roads
- citizens are able to safely cross a street
- pure water comes out of a home’s tap
- wastewater is sufficiently treated
- erosion and sediment are controlled
- trash is treated and disposed of according to regulation
- the environment is protected and restored
- the proper permits have been pulled for work on rights of way
- contractors have the requisite temporary traffic controls in and around construction areas

And this is by no means an exhaustive list. All work must be inspected for technical conformance and quality on behalf of the citizens served. Constituents rely on public works for their *health and safety*.

***Master Planning.*** The importance of master plans cannot be overstated. The technical nature of public works, the enormous investment in the public infrastructure, and scarce resources are compelling factors in favor of master plans. The master planning process requires that a public agency investigate and record current infrastructure capacity, conduct scientific studies, and identify long-term needs. A professional public works department ought to have master plans for roads and streets, for intersections, for water and wastewater resources, for sidewalks and ADA ramps, for storm water or watersheds, for parks and trails, for forestry, and the like. Each comprises certain best practices; for example, storm water master plans ought to feature flood control, water quality, and habitat restoration. Projects are prioritized via a scientific method. Master plans are excellent tools to inform elected officials during the budget approval phase.

***Security.*** The security of a county’s infrastructure is crucial. Vulnerability assessments of infrastructure, pumps, and facilities should be periodically conducted.

***Competence and Professional Development.*** Building capacity to achieve optimal competence is essential for public works employees. Technical skills are important, and ethics is more so. Technical skills must be based on industry standards as technology improves very fast. The public works professional must not only be current on the latest advances, he or she should also have the skills to analyze when the application of said advances will maximize the return on investment of the public works infrastructure.

With reference to ethics, consider that whereas most other local government staff in operational and support units work out of offices, under close and continuous supervision, public works employees are in the field 95% of their day. *It is important to create a spirit of service and stewardship under these working conditions.* An ethics program requires that a code of ethics be established, ongoing ethics training be offered, behavior be monitored, and staff be held accountable for their behavior while in the service of the community.



**Continuous Improvement.** A system of continuous improvement is a tool to ensure staff accountability to elected officials and the public. The public works industry is fortunate to have the American Public Works Association (APWA) Accreditation program. Chartered in 1937, the APWA is the oldest and largest international association for public works professionals. APWA began the Accreditation program in 1996. The process entails a self-assessment of more than 500 practices using the Public Works Management Practices Manual. As with all accreditations, the process requires that certified professionals conduct an on-site audit to verify that industry standards and best management practices are met. It is a rigorous and comprehensive process. Accreditation confirms that your public works department is investing the public's money in the most effective and efficient manner.

There are currently only 182 APWA Accredited Agencies in the United States and Canada. Accreditation is valid for a four-year period. At this writing, there are 14 APWA Accredited Agencies in the State of Florida: the cities of Coral Springs, Fort Myers, Lakeland, North Port, Port St. Lucie, Palm Bay, Gainesville, Miami Beach, and Largo; the Village of Wellington; and Hillsborough County, Okaloosa County, Pinellas County and Sumter County.

**Sustainability.** Public works has a unique opportunity among local government operations to implement sustainability best management practices. Although this chapter describes most of the practices in greater detail, some areas of sustainable best practices in public works are: low impact development, pervious design and construction, fleet conversion, LED street light conversion, reforestation and urban forestry, greenways, wetland mitigation, habitat restoration; strict enforcement of erosion and sedimentation controls, peak and volume sensitive regulations, no Stormwater BMP waivers, watershed master plans and their continuous updates, waste to energy programs, composting, reduce/reuse/recycle programs, and use of alternative fuels, just to name a few.

**Elected Official Stewardship.** The most important action of stewardship in public works that an elected official can provide is to *clearly establish the core services and their associated level of service delivery.*

## ORGANIZATIONAL RESPONSIBILITIES

---

### ENGINEERING MANAGEMENT

#### **Professional Qualifications of Engineers in Florida**

The engineers who manage the public infrastructure are a cornerstone of local government. Depending on the size and structure of a county's organization, one or more professional engineers (with the designation P.E.) ought to be on the payroll. This means that not only has he or she graduated from an accredited university with a degree in engineering, but, in addition, they are registered and licensed by the Florida Board of Professional Engineers (FBPE). The profession is regulated; see Chapter 471, Florida Statutes. The Professional Engineer (P.E.) manages, designs, constructs, and inspects all public works. If a county's engineering functions are outsourced, the county engineer assumes oversight of consultants and contractors.

The P.E. signs and seals all plans certifying that your projects meet industry standards, thus ensuring the health, safety, and welfare of county residents.

P.E. licenses must be renewed every two years in Florida. A statutory condition of renewal is proof of continuing technical and ethics education.

The engineering profession has become increasingly specialized; civil engineers may specialize in structural or vertical design and construction, drainage, traffic, water quality, and the like. The functions and services of public works require engineering expertise in many areas, including roads and streets, traffic signalization, bridges, drainage, water supply and distribution, sewer, water and wastewater treatment, public buildings, parking, airports, and transit. If a county's policy is to privatize or outsource



the design and construction of infrastructure, it cannot be overemphasized that *the county has a fiduciary duty to review and inspect all design and construction in the best interest of residents.*

### **Qualifications of Private Sector Professional Consultants**

Section 287.055, Florida Statutes, the Consultants' Competitive Negotiation Act (CCNA), provides that contracts for engineering, architectural, and surveying and mapping professional services be awarded to the most qualified firm. The statute also requires that the firm be compensated at a fair, competitive, and reasonable level. In making this determination, local government staff will be wise to refer to established guidelines, such as the ASCE Manual No. 45, "How to Work Effectively with Consulting Engineers –Getting the Best Project at the Right Price." The Florida Engineering Society has excellent resources at [www.fleng.org](http://www.fleng.org).

### **Standard Specifications and Regulations**

Engineers adhere to federal, state, regional, and local standard specifications and regulations for the management and technical applications in all areas of public works. There are statutes and regulations which ensure adherence to internationally recognized standards. ASTM International, Federal Highway Administration (FHWA), Water Environment Federation (WEF), and Florida Department of Transportation (FDOT) are some examples of agencies and associations that publish standards for the public works industry.

Engineers use technical language and acronyms in the normal course of business. Elected officials should feel free to request a *glossary of terms*, or pictures and diagrams as needed. Some common terms include: culvert (pipe under driveway), a mitered-end section (slanted end of pipe), geotechnical expert (someone who investigates sinkholes), and MUTCD (pronounced "mudco", the Manual on Uniform Traffic Control Devices, a document published by the Federal Highway Administration (FHWA) of the United States for signs, signals, markings<sup>1</sup>, and all traffic control devices).

Even with a glossary, these are complex technical practices, and an important principle of public administration is: elected officials are not supposed to be experts in every facet of public operations. Instead, they hire the most qualified, competent, and professional staff under the county manager or administrator to take care of the technical aspects of running the local government according to the commission's policy direction.

### **Transportation Engineering**

Civil engineers design, build and repave roads and streets, sidewalks, bicycle lanes, ADA ramps, and other essential infrastructure that contribute to safe and organized mobility. Transportation engineering projects are expensive. Principles of project management are required in order to keep projects on time, within budget, and to assure quality.

A subset of transportation engineering is bridges. The Florida Department of Transportation (FDOT) has primary responsibility for the inspection of bridges in the State of Florida. The requirement is that each bridge be inspected biennially. It is prudent for a county to have a bridge inspection plan to complement the FDOT biennial inspection. Inventory and functionality or condition coding are coordinated with the state; sufficiency ratings and maintenance and repair priorities ensure the safety of those who traverse the spans.

### **Stormwater Engineering**

Traditionally, storm water drainage management focused on flood control. Local government controls flooding by taking or conveying the rain water off the roads to keep motorists safe and to help prevent the water from damaging personal property. Most people are familiar with curbs and gutters on urban streets or roadside ditches. These are part of a sophisticated system of underground and above-



ground infrastructure used to divert, move or convey, and store the water as quickly and efficiently as possible. Civil engineers specializing in stormwater, drainage, or water quality have the requisite hydraulic and hydrologic expertise to manage the system.

The Water Quality Act of 1987 amended the Clean Water Act. The amendment provides a federal mandate, the National Pollutant Discharge Elimination System (NPDES) Permit. The primary intent of the NPDES Permit is the removal of pollutants before rain water is discharged into our ponds, lakes, streams, and bays. The Florida Department of Environmental Protection has been granted regulatory compliance authority over local governments by the Environmental Protection Agency (EPA). Section 62 of the Florida Administrative Code is an excellent reference for State Standards currently in effect.

### **Traffic Engineering**

Generally, the organizational structure of public works provides for a separate unit dedicated to Traffic. Traffic standards are dictated by MUTCD, the manual published by the Federal Highway Administration. Traffic studies conducted by traffic engineers are an extremely important element in local government. These include origin-destination studies, accident studies, traffic volume counts, speed and delay or travel time studies, signal warrant studies, multi-way warrant studies, left turn warrant studies, sign visibility studies, speed zone studies, and many more—and they are all essential.

A traffic engineers' primary concern is *safety*. Specifically, he or she will focus on reducing motor vehicle accidents and pedestrian safety, especially within elementary school perimeters, this is a statutory requirement.

Elected officials may, on occasion, receive requests from residents for special signs; the county's traffic engineers can provide guidance on the matter prior to a decision.

### **Transit Management**

Transit is public transportation. The important issue for a county official to know is that transit systems are eligible to receive federal funds. The funds are available through the Urbanized Area Formula Program. When funds are granted, the agency is required to submit an Annual Certifications and Assurances report. The U.S. Federal Transit Administration (FTA) uses the Triennial Review to examine and evaluate whether recipients of Urbanized Area Formula Program funds meet statutory and administrative requirements. The review currently examines 23 areas. The transit agency or authority is required to show the financial ability to match federal funds, to cover cost over-runs, to cover operating deficits, to administer, operate, and maintain the transit system, and to conduct an annual independent audit of the agency.

Another issue is the design and location of bus passenger shelters. While this ought to be determined in community planning and included in the land development code, county officials may be called upon to make a policy statement regarding the siting of bus passenger shelters.

### **Structural Engineering**

Structural engineering deals with the design, construction and renovation of vertical assets or buildings. It is likely that a county has a real estate department, or some department that manages the sale and acquisition of land and buildings; if so, this would be the proper unit for structural engineering. However, many local governments are organized so that public facilities management is under the public works department. Facilities management is discussed in the Operations and Maintenance section of this chapter.

### **Parking**

A comprehensive transportation system includes parking planning and design. Horizontal and vertical control parameters and public use are considerations in planning the need, placement, and



engineering design of parking facilities. These may result in structures, lots, or on-street parking. Pervious design and construction are sustainability best management practices. Standard specifications and criteria may include angles, widths, compact vehicle rations, land value versus cost per stall, handicapped spaces, and areas for buses and commercial vehicles.

### **Potable (drinking) Water**

County government has responsibility is to ensure that residents have a reliable source of potable water, treatment facilities, storage and booster stations, a distribution network, and security measures to protect the infrastructure. This a probably the most essential core service of local government. Florida has experienced long periods of drought so water usage limitations are set according to policy. A long-range water resource plan will anticipate that infrastructure, sources, and resources will be able to meet a county's capacity for growth.

The section on Operations and Maintenance will discuss the major factors in the distribution and treatment of potable water; these standard procedures ensure the *health* of residents. This most essential public service is also one of your highest consumers of energy; an energy consumption plan is prudent.

### **Solid Waste**

Solid waste is the term used for trash. Model solid waste management programs use the integrated solid waste management (ISWM) concept of operations. The Environmental Protection Agency provides the standards or hierarchy of technologies. The desired outcome is waste abatement.

Although collection of solid waste is generally outsourced to one or more private contractors, this municipal service of your county government comprises far more than collection. In the Operations and Maintenance section we discuss treatment and disposal.

A Solid waste plan includes the level of service, the types of receptacles, disposal of hazardous household waste, trash collection days, set-out times, route designs and charges, as determined by your policy.

Sustainability best management practices are prevalent in the solid waste industry. In fact, the ISWM is sustainability best management practice since it integrates practices such as reusing, recycling, composting, and waste to energy or resource recovery.

***Illegal Dumping*** is a challenge for local governments. Strategies to address the root cause of illegal dumping include identification of hot spots, surveillance, and partnerships with local law enforcement to fine or prosecute violators. As a complement to your strategic approach, illegal dumping ought to be removed from the rights of way at the earliest opportunity. Citizens will call you primarily because the trash is an eyesore, but removal is compelling due to the potential repercussions to the health and safety of residents. Many jurisdictions operate *fight-the-bligh programs* and use the programs to optimize outreach by partnering with the social services departments.

### **Parks, Grounds and Forestry**

Parks, forestry, and greenways master plans are best management practices. Urban forestry and greenways greatly contribute to a sustainable community. Public works input in the planning of urban forestry and greenways is essential because in effect your government is layering one asset above another. In addition, it is important that staff be informed of the latest technology. Many public works maintenance personnel view urban forestry and greenways as expensive impediments and added activities to rights of way operations and maintenance. For example, if an underground pipe needs to be replaced, the sod or concrete over the area needs to be removed and later replanted or replaced; tree roots lift sidewalks, and the like. The important point here is to ensure all necessary stakeholders are involved in the planning of your urban greenways.



## **Airports**

Similar to transit, municipal airports are generally organized as authorities via resolution. However, throughout the United States, many public works departments operate municipal or county airports within their community.

Also similar to transit, there is a significant federal regulatory component. In Florida, airports must comply with the rules and regulations established by the Federal Aviation Administration and the State of Florida Department of Transportation's (FDOT) Aviation Office.

An airport master plan will include regulatory compliance policies; security plans; property development and management issues; maintenance guidelines for all equipment, property, and facilities; and, environmental issues, including noise reduction, HAZMAT disposal, fueling requirements, wetland and habitat protection, and application of herbicides. Personnel with marketing and grant management skills may be advantageous for the counties with municipal airport responsibility.

## **OPERATIONS AND MAINTENANCE**

New construction is highly visible, and the duties of county elected officials often includes presiding over ribbon cutting ceremonies for new public buildings, parks, and roads. It is important to optimize the life of public assets. Public servants have a fiduciary duty to preserve the life of new infrastructure and it is your Operations and Maintenance staff who are tasked with this responsibility. Operations and maintenance rely on three elements: labor, equipment & fleet, and materials.

### **Traffic Operations and Maintenance**

This is one of the most crucial operations and maintenance functions in a county. If a traffic signal malfunctions in a busy intersection, accidents are liable to occur and lawsuits will follow; more importantly, the safety of residents is in immediate jeopardy. The Traffic Operations unit is on emergency alert 24 hours a day, 7 days per week. Their response time to a call for service ought to be less than two hours.

The Manual on Uniform Traffic Control Devices (MUTCD) establish the federal minimum criteria for operations and maintenance. Notwithstanding, a county's traffic operations will have policies and procedures to complement the MUTCD. Some of the issues addressed by a county's traffic operating procedures are: response to traffic signal failure, signal timing plan, temporary traffic control (usually coordinated with local law enforcement), school zone speed limit and pedestrian procedures, traffic calming methods (speed humps, roundabouts), street closings, bicycle paths, bus stops, streetlights, roadside memorials, and one-way street designations. Inspection of signs, signals, and markings will identify maintenance needs. The traffic operations fleet will be equipped with certain inventory of signs and materials for quick response.

### **Wastewater**

According to the Florida Department of Environmental Protection (DEP), Division of Waste Management, which regulates and inspects wastewater systems in Florida, there are over 3,000 individually permitted domestic, not including septic systems, and industrial wastewater facilities in Florida. Less than a quarter of these facilities are authorized to discharge to surface water. Wastewater facilities collect, convey or move, and treat sewage.

A county government wastewater unit must comply with federal, state, and local health regulations, in addition to adhering to the standards issued by the Water Environment Federation (WEF).

***Wastewater Collection and Conveyance.*** The wastewater unit should have an operations manual which includes a collection and conveyance management plan; comprehensive inspection procedures, including verification that alarm systems are operable, and remote inspection technologies for assets that are inaccessible; a record of inspections, operations, maintenance, and repair; an inventory of your



wastewater infrastructure and a methodology for recording the condition of each asset; a maintenance plan; an inflow and infiltration control plan; and a plan to manage sanitary sewer overflows, including public notification procedures and cleanup.

Industrial pretreatment requirements should be established for discharge into the collection and conveyance system. If a county does not own the treatment and disposal facilities, it should consider adopting the regulations of the owner facility by reference.

***Wastewater Treatment and Disposal.*** An operations manual should include the wastewater treatment requirements, such as defined effluent limits to comply with federal, state, and local regulations. The manual should include comprehensive inspection, testing, and reporting procedures. Procedures for locating and determining the source of illicit discharges should include penalties for non-compliance.

The security of a wastewater treatment plant is important. A vulnerability assessment should identify potential breaches and the impact to the plant, to the community, and to the receiving waters.

### **Potable (Drinking) Water**

A county's water quality plan will include standard operating procedures, and will provide treatment methods, fire-flow requirements, for the operation and use of reservoirs, wells, surface potable water sources, and pump stations, for changes in quality and quantity of raw water, disinfection, and identify procedures to minimize treatment problems.

Procedures for public notification, public education, and incentives for water conservation should be widely publicized.

Source protection should be a concern. Protection and testing methods should be in place to prevent contamination of cross-connections or entry of other waters from unapproved sources. In terms of the water facilities security, vulnerability assessments should be conducted periodically.

Because of the source protection issue, the asset management plan for water infrastructure is perhaps the most important. Inspection, sampling and testing of the potable water and the infrastructure should run on schedule, be frequent, and comprehensive. The APWA Public Works Management Practices Manual indicates that "when portions of the system are operated from a remote central location, physical inspection is crucial."<sup>2</sup>

### **Solid Waste**

Once trash or solid waste is collected, a process to ultimately dispose of the solid waste begins. In Florida, solid waste is regulated by the Department of Environmental Protection (DEP), Division of Waste Management, but the source of the regulations is federal. Landfill design, impervious liners, environmental monitoring, methane recovery and venting, drainage controls, Leachate controls, compaction, cover material and systems, vector control, aesthetics, and odor are just some of the issues and requirements that a solid waste operations and maintenance plan should include.

As with all public works, inspection is very important. But in the case of solid waste, even after a landfill is closed, *it requires inspection and monitoring*. In any landfill around the world, post-closure inspection and monitoring of a landfill is important to prevent off-site migration of contaminants. In Florida, the DEP is using subsidence incidence data from the Florida Geologic Survey (FGS) to closely monitor for potential sinkhole activity.

### **Transportation Maintenance**

Maintenance of roads extends to all rights-of-ways such as medians, shoulders, sidewalks, and ditches. There are over 100 activities associated with transportation maintenance; examples are pothole patching, tree trimming, tree removal, median and rights of way mowing, pipe cleaning, ditch cleaning, street cleaning, sidewalk repair, and dead animal pick up.

A county's Transportation Maintenance unit should have a preventative maintenance program. Planning is imperative. It is a best management practice (BMP) to coordinate preventative maintenance



with certain activities of the county's Capital Improvement Program and with other public and private utilities (cable, energy, developers working in the public rights of way). One of the more frustrating complaints from citizens is the apparent lack of coordination. One week the street is paved, and three weeks later it is torn up by another public works project. Utility Coordination, as this planning element is generally called, must bring all stakeholders to the table. There will be occasions where a concerted effort is not possible, but this should be the exception.

Transportation maintenance crews are on standby at night, on weekends, and on holidays.

### **Parks and Forestry**

Parks enhance the quality of life of a community and provide safe places for children and adults to exercise, play and socialize. Forestry contributes to a sustainable community. Research shows that forestation reduces street level particulates.

Park maintenance and forestation are labor intensive. Planting, mowing, mulching, controlled burning, irrigation, weeding, fertilizing, transplanting, pest control, and pruning are just some of the daily activities of a groundskeeper.

Best management practices in the area of parks, grounds, and forestry are: a parks master plan, master street forestation plan, a tree inventory, a tree ordinance to provide regulation and protect the community investment, an inspection program, weed control program, and irrigation system designs.

Note that recreation related issues are not discussed in this chapter. This is because when a county places community parks under the public works umbrella, it is the portion of parks and recreation that pertains to maintenance of the grounds.

### **Mosquito Control**

Everyone is aware that the climate in Florida is conducive to a high mosquito population, and that mosquitoes carry diseases like West Nile Virus and Eastern Equine Encephalitis. There are currently 61 Mosquito Control Programs in the state. Generally, county governments provide mosquito control services to the incorporated municipalities within their political boundaries.

Scientific advances, including Larvicide (where the mosquito is targeted at larvae stage), have greatly contributed to controlling the mosquito population, but scientists have yet to find the means to eradicate the vector.

Due to the serious health repercussions, the management of mosquito control is an important component of a county's public works department. In terms of policy decision, even if a county chooses to outsource the chemical application to control the mosquito population, there are certain activities that ought to be reserved to county administration:

- Mosquito population identification: surveillance and identification of the types of mosquitoes found within a county.
- Mosquito control plan: the program should establish monitoring methods, the levels of service provided, population studies, complaint records, abatement methods, and public education program.
- Public education: protecting the community's health is a primary reason for which government exists. An education program to create awareness of the practices that reduce mosquito populations in and around homes and businesses is the responsibility of local government.



## IMPORTANT RELATED RESPONSIBILITIES

---

### EMERGENCY MANAGEMENT

As mentioned in previous chapters, county governments are political subdivisions of the State of Florida. Chapter 252, Florida Statutes, vests county governments with certain emergency management authority—for example, the power to declare a “State of Local Emergency.” The Comprehensive Emergency Management Plan of a county provides for emergency support functions. Public Works and Engineering is Emergency Support Function/ESF#3.

The true first responder in your community is Public Works. Before law enforcement and emergency medical vehicles are able to mobilize and respond *Public Works staff must clear the roads and streets of any debris caused by a disaster*. But debris clearance and removal from the roads and streets is not the only essential job of a Public Works department following a disaster. Consider the responsibilities in the normal course of business: provision of potable water, removal and treatment of wastewater, removal and treatment of solid waste, flood control, traffic operations, road construction, dead animal pick up, etc. —the community will depend upon the quick response and restoration of services.

### BEACH AND COASTAL MANAGEMENT

A beach management plan will address access, parking, signage, vendor activities, and recreation. The safety of visitors is a primary concern. The operations and maintenance ought to focus on erosion control, replenishment, and restoration.

At this writing, a few Florida counties are in emergency response mode to address massive fish kills resulting from an extraordinarily active red tide. While there are contractors dedicated to this type of environmental cleanup, it is the responsibility of your local government to lead and management efforts to protect the health of the community.

### COMMUNITY PLANNING AND DEVELOPMENT

Regional and local planning for purposes of land use and zoning should involve public works early in the planning stages to ensure the infrastructure has the capability to accommodate growth and development. Public works professionals are well aware that the question is not *whether* there will be growth within their respective service area, but when and how much. The public works professional’s concern is the well-planned and managed growth, where development plans have factored in the impact of growth to the existing infrastructure systems.

### ASSET MANAGEMENT

When the Government Accounting Standards Board (GASB) issued Standard No GASB-34, many counties adopted the accounting practice. Whether or not your county has adopted GASB-34, the principle of having an inventory of all county assets and their condition is a sound fiscal and entrepreneurial management practice.



**Table 13.1. Florida Counties Infrastructure Expenditures in 2016.**

| <b>County</b> | <b>Airports</b> | <b>Mass Transit</b> | <b>Parking Facilities</b> | <b>Road/<br/>Street Facilities</b> |
|---------------|-----------------|---------------------|---------------------------|------------------------------------|
| Alachua       | \$ -            | \$1,083,292         | \$-                       | \$15,000,030                       |
| Baker         | \$ -            | \$-                 | \$-                       | \$3,832,287                        |
| Bay           | \$ -            | \$5,250,456         | \$-                       | \$20,510,899                       |
| Bradford      | \$ -            | \$-                 | \$-                       | \$4,576,085                        |
| Brevard       | \$4,433,471     | \$13,783,358        | \$-                       | \$48,986,917                       |
| Broward       | \$229,667,000   | \$ 159,147,000      | \$-                       | \$63,170,000                       |
| Calhoun       | \$2,134,867     | \$-                 | \$-                       | \$11,648,980                       |
| Charlotte     | \$-             | \$-                 | \$-                       | \$100,010,507                      |
| Citrus        | \$694,701       | \$1,459,310         | \$-                       | \$33,079,476                       |
| Clay          | \$-             | \$63,833            | \$2,071,512               | \$23,836,395                       |
| Collier       | \$2,962,034     | \$9,567,364         | \$-                       | \$63,706,791                       |
| Columbia      | \$-             | \$-                 | \$-                       | \$17,749,363                       |
| Dade          | \$673,335,560   | \$ 599,805,000      | \$-                       | \$121,480,036                      |
| DeSoto        | \$-             | \$77,874            | \$-                       | \$4,076,604                        |
| Dixie         | \$1,399,716     | \$-                 | \$-                       | \$5,518,064                        |
| Duval         | \$-             | \$ 159,775,388      | \$3,495,371               | \$47,465,784                       |
| Escambia      | \$-             | \$13,423,697        | \$-                       | \$38,672,669                       |
| Flagler       | \$2,903,425     | \$1,761,995         | \$-                       | \$18,742,519                       |
| Franklin      | \$-             | \$-                 | \$-                       | \$4,504,104                        |
| Gadsden       | \$-             | \$92,880            | \$-                       | \$10,002,767                       |
| Gilchrist     | \$-             | \$-                 | \$-                       | \$5,040,772                        |
| Glades        | \$-             | \$-                 | \$-                       | \$3,880,765                        |
| Gulf          | \$-             | \$-                 | \$-                       | \$7,930,185                        |
| Hamilton      | \$-             | \$-                 | \$-                       | \$5,032,460                        |
| Hardee        | \$-             | \$-                 | \$-                       | \$4,489,779                        |
| Hendry        | \$2,882,907     | \$-                 | \$-                       | \$11,788,703                       |
| Hernando      | \$2,637,521     | \$9,498             | \$-                       | \$25,418,460                       |
| Highlands     | \$15,666        | \$-                 | \$-                       | \$14,324,687                       |
| Hillsborough  | \$-             | \$318,910           | \$-                       | \$125,683,382                      |
| Holmes        | \$-             | \$278,503           | \$-                       | \$5,809,950                        |
| Indian River  | \$-             | \$-                 | \$-                       | \$30,991,899                       |
| Jackson       | \$-             | \$5,000             | \$-                       | \$17,724,610                       |
| Jefferson     | \$-             | \$-                 | \$-                       | \$1,972,285                        |
| Lafayette     | \$-             | \$-                 | \$-                       | \$2,452,016                        |
| Lake          | \$-             | \$-                 | \$-                       | \$27,131,010                       |
| Lee           | \$123,881,924   | \$31,840,363        | \$-                       | \$69,204,499                       |
| Leon          | \$-             | \$-                 | \$-                       | \$26,040,928                       |
| Levy          | \$129,347       | \$1,156,118         | \$-                       | \$4,781,916                        |
| Liberty       | \$-             | \$412,197           | \$-                       | \$3,023,647                        |



**Table 13.1. Florida Counties Infrastructure Expenditures in 2016.**

| <b>County</b>       | <b>Airports</b>        | <b>Mass Transit</b>    | <b>Parking Facilities</b> | <b>Road/<br/>Street Facilities</b> |
|---------------------|------------------------|------------------------|---------------------------|------------------------------------|
| Madison             | \$2,500                | \$-                    | \$-                       | \$7,030,919                        |
| Manatee             | \$-                    | \$14,111,000           | \$-                       | \$62,152,000                       |
| Marion              | \$1,566,126            | \$1,023,874            | \$-                       | \$41,569,221                       |
| Martin              | \$2,564,093            | \$1,800,567            | \$-                       | \$27,443,831                       |
| Monroe              | \$11,817,094           | \$-                    | \$-                       | \$13,476,561                       |
| Nassau              | \$-                    | \$-                    | \$-                       | \$7,501,611                        |
| Okaloosa            | \$13,966,410           | \$3,961,347            | \$-                       | \$14,146,075                       |
| Okeechobee          | \$467,099              | \$-                    | \$-                       | \$5,618,279                        |
| Orange              | \$-                    | \$45,414,393           | \$-                       | \$157,435,519                      |
| Osceola             | \$-                    | \$6,513,147            | \$-                       | \$49,953,315                       |
| Palm Beach          | \$73,951,501           | \$96,761,150           | \$-                       | \$67,834,724                       |
| Pasco               | \$-                    | \$2,029,648            | \$-                       | \$49,588,418                       |
| Pinellas            | \$15,181,907           | \$-                    | \$-                       | \$60,329,643                       |
| Polk                | \$-                    | \$8,507,962            | \$-                       | \$63,353,954                       |
| Putnam              | \$-                    | \$30,000               | \$-                       | \$12,408,475                       |
| Saint Johns         | \$-                    | \$-                    | \$-                       | \$38,776,542                       |
| Saint Lucie         | \$1,695,956            | \$-                    | \$-                       | \$20,050,901                       |
| Santa Rosa          | \$539,498              | \$-                    | \$-                       | \$14,036,006                       |
| Sarasota            | \$-                    | \$31,466,779           | \$-                       | \$52,639,062                       |
| Seminole            | \$-                    | \$6,554,309            | \$-                       | \$68,963,055                       |
| Sumter              | \$-                    | \$-                    | \$-                       | \$20,289,281                       |
| Suwannee            | \$294,902              | \$-                    | \$-                       | \$13,795,089                       |
| Taylor              | \$1,463,229            | \$-                    | \$-                       | \$4,189,407                        |
| Union               | \$-                    | \$-                    | \$-                       | \$1,981,180                        |
| Volusia             | \$15,720,018           | \$26,146,239           | \$1,693,989               | \$48,680,445                       |
| Wakulla             | \$120,004              | \$-                    | \$-                       | \$2,958,808                        |
| Walton              | \$-                    | \$-                    | \$-                       | \$22,515,344                       |
| Washington          | \$-                    | \$-                    | \$-                       | \$9,110,076                        |
| <b>All Counties</b> | <b>\$1,186,428,476</b> | <b>\$1,243,632,451</b> | <b>\$7,260,872</b>        | <b>\$ 2,007,119,971</b>            |



**Table 13.1. Florida Counties Infrastructure Expenditures in 2016.**

| <b>County</b> | <b>Water<br/>Transportation</b> | <b>Sewer/ Wastewater<br/>Services</b> | <b>Water/Sewer<br/>Services</b> | <b>Other Infrastructure</b> |
|---------------|---------------------------------|---------------------------------------|---------------------------------|-----------------------------|
| Alachua       | \$-                             | \$-                                   | \$-                             | \$-                         |
| Baker         | \$-                             | \$-                                   | \$-                             | \$-                         |
| Bay           | \$-                             | \$-                                   | \$11,834,678                    | \$-                         |
| Bradford      | \$-                             | \$-                                   | \$-                             | \$-                         |
| Brevard       | \$-                             | \$-                                   | \$28,013,077                    | \$-                         |
| Broward       | \$110,947,000                   | \$-                                   | \$ 106,783,000                  | \$-                         |
| Calhoun       | \$-                             | \$-                                   | \$-                             | \$-                         |
| Charlotte     | \$-                             | \$12,400,367                          | \$24,250,232                    | \$-                         |
| Citrus        | \$-                             | \$4,133                               | \$15,274,531                    | \$21,663                    |
| Clay          | \$-                             | \$-                                   | \$-                             | \$10,396                    |
| Collier       | \$-                             | \$50,297,300                          | \$-                             | \$-                         |
| Columbia      | \$-                             | \$312,734                             | \$-                             | \$-                         |
| Dade          | \$101,741,000                   | \$-                                   | \$ 578,543,551                  | \$82,373,962                |
| DeSoto        | \$-                             | \$671,781                             | \$2,468,844                     | \$-                         |
| Dixie         | \$-                             | \$-                                   | \$-                             | \$-                         |
| Duval         | \$75,040,342                    | \$-                                   | \$ 352,749,060                  | \$98,738,859                |
| Escambia      | \$-                             | \$-                                   | \$227,928                       | \$-                         |
| Flagler       | \$-                             | \$855,358                             | \$-                             | \$-                         |
| Franklin      | \$-                             | \$-                                   | \$-                             | \$-                         |
| Gadsden       | \$-                             | \$-                                   | \$-                             | \$-                         |
| Gilchrist     | \$-                             | \$-                                   | \$-                             | \$14,180                    |
| Glades        | \$-                             | \$-                                   | \$-                             | \$-                         |
| Gulf          | \$-                             | \$-                                   | \$6,736                         | \$18,472                    |
| Hamilton      | \$-                             | \$-                                   | \$487,100                       | \$-                         |
| Hardee        | \$-                             | \$1,076,569                           | \$-                             | \$-                         |
| Hendry        | \$-                             | \$-                                   | \$-                             | \$-                         |
| Hernando      | \$444,252                       | \$7,217,132                           | \$13,441,576                    | \$-                         |
| Highlands     | \$-                             | \$4,445                               | \$-                             | \$-                         |
| Hillsborough  | \$350,000                       | \$9,277                               | \$ 219,391,038                  | \$134                       |
| Holmes        | \$-                             | \$-                                   | \$-                             | \$-                         |
| Indian River  | \$-                             | \$-                                   | \$35,428,267                    | \$-                         |
| Jackson       | \$-                             | \$-                                   | \$935,655                       | \$8,141                     |
| Jefferson     | \$-                             | \$-                                   | \$-                             | \$-                         |
| Lafayette     | \$-                             | \$-                                   | \$-                             | \$-                         |
| Lake          | \$-                             | \$-                                   | \$-                             | \$5,842,274                 |
| Lee           | \$-                             | \$-                                   | \$ 121,193,308                  | \$-                         |
| Leon          | \$-                             | \$251,903                             | \$-                             | \$-                         |
| Levy          | \$-                             | \$-                                   | \$-                             | \$-                         |
| Liberty       | \$-                             | \$-                                   | \$-                             | \$-                         |
| Madison       | \$-                             | \$-                                   | \$-                             | \$-                         |
| Manatee       | \$14,129,000                    | \$29,305,000                          | \$60,718,000                    | \$634,000                   |



**Table 13.1. Florida Counties Infrastructure Expenditures in 2016.**

| <b>County</b>       | <b>Water Transportation</b> | <b>Sewer/ Wastewater Services</b> | <b>Water/Sewer Services</b> | <b>Other Infrastructure</b> |
|---------------------|-----------------------------|-----------------------------------|-----------------------------|-----------------------------|
| Marion              | \$-                         | \$3,159,932                       | \$17,157,068                | \$-                         |
| Martin              | \$-                         | \$-                               | \$32,703,806                | \$7,857                     |
| Monroe              | \$231,251                   | \$45,583,792                      | \$-                         | \$29,732                    |
| Nassau              | \$-                         | \$82,812                          | \$1,987,837                 | \$716,104                   |
| Okaloosa            | \$-                         | \$-                               | \$25,998,072                | \$-                         |
| Okeechobee          | \$-                         | \$-                               | \$-                         | \$41,303                    |
| Orange              | \$-                         | \$-                               | \$ 199,251,996              | \$2,641,461                 |
| Osceola             | \$-                         | \$-                               | \$-                         | \$-                         |
| Palm Beach          | \$-                         | \$-                               | \$ 167,822,658              | \$-                         |
| Pasco               | \$-                         | \$33,042,923                      | \$38,038,461                | \$213,945                   |
| Pinellas            | \$-                         | \$58,100,015                      | \$-                         | \$-                         |
| Polk                | \$-                         | \$-                               | \$52,707,267                | \$9,183,089                 |
| Putnam              | \$411,390                   | \$541,791                         | \$-                         | \$-                         |
| Saint Johns         | \$-                         | \$-                               | \$45,484,411                | \$-                         |
| Saint Lucie         | \$1,613,237                 | \$2,356,304                       | \$6,224,947                 | \$4,863,385                 |
| Santa Rosa          | \$6,356                     | \$2,133                           | \$2,017,828                 | \$619                       |
| Sarasota            | \$-                         | \$21,879,302                      | \$107,898                   | \$144,752                   |
| Seminole            | \$1,150,838                 | \$1,455,860                       | \$42,318,340                | \$-                         |
| Sumter              | \$-                         | \$56,000                          | \$-                         | \$1,150,464                 |
| Suwannee            | \$-                         | \$-                               | \$-                         | \$-                         |
| Taylor              | \$-                         | \$-                               | \$-                         | \$-                         |
| Union               | \$-                         | \$-                               | \$-                         | \$-                         |
| Volusia             | \$802,581                   | \$-                               | \$12,288,793                | \$80,502                    |
| Wakulla             | \$-                         | \$1,985,873                       | \$-                         | \$-                         |
| Walton              | \$-                         | \$-                               | \$-                         | \$-                         |
| Washington          | \$-                         | \$-                               | \$-                         | \$-                         |
| <b>All Counties</b> | <b>\$ 306,867,247</b>       | <b>\$ 270,652,736</b>             | <b>\$2,215,855,963</b>      | <b>\$ 206,735,294</b>       |

## REFERENCES

American Public Works Association (2014). *Public Works Management Practices Manual, Eighth Edition*. Kansas City, MO: APWA Press.

American Public Works Association (2008). *Public Works Administration*. Kansas City, MO: APWA Press.

## NOTES

<sup>1</sup> Markings are white or yellow lines and other drawings on the street to provide direction. For example, arrows to show left turn only, bicycle lane indicators, or pedestrian crossings.

<sup>2</sup> p. 100.



---

# 14. Emergency Management

---

*Joseph F. Myers*

---

## INTRODUCTION

---

As the elected representative of the people of your county, county commissioners have the ultimate responsibility under Florida Statutes to provide for the well-being and safety of the residents of your county. Chapter 252, Florida Statutes, requires every county to maintain an emergency management agency that is ultimately overseen by the Board of County Commissioners (BOCC), or in a few locations, the Sheriff's Office. Ultimately, regardless of where the emergency management office is organizationally located, the BOCC has the ultimate responsibility for protecting its residents from all hazards, either manmade, or natural. As such, each county commissioner needs to understand how the emergency management system operates in Florida, and how resources are secured during times of imminent threat or post-disaster.

## HISTORICAL EVOLUTION OF EMERGENCY MANAGEMENT IN FLORIDA

---

Beginning in 1941, the State of Florida enacted enabling legislation to create the State Defense Council that sponsored county chapters. As the cold war ramped up, major changes were made to the law. The Florida Civil Defense Act of 1951, Florida Statutes 268.75, specifically recognized the responsibility of local government in emergency operations. It was consistent with National Civil Defense Act of 1950, (PL 920) and recognized the need for the State and its political jurisdictions to establish "civil defense councils". In 1965, the Department of Civil Defense was created along with the Civil Defense Advisory Board.

**Figure 14.1. Emergency Management 1980s – Present.**





In 1969 the Department of Civil Defense along with the state's Civil Defense Advisory Board were transferred to the Department of Community Affairs into the newly created Division of Emergency Government. It was not until the major government restructuring that occurred in 1974 and 1979 that Chapter 252, Florida Statutes, was completely rewritten, and the *county* disaster preparedness responsibilities were formally created. In 1984, the State formally changed its disaster preparedness name to "emergency management", reflective of the 1979 federal legislation that did likewise. This was a major shift away from a cold war civil defense mentality, to an "all hazards" approach to emergency management. This was especially productive for Florida, given our high susceptibility to all forms of natural disasters (e.g., hurricanes, floods, wildland fires, tornadoes, etc.).

The next defining moment in Florida's emergency management program occurred in 1992-1993. Having gone through the most expensive and devastating hurricane in the history of Florida in 1992 with Hurricane Andrew, and then the March 1993 no-named superstorm, the State created a first of its kind emergency management trust fund (Emergency Management Preparedness and Assistance Trust Fund). The revenue source for the fund comes from an individual and business insurance policy surcharge of \$2 and \$4 respectively. The EMPATF revolutionized emergency management in Florida in that it generated sufficient funding to require every county have a full time, professional emergency management program. This was done so that the State would never be caught unprepared, or under prepared again to a storm like Hurricane Andrew. To date, Florida is the only state that has such an emergency management trust fund.

Lastly, with the terrorist attack on the homeland on September 11, 2001, the nation increased its desire to better protect its homeland. "*Homeland Security*" was added to the emergency management vernacular. Although emergency management remains an independent profession, homeland security brought with it the idea of "prevention" to the emergency management equation. In Florida, Homeland Security is centralized in the Florida Department of Law Enforcement and administered by the Florida Division of Emergency Management.

## AUTHORITY

---

Chapter 252, Florida Statutes, is the enabling legislation for every county. Section 252.38(1)a-e provides specific provisions for all counties including:

- Every county emergency management agency (EM) has jurisdiction over the entire county, to include municipalities.
- Every county must maintain an EM program consistent with the State Comprehensive Emergency Management Plan.
- Each county must appoint an EM director that meets minimum training and education qualifications established in a job description approved by the county.
- The BOCC or chief administrative officer appoints the county director, upon which time they are to notify the Florida Division of Emergency Management.
- Each EM director has direct responsibility for the organization, administration, and operation of the county EM agency.
- Each county EM agency shall perform EM functions within the territorial limits of the county, but can assist other counties through mutual aid agreements.
- Counties shall serve as liaison for and coordinators of municipalities' requests for state and federal assistance during post-disaster emergency operations.



- The BOCC can charge and collect fees for the review of emergency management plans on behalf of external agencies and institutions.

## EMERGENCY MANAGEMENT POWERS OF THE COUNTY

Chapter 252 also gives each Board of County Commissioners the authority, and in certain situations, the extraordinary authority to:

- Appropriate and expend funds; make contracts; obtain and distribute equipment, materials, and supplies for emergency management purposes; provide for the health and safety of persons and property, including emergency assistance to the victims of any emergency.
- Appoint, employ, remove, or provide, with or without compensation, coordinators, rescue teams, fire and police personnel, and other emergency management workers.
- Establish a primary and a secondary emergency operating center to provide continuity of government and direction and control of emergency operations.
- Assign and make available for duty the offices and agencies of the political subdivision, including the employees, property, or equipment relating to firefighting, engineering, rescue, health, medical and related services, police, transportation, construction, and similar items or services for emergency operation purposes.
- Request state assistance or invoke emergency-related mutual-aid assistance by declaring a “*state of local emergency*” which are limited to seven days, but can be extended, as necessary, in seven-day increments.
- Waive the procedures and formalities otherwise required of the political subdivision by law pertaining to:
  - Performance of public work and taking whatever prudent action is necessary to ensure the health, safety, and welfare of the community.
  - Entering into contracts.
  - Incurring obligations.
  - Employment of permanent and temporary workers.
  - Utilization of volunteer workers.
  - Rental of equipment.
  - Acquisition and distribution, with or without compensation, of supplies, materials, and facilities.
  - Appropriation and expenditure of public funds.



This last provision is very important to the BOCC, as it establishes the legal standing to expedite emergency actions needed to protect the citizens of the county by waiving the normal procurement procedures. This can only be done if the Board declares a local state of emergency, which is normally done concurrent with a State’s declaration of emergency.



## DISASTER RECOVERY PROCESS

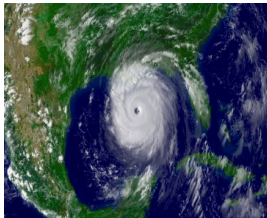
---

It is essential for every county commissioner to understand the disaster recovery process. The following flow chart describes how a county gets declared for a “*Presidential Disaster Declaration*”, which is essential for getting federal and state financial reimbursements after a disaster. Unless a county is included in a Presidential Disaster Declaration, it is *not* eligible for a wide array of financial recovery programs initiated by FEMA, and the State of Florida. These recovery programs include at a minimum the:

- Public Assistance Program: provides financial assistance for repair or replacement of damaged county-owned infrastructure.
- Individual Assistance Program: assists individuals who have been impacted by the event.
- Small Business Administration: provides low interest loans to impacted businesses.
- Hazard Mitigation Grant Program: provides funds to mitigate the impacts of future events.

Therefore, having a basic understanding of how this process works is very important.

### DISASTER DECLARATION PROCESS



**Disaster Occurs:** Every county in Florida is susceptible to a wide range of natural and man-made hazards, to include hurricanes, tornadoes, floods, wildfires, droughts, hazardous materials incidents, terrorists’ attacks, and more.



**Response to the Disaster:** The County Emergency Management agency will activate the Emergency Operations Center and manage the event. The BOCC will declare a local state of emergency. As soon as the event passes, immediate emergency work is initiated. To ensure financial reimbursements will be potentially eligible, it is essential that documentation of expenses is maintained accurately.



**Conduct Damage Assessments:** As soon as possible, the County must conduct an initial assessment to determine the extent of the damages to infrastructure and county residents. Once completed, the County will evaluate its needs, and request assistance from the State/FEMA. Once received, a formal “Preliminary Damage Assessment” will be conducted by FEMA, FDEM, and the County. This will quantify the damages and determine if the county is eligible to be included in the disaster declaration.



**Request for Federal and State Assistance:** If the County has incurred eligible damages of at least **\$3.39** x county per capita (changes as cost of living index changes), you can request to be included under the State’s request for a Presidential Disaster Declaration (PDD). The State must meet a threshold of **\$1.35** x per capita statewide in order to be eligible for a PDD.





**Begin Recovery Process:** If the State is declared, and the County is added to the declaration, then the financial reimbursement process can begin. The County may receive assistance for individuals, and/or assistance to repair or replace damaged infrastructure. In addition, the Small Business Administration will offer assistance to people and businesses, and often the US Department of Agriculture will offer assistance to agricultural interests.

Public Law 100-707, the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Public Law 93-288, as amended, the Disaster Relief Act of 1974) authorizes federal assistance to local and state governments through the Presidential Disaster Declaration.

Many counties rely on the Clerk of the Court's Office as their financial recovery lead after a disaster. It is important to keep abreast of the ongoing activities of the recovery process, especially the financial reimbursement process.

## **COUNTY EMERGENCY MANAGEMENT BUDGET**

---

The county's emergency management budget comes from a variety of federal, state and county sources to include:

### **Federal:**

- Emergency Management Performance Grant (EMPG)
- State Homeland Security Program Grant
- Public Assistance Program (if declared)
- Individual Assistance Program (if declared)
- Hazard Mitigation Grant Program (if declared)
- Other Federal Grants for specific purposes i.e. Flood Mitigation Assistance, Pre-disaster mitigation, Severe Repetitive Flood, others. (Counties must apply and be awarded these individually – not entitlement grant programs)

### **State:**

- Emergency Management Preparedness and Assistance (EMPA) Grant (State)

### **Local:**

- Ad Valorem funds

### **Private:**

- Nuclear Power Plant Planning Grants (for counties within the Emergency Planning Zone of one of Florida's three nuclear power plants, and one in Alabama.)

The grants are explained in more detail in the next section.



**Table 14.1. Florida Counties Emergency Management Expenditures Emergency and Disaster Relief.**

| County       | 2015 Expenses   | 2016 Expenses   |
|--------------|-----------------|-----------------|
| Alachua      | \$8,667,609.00  | \$8,327,233.00  |
| Baker        | \$368,145.00    | \$371,988.00    |
| Bay          | \$3,206,578.00  | \$3,703,325.00  |
| Bradford     | \$799,122.00    | \$745,542.00    |
| Brevard      | \$7,276,261.00  | \$9,014,511.00  |
| Broward      | \$21,274,000.00 | \$12,951,000.00 |
| Calhoun      | \$1,388,740.00  | \$403,395.00    |
| Charlotte    | \$1,437,656.00  | \$1,964,533.00  |
| Citrus       | \$181,563.00    | \$432,020.00    |
| Clay         | \$0.00          | \$0.00          |
| Collier      | \$3,065,205.00  | \$10,609,776.00 |
| Columbia     | \$3,239,055.00  | \$2,695,817.00  |
| Dade         | \$15,056,307.00 | \$8,548,210.00  |
| DeSoto       | \$232,152.00    | \$251,036.00    |
| Dixie        | \$282,485.00    | \$255,766.00    |
| Duval        | \$11,315,984.00 | \$10,229,361.00 |
| Escambia     | \$11,835,943.00 | \$14,643,005.00 |
| Flagler      | \$498,630.00    | \$1,211,502.00  |
| Franklin     | \$297,392.00    | \$549,024.00    |
| Gadsden      | \$30,900.00     | \$158,169.00    |
| Gilchrist    | \$198,363.00    | \$219,022.00    |
| Glades       | \$4,845,193.00  | \$1,382,498.00  |
| Gulf         | \$405,749.00    | \$455,002.00    |
| Hamilton     | \$858,975.00    | \$878,850.00    |
| Hardee       | \$167,257.00    | \$197,410.00    |
| Hendry       | \$417,877.00    | \$558,663.00    |
| Hernando     | \$2,998,528.00  | \$1,999,765.00  |
| Highlands    | \$2,672,773.00  | \$3,496,618.00  |
| Hillsborough | \$1,909,932.00  | \$1,954,024.00  |
| Holmes       | \$186,296.00    | \$159,505.00    |
| Indian River | \$1,050,908.00  | \$1,050,127.00  |
| Jackson      | \$401,361.00    | \$484,885.00    |
| Jefferson    | \$3,760,152.00  | \$1,305,765.00  |
| Lafayette    | \$0.00          | \$0.00          |
| Lake         | \$1,950,332.00  | \$1,298,599.00  |
| Lee          | \$2,114,056.00  | \$1,998,463.00  |
| Leon         | \$1,315,343.00  | \$1,544,125.00  |



**Table 14.1. Florida Counties Emergency Management Expenditures Emergency and Disaster Relief.**

| <b>County</b>       | <b>2015 Expenses</b>    | <b>2016 Expenses</b>    |
|---------------------|-------------------------|-------------------------|
| Levy                | \$1,002,974.00          | \$665,451.00            |
| Liberty             | \$168,307.00            | \$165,797.00            |
| Madison             | \$452,361.00            | \$331,209.00            |
| Manatee             | \$4,680,000.00          | \$5,341,000.00          |
| Marion              | \$2,918,478.00          | \$1,897,119.00          |
| Martin              | \$1,982,020.00          | \$2,503,513.00          |
| Monroe              | \$654,822.00            | \$910,161.00            |
| Nassau              | \$7,083,603.00          | \$1,358,202.00          |
| Okaloosa            | \$2,608,269.00          | \$2,967,580.00          |
| Okeechobee          | \$168,026.00            | \$193,085.00            |
| Orange              | \$7,253,701.00          | \$6,513,523.00          |
| Osceola             | \$1,059,500.00          | \$1,463,850.00          |
| Palm Beach          | \$10,531,306.00         | \$9,063,631.00          |
| Pasco               | \$5,497,095.00          | \$7,063,867.00          |
| Pinellas            | \$12,809,120.00         | \$16,707,559.00         |
| Polk                | \$3,012,701.00          | \$3,133,746.00          |
| Putnam              | \$1,188,764.00          | \$741,345.00            |
| Saint Johns         | \$787,206.00            | \$607,428.00            |
| Saint Lucie         | \$3,683,891.00          | \$1,090,576.00          |
| Santa Rosa          | \$4,124,165.00          | \$9,967,531.00          |
| Sarasota            | \$17,745,747.00         | \$13,033,308.00         |
| Seminole            | \$5,631,979.00          | \$8,349,459.00          |
| Sumter              | \$2,142,565.00          | \$1,982,753.00          |
| Suwannee            | \$183,078.00            | \$204,882.00            |
| Taylor              | \$276,020.00            | \$728,241.00            |
| Union               | \$199,184.00            | \$215,378.00            |
| Volusia             | \$12,375,956.00         | \$14,182,176.00         |
| Wakulla             | \$0.00                  | \$87,143.00             |
| Walton              | \$696,514.00            | \$464,022.00            |
| Washington          | \$825,616.00            | \$646,249.00            |
| <b>All Counties</b> | <b>\$227,449,790.00</b> | <b>\$218,628,318.00</b> |

## **EMERGENCY MANAGEMENT GRANTS**

Every county is eligible to apply for and receive the following grants to ensure its emergency management capabilities are maintained. Some are only available after a disaster.



***Emergency Management Performance Grant (EMPG).*** The EMPG is designed to assist state and local governments to sustain and enhance all-hazards emergency management capabilities. These federal funds must be used to ensure emergency management are able to coordinate in the context of natural and man-made hazards, as well as technological events, that threaten the security of the homeland and the safety and well-being of citizens. The EMPG has a 50% federal and 50% county cost share. The county receives a scope of work annually from the State for the use of these funds.

***State Homeland Security Program Grant (SHSP).*** This core assistance program provides funds to build capabilities at the State and local levels and to implement the goals and objectives included in the State homeland security strategies and initiatives. These are identified in the State Preparedness Report. These funds can be used to increase local capabilities to prepare for and respond to a terrorist attack including:

- Equipment and training for first responders
- Transit and port security
- Public health preparedness planning
- Critical infrastructure protection
- Continuity of government planning
- Citizen preparedness training and public education
- Terrorism and natural disaster scenario exercises

***Public Assistance Grant Program (PA).*** The PA Program is authorized under PL 93-288 (Robert T. Stafford Disaster Relief and Emergency Assistance Act). It provides funding for eligible public infrastructure to be repaired or replaced after a disaster in which the County has been declared. The County Emergency Management Agency is responsible for coordinating the PA Program for the county. The objective of the PA Program is to provide assistance to State, tribal, local governments, and certain types of private non-profit organizations to financially recover from major disasters or emergencies declared by the President. The State of Florida manages this program as the “grantee”, and the county becomes the “sub-grantee”.

Items eligible under the PA program include debris removal and emergency protective measures. It can also fund the repair, replacement or restoration of disaster-damaged, publicly-owned facilities and the facilities of certain private non-profit (PNP) organizations. The federal government through FEMA will fund 75% of the eligible costs, and the State will provide 12.5%, and 12.5% must come from the applicant (i.e. county, constitutional offices, municipalities).

***Individual Assistance Grant Program (IA).*** Normally, the County Emergency Management Agency is responsible for coordinating with the FEMA Individual Assistance (IA) Grant Program for the County. The IA Program is designed to coordinate assistance provided to individuals and households impacted by a disaster. After the President signs a disaster declaration, affected individuals and businesses are informed of available assistance through press releases and outreach efforts coordinated by the County Emergency Management Agency.

The first step for individuals and businesses needing assistance is to register with FEMA by calling 1-800-621-FEMA (3362). Operators at the Federal Emergency Management Agency's National Tele-registration Center will process the application. Once this is accomplished, further assistance may be coordinated through a Disaster Recovery Center (DRC), which may be established in the county or region. Representatives of federal, state, local, and volunteer organizations are made available to help disaster survivors who are applying for assistance.

***Hazard Mitigation Grant Program (HMGP).*** The HMGP is authorized by Section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (PL 93-288 as amended). It is a partnership that is designed to assist states, local governments, private non-profit organizations and Indian Tribes in implementing hazard mitigation measures following a major disaster declaration.



HMGP funds are only made available after a declared disaster. The State will receive a maximum of the value of 20% of the total disaster related costs (infrastructure repair, individual grants, Small Business Administration grants) for post-disaster mitigation purposes. FDEM is the grantee for these funds. Each county will be eligible to receive up to 20% of the sum value of all disaster related costs. There is a 25% local cost share, but that can be offset by in-kind work or “global match” (credit for similar work using State or local funds).

The objectives of the HMGP are:

- To prevent future losses of lives and damage to property due to disasters;
- To implement state or local hazard mitigation plans;
- To enable mitigation measures to be implemented during immediate recovery from a disaster; and
- To provide funding for previously identified mitigation measures that benefit the disaster area.

***Emergency Management Preparedness and Assistance Grant (EMPA).*** In Florida, these funds are derived from surcharge placed on business (\$4) and homeowners (\$2) annual insurance premiums. To be eligible for EMPA grant funding, a county must maintain a full-time emergency management director or coordinator, depending on population. The amount granted is derived by dividing the available sum of funds by 67 (counties). There is no match requirement. It is to be used solely to fund the county emergency management agency. The county must prepare and submit a scope of work for the use of these funds annually to FDEM.

## **EMERGENCY MANAGEMENT POLICIES AND PLANS IMPACTING COUNTIES**

---

### **Federal**

- **Homeland Security Presidential Directive (HSPD) – 5** – requires all levels of government to adopt the National Incident Management System (NIMS) to allow for a unified approach to incident management nationwide.
- **HSPD – 7, Critical Infrastructure Protection** – requires all jurisdictions to identify and protect critical infrastructure and key resources (CIKR) for terrorist attack.
- **HSPD – 8, National Preparedness** – is designed to strengthen the preparedness for domestic terrorist attacks, major disasters, and other emergencies, and outlines actions to strengthen preparedness capabilities of federal, state, and local jurisdictions.
- **National Incident Management System (NIMS).** Local government handles most emergencies. However, when a major incident overwhelms its resources, local government may need assistance from neighboring jurisdictions, the State, and/or the federal government. As part of the National Preparedness System, the National Incident Management System (NIMS) and National Response Framework (NRF) ensure that all levels of government, non-governmental agencies, and the private sector are prepared to prevent, protect against, respond to, and recover from any incident. Every county had to must certify that it is NIMS compliant by the BOCC.
- **National Incident Management System Compliance and Assessment Tool (NIMSCAST).** NIMSCAST is the self-assessment instrument developed by the National Integration Center for state, tribal, and local governments to evaluate and report their jurisdiction's implementation of NIMS. Additionally, HSPD-5 requires federal departments



and agencies to make adoption of the NIMS by State and local organizations a condition for Federal preparedness assistance. County Emergency Management Agencies conduct annual program assessments using the NIMSCAST and submits the assessment report to FDEM and FEMA.

- **National Infrastructure Protection Plan (NIPP).** The NIPP was created to prevent, deter, neutralize, or mitigate the effects of deliberate efforts by terrorists on our nation's CIKR and to strengthen preparedness, timely response, and rapid recovery of CIKR in the event of an attack, natural disaster, or other emergency.
- **National Response Framework** addresses roles, responsibilities, activities, and interdependencies for the federal government agencies involved in response and short-term recovery actions to disasters and emergencies in the United States.
- **Oil Pollution Act (OPA) of 1990** guides the cleanup of oil spills, assesses the liability for cleanup to the entity causing the spill, and guides the federal government during an oil clean spill cleanup.

### State

- **Administrative Rule 9G Series (Division of Emergency Management)** provides direction on a variety of issues impacting counties to include funding, grant applications, plan review, and more.
- **Chapter 252, F.S. (Emergency Management Act)** establishes both state and county responsibilities for emergency management.
- **Florida State Emergency Response Commission for Hazardous Materials – Field Operations Guide - January 2011 (FOG).** The FOG provides guidance for hazardous material events that do not regularly occur within a community. The manual is designed to be a job aid for those in charge during a hazardous materials incident.
- **Regional Domestic Security Task Force** provides a regional response to any weapons of mass destruction or terrorist incident that may occur within the state. It allows smaller counties that do not have lots of resources to draw from those that do. It also allows these smaller counties to provide assistance to larger metropolitan areas if an event occurs there.
- **Regional Transportation and Evacuation Studies** outlines evacuation routes and their carrying capacities and establishes the overall evacuation time for the county.
- **Shelter Survey and Retrofit Program** requires the county to submit annually the status of public shelters and proposed upgrades for potential available funds.
- **State Comprehensive Emergency Management Plan** identifies how the state will prepare for, respond to, recover from and mitigate the impacts of all known hazards impacting the State of Florida. It also describes FDEM's interaction with county governments.

### County

Each county *may* have developed some or all of the following plans:

- **Communications Plan** identifies how the county will provide communication at key facilities in the event they are needed during and after an emergency.



- **Comprehensive Emergency Management Plan (CEMP)** establishes the county’s roles and responsibilities to prepare for, respond to, recover from and mitigate the impacts of all hazards impacting the county.
- **Continuity of Operations Plan (COOP)** identifies where and how county governments would functionally move to an alternate location, if needed.
- **County Critical Facilities Database.** Every county is required to identify its “Critical Infrastructure and Key Resources” (CIKR) annually to the State of Florida.
- **County Emergency Operations Center Standard Operating Guide** provides guidance on how the County EOC works for each key position.
- **County Logistics Plan** establishes how the county will manage the influx of commodities during and after a disaster. Describes how the county will distribute needed items to the impacted public post-disaster.
- **County Long Term Recovery Plan** outlines the process the county could take after a significant disaster to address the long-term recovery issues.
- **County Recovery Plans** identifies how the county will recover from a disaster. Details how the Public Assistance, Individual Assistance, and Hazard Mitigation Grant Program will be managed.
- **Disaster Housing Plan** identifies how the county proposes to provide temporary shelter or interim housing in conjunction with the State and FEMA housing initiatives.
- **Local Mitigation Strategy** identifies the hazards each county is vulnerable to, the expected damages caused by these hazards, and proposes mitigation action to reduce the risk to future occurrences. This must be kept current, or the county cannot apply for most post-disaster federal funding.

## **COUNTY POINTS OF CONTACT FOR EMERGENCY MANAGEMENT**

---

Every County Emergency Management Agency maintains contacts with most of the following agencies. At any given time, the County may need to coordinate with any of the following to ensure it has the requisite resources and capabilities to meet the disaster requirements. These include but are not limited to:

### **Federal**

- Department of Homeland Security
- Military Installations
- Environmental Protection Agency
- FEMA
- National Hurricane Center
- National Storm Prediction Center
- National Weather Service
- Southeast River Forecast Center
- U. S. Corps of Engineers



### **State**

- Regional Planning Council
- Florida Division of Emergency Management
- State and national parks, reserves, etc.
- Regional Domestic Security Task Force
- Florida Division of Forestry
- Correctional Institutes within the County
- Local Emergency Planning Council
- Florida Departments of: Transportation  
Environmental Protection, Corrections, Health,  
others.

### **County**

- Building Department
- Chamber of Commerce
- County and City Elected Officials
- County Schools and Colleges
- Economic Development Councils
- Emergency Medical Service
- Grants Department
- Local Mitigation Strategy Committee
- Municipalities
- Planning, Zoning Department
- Port Authority
- Public Works
- Search & Rescue
- Senior Citizens
- Tourist Development Council
- Volunteer Fire Departments

### **Private Sector**

- American Red Cross
- Salvation Army
- Assisted Living Facilities
- Nursing Homes, Hospitals
- Utilities
- Fuel Suppliers
- Motels/Hotels
- Building Material Suppliers
- Food Suppliers
- Banks
- Homeowners Associations
- Ministerial Associations



---

# 15. Public Safety

---

*Vincent Long and Ed Dion*

---

## **PUBLIC SAFETY**

---

Public safety has been called the highest priority and first obligation of government. This statement certainly rings true to County leaders as public safety generally represents their largest budget item, includes some of their most fundamental responsibilities related to the health, safety and welfare of citizens, and directly affects the success of most other “quality of life issues” in their counties. The growing costs, changes in state and federal laws and policies, and emerging and evolving technology and programs makes issues of public safety all the more complicated at the local level. While many of the factors that influence public safety are out of the control of county officials, it is incumbent on county leaders to understand this complex and ever-changing landscape, to adapt best practices to meet local needs, and to continuously develop the capacity to respond to those needs.

---

## **LAW ENFORCEMENT**

---

Within law enforcement, there are often funding impacts driven by countywide service decisions (e.g., what is a valid countywide service for the jurisdiction), municipal contracts, contract service levels, mandates versus non-mandated service decisions (“nice to have” versus “essential” versus “required”). When a municipality enforces minor offenses aggressively, the jail is necessarily impacted. When the legislature reclassifies an offense as from a misdemeanor to a felony, the county jail is impacted. When a state agency makes a policy decision, such as the previously implementing “zero tolerance” probation decisions, a few years back, which occurred in the not too recent past, the county jail is impacted.

Counties must adapt and respond in order to stabilize public safety funding. County commissioners are providing more county services than ever before, but protecting life and property are among the most critical. In fulfilling public safety responsibilities, counties provide services such as law enforcement, corrections, re-entry assistance, fire protection, 911, public safety dispatch, emergency management, emergency medical services, and animal control.

## **PEACEKEEPING FUNCTIONS**

Among the primary law enforcement and peacekeeping responsibilities of sheriffs are:

- Identify criminal offenders and criminal activity, apprehend offenders, and participate in subsequent court proceedings.
- Reduce the opportunities for the commission of crimes through preventive patrol and other measures.



- Help individuals who are in danger.
- Protect constitutional rights.
- Facilitate the movement of people and vehicles.
- Resolve conflict.
- Help identify problems that are serious law enforcement or governmental problems.
- Help create and maintain a feeling of security in the community.
- Preserve civil order.
- Assist with emergency management services.

## **EMPLOYMENT AND TRAINING STANDARDS**

County law enforcement officers must meet minimum standards of training, and law enforcement agencies must be accredited. Standards are outlined by the Commission for Florida Law Enforcement Accreditation and the Criminal Justice Standards and Training Commission.

In 1993, Section 943.125, Florida Statutes, directed that the Florida Sheriffs Association and the Florida Police Chiefs Association create a voluntary law enforcement accreditation program.

Representatives from these Associations developed a process for accreditation which requires compliance with more than 260 professional standards designed specifically for Florida law enforcement agencies. The Commission for Florida Law Enforcement Accreditation, Inc. was formed, comprised of four sheriffs, four chiefs of police, and one representative each from the Florida Association of Counties, the Florida League of Cities, the State Law Enforcement Chiefs' Association, the Judiciary, and the Inspectors General. The Commission meets three times per year to oversee the accreditation program and to officially accredit agencies that have passed the rigorous review process.

The Criminal Justice Standards and Training Commission is part of the Florida Department of Law Enforcement (FDLE). Its purpose is to ensure that all citizens of Florida are served by criminal justice officers who are ethical, qualified, and well-trained. The Commission is comprised of 19 members representing Florida Highway patrol, sheriffs, police departments, county and state correctional facilities, and the public as well as the offices of the Attorney General and Secretary of Department of Corrections. Commission responsibilities include:

- Managing certification for officers, instructors and criminal justice training schools;
- Defining minimum employment requirements for criminal justice disciplines;
- Developing criminal justice training schools and their curricula; and
- Establishing disciplinary rules for officers in high-risk assignments.

## **ROLE OF THE SHERIFF AS A CONSTITUTIONAL OFFICER**

Sheriffs are constitutional officers who are elected, or appointed, to protect all citizens within each county (as specified in Article VIII, Section 1(d) of the Florida Constitution). Sheriffs coordinate with local police departments, the Florida Department of Law Enforcement, the Department of Corrections, the Federal Bureau of Investigation and other law enforcement and social service entities. Many sheriffs operate the jails in each county, also known as county detention facilities, but there are several counties that have elected to use different methods for incarceration. Some Florida counties operate their detention facility under the Board of County Commissioners, and one (Citrus County) contracts with a private entity to operate its detention facility. The functions of the sheriff are set forth in Chapter 30, Florida Statutes.



## COURTS

---

Per Section 34.01, Florida Statutes, county courts shall have original jurisdiction in all misdemeanor cases not cognizable by the circuit courts; of all violations of municipal and county ordinances; of all actions at law in which the matter in controversy does not exceed the sum of \$15,000, exclusive of interest, costs, and attorney's fees, except those within the exclusive jurisdiction of the circuit courts; and of disputes occurring in the homeowners' associations, which shall be concurrent with jurisdiction of the circuit courts.

Judges of county courts shall also be committing trial court judges. Judges of county courts shall be coroners unless otherwise provided by law or by rule of the Supreme Court. Judges of county courts may hear all matters in equity involved in any case within the jurisdictional amount of the county court, except as otherwise restricted by the State Constitution or the laws of Florida.

### STATE COURT FUNDING

The current funding structure for the state court system was adopted by voters in 1998 as Revision 7, amending Article V, Section 14 of the Florida Constitution. This revision declared that the state would be responsible for funding certain aspects of the state court system, including salaries for judges, state attorneys, public defenders, and court appointed counsel. The revision declared that counties would be responsible for court facilities, maintenance, utilities, security and certain communication services. Under Section 29.008, F.S., counties are required to increase expenditures for these court functions by 1.5% per year.

Less than a decade after the revision, the state budget shrank by several billion dollars and the court system, almost entirely funded with general revenue, had to cut many essential services which severely impacted the delivery of judicial services in Florida. This situation nearly shut down the courts, but the Legislature convened in January 2009 to address the crisis. Its solution was to create trust funds for the courts, state attorneys and public defenders that would create a more sustainable judicial system. The Legislature returned in the 2009 regular session and increased court filing fees, dedicated revenue to the newly created trust funds, and instituted a new business model with more oversight for the clerks of court. From Fiscal Years 2011 through 2015, the Legislature exempted counties from the statutory requirement to increase court-related expenditures each year by 1.5 percent for court-related functions; however, this exemption expired July 1, 2015.

### REGIONAL CONFLICT COUNSEL

Prior to the creation of the Office of Criminal Conflict and Civil Regional Counsel in 2007, the state saw expenditures escalate for court appointed conflict counsel, which are private attorneys who serve as legal counsel for indigent defendants when the public defender declares that a conflict of interest exists in the representation of that defendant. As an effort to control an ever-increasing escalation of those, the state sought relief through the creation of the Office of Criminal Conflict and Civil Regional Counsel, or Regional Conflict Counsel. The new state office brought up a legal challenge over who, the state or the counties, would bear the financial burden of the Regional Conflict Counsel.

In June 2009, the First District Court of Appeal ruled in favor of FAC and the 26 counties that had brought suit. The judgment delivered in *Lewis v. Leon County*<sup>1</sup> declared that the state, not the counties, is responsible for paying for costs associated with funding the Regional Conflict Counsel. This appellate ruling declared that a cost shift of this measure was unconstitutional under both of Article V, Section 14, and Article VIII, Section 18(a) of the Florida Constitution. The Florida Supreme Court affirmed the decision of the First District Court of Appeals.<sup>2</sup>



## CORRECTIONS

---

### COUNTY JAILS

Every county has a jail, and there are some counties with multiple facilities. County jails are statutorily the responsibility of the board of county commissioners, pursuant to Ch. 951, F.S., but may be assigned to the sheriff, which is traditionally the situation, or to other vendors. People often use the terms “jail” and “prison” interchangeably; however, the two words have different meanings. Jails typically hold a variety of offenders, often making it an extremely difficult environment to control. A jail refers to a county detention facility that generally holds persons awaiting trial or serving sentences for less than one year. There are other classifications that define Florida’s jail population, including probation violators, those awaiting sentencing, individuals who have been committed under the Baker and Marchman Acts, illegal immigrants and even juveniles. A prison, on the other hand, is a state-run, or contracted facility, that detains offenders who have been convicted of felonies and are serving sentences greater than one year. Persons serving multiple misdemeanor charges can also be sent to state prison provided the sentence imposed exceeds one year.

A county jail may contain:

- Individuals lawfully detained and awaiting trial.
- Inmates who have been adjudicated and will be serving their sentences in the county jail.
- Convicted prisoners awaiting transport to the state correctional system.
- Violators of probation or parole.
- Prisoners awaiting an appeal of their conviction.
- Inmates from neighboring counties being temporarily housed there because of overcrowding.
- Federal prisoners housed on a short-term basis.

Each county is required by law to establish a Public Safety Coordinating Council (PSCC), whose purpose is to assess the population status of all detention or correctional facilities owned or contracted by the county and to formulate recommendations to ensure that the capacities of such facilities are not exceeded. The recommendations must include assessment of the availability of pretrial intervention, probation, work release, and substance abuse programs; gain-time and bail bond schedules; and the confinement status of inmates. PSCCs are comprised of one county commissioner and several local judicial and correctional stakeholders.

One subsidy the federal government provides to counties is reimbursement for housing illegal immigrants who local law enforcement officers encounter and apprehend while protecting the public. The Bureau of Justice Assistance administers the State Criminal Alien Assistance Program, or SCAAP, which provides federal payments to states and localities that incur costs for incarcerating undocumented criminal aliens. This includes violations for state laws or local ordinances. Other grant programs available through the U.S. Department of Justice include the Edward Byrne Memorial Justice Assistance Grant (JAG) program and the Community Oriented Policing Services (COPS) program. JAG provides states, tribes, and local governments with funding to support a range of program areas including law enforcement, prosecution, indigent defense, courts, crime prevention and education, corrections and community corrections, drug treatment and enforcement, planning, evaluation, technology improvement, and crime victim and witness initiatives and mental health programs and related law enforcement and corrections programs, including behavioral programs and crisis intervention teams. COPS provides grant funding to state, local, and tribal law enforcement agencies throughout the United States so they can hire new



officers, train them in community policing, purchase and deploy new crime-fighting technologies, and develop and test new and innovative policing strategies.

Nearly all of the incarcerated offenders in Florida's jails and prisons will return to our communities. This means that whether or not we want to realize it, every county in Florida will be affected by prisoners returning to our neighborhoods. Many offenders are in need of housing, jobs, substance abuse treatment and mental health counseling. Since these resources are often hard to come by, counties must coordinate with our partners at the local, state and national level to ensure that communities are well prepared to deal with offender reentry.

In the 2010 session, the Florida Legislature passed HB 1005, which contained a provision encouraging each county's Public Safety Coordinating Council to develop a local five-year reentry plan focused on education, employment, health care, housing, and substance abuse treatment to assist offenders as they are discharged and returned to communities. Today, several counties provide re-entry services to inmates in their correctional facilities to facilitate their re-entry into the community upon release. These programs typically include vocational and life skills training, employment placement and monitoring, and wrap-around services designed to anticipate inmates' needs prior to release in order to reduce recidivism and ensure successful re-entry into the community. Many counties also partner with local social service organizations to offer other voluntary programs including substance abuse education, juvenile and adult GED classes, parenting workshops, anger management, workplace readiness, and other services to inmates.

## **JUVENILE JUSTICE**

Youth under age 18 arrested by law enforcement are evaluated immediately by the Florida Department of Juvenile Justice (DJJ) to determine if they should be detained under lock and key to protect the public. Detention screening is performed at Juvenile Assessment Centers or by juvenile probation staff using a standardized Detention Risk Assessment Instrument.

Juvenile detention in Florida is a short-term temporary program. Juvenile offenders who require long-term sanctions and rehabilitation are placed into non-residential or residential correctional programs.

Two types of detention are available: secure detention and home detention. Youths placed in secure detention have been assessed as risks to public safety and must remain in a physically secure detention center while awaiting court proceedings. They appear before the court within 24 hours of placement, at which time the juvenile judge decides whether there is a need for continued detention. Generally there is a 21-day limit to secure detention, but those charged with serious offenses can be held up to 30 days. Serious juvenile offenders also can be held in secure detention while awaiting placement in a residential corrections facility.

Youths on home detention status are released to their parent(s) or guardian(s). Both youth and parents sign a home detention agreement. This agreement stipulates the conditions of home detention which the youth is to follow, i.e., mandatory school attendance and curfew. There are currently 21 juvenile detention centers in 21 counties with a total of 1,342 beds. The detention centers provide custody, supervision, education and mental health/substance abuse services to juveniles statewide. Juvenile detention officers receive specialized training and certification.

The state cost of operating juvenile detention centers shifted to counties in 2005, which required non-fiscally constrained counties to pay for a youth's detention prior to the final court disposition. The costs are based on prior secure detention for juveniles who are residents of that county, as calculated by the Florida Department of Juvenile Justice. Counties pay these costs monthly based on the DJJ's estimates and any difference between the estimates and actual costs are reconciled at the end of the year.

## **CARE OF PRISONERS**

The sheriff is responsible not only for the custody of inmates, but also for maintaining and protecting the physical facilities of the jail itself if he or she contracts with the county to assume those



duties. As indicated above, several counties operate their own corrections department or contract with a private vendor to operate their jails.

Both the State of Florida and the federal government impose standards with which any entity managing a jail must comply. These include minimum square foot living space, medical and dental treatment, access to legal research, and other tax-supported services.

Florida Model Jail Standards that are in accordance with Chapter 951, Florida Statutes, have been established by the Florida Sheriff's Association.<sup>3</sup> The minimum standards state that:

- The inmate must always be within sight and normal sound of an officer certified in accordance with Chapter 943, Florida State Statutes. This may be accomplished through means of electronic surveillance, provided that a certified officer is available to respond to calls for help;
- Inmates have reasonable access to toilet, sink, and drinking water facilities;
- The cell meets the requirements of the State Fire Codes at all times;
- The cell complies with sanitation standards as prescribed in Chapter 12 of the standards;
- There is sufficient lighting to observe inmates and to meet all security requirements; and
- Inmates will not be held in a holding cell in excess of 8 hours, unless their behavior warrants otherwise.

### **Mental Health Needs**

Over the last several decades prisons and jails have become the default holding cells for persons with mental illness. The majority of persons with mental illness who are in Florida's jails are there for local ordinance violations or minor misdemeanors. The issue has gained national attention and counties are experiencing a shift in criminal justice policy to identify individuals with mental illness, substance abuse or co-occurring disorders as they come in contact with law enforcement. It is more economical to serve these individuals in a community setting, as opposed to keeping them in jail for minor violations.

### **PROBATION, PRE-TRIAL RELEASE, AND CIVIL CITATION PROGRAMS**

Probation and pre-trial release programs offer a sentencing alternative to incarceration. Probation office staff usually monitor those placed on probation for criminal traffic and misdemeanor charges or for felonies reduced to misdemeanors, in select cases. Referrals are made to alcohol, drug, and mental health treatment agencies, employment services, shoplifting counseling classes, and any other necessary resource. The offender can be required to pay supervision fees, fines and restitution to victims, if applicable, and, if on probation, frequently must complete community services hours. The staff ensures that all ordered conditions are successfully completed or the offender is returned to court.

Pretrial programs allow counties to save tax dollars by monitoring defendants who pose little risk to public safety while they are waiting for a final court disposition, and these programs save costly jail beds for dangerous offenders who are likely to abscond or reoffend. Furthermore, pretrial programs give defendants who cannot post bail due to financial restrictions the protection against excessive bail as laid out in the Eighth Amendment to the United States Constitution.

The Citizen's Right to Know Act, that passed the Legislature in 2008, requires pretrial programs to report a myriad of individuals' information on a weekly basis.<sup>4</sup> The intent of the legislation was for pretrial programs to be more transparent, despite the fact that all of the information was available under Florida's broad public records laws set forth in Chapter 119, Florida Statutes.

Additionally, several counties have adopted adult and juvenile "civil citation" programs designed to prevent low-level non-violent offenders from spending time in jail for their offenses. These programs allow a law enforcement officer to issue a citation or refer a person to a pre-arrest diversion program



rather than make an arrest or issue a notice to appear. If the person successfully completes the requirements of the civil citation or pre-arrest diversion program, the offense is never referred to the court and does not appear on the individual's criminal (or delinquency, for a juvenile) record. These programs have been successful in lowering jail populations and recidivism while improving outcomes for offenders. Several Florida counties have created civil citation programs including Leon, Broward, and Miami-Dade Counties.

## **SPECIALTY COURTS**

Many counties expand court programs to serve special issues, like drug, mental health, homelessness, reentry, veteran, and teen courts. In the 2009 legislative session, more than \$17 million was appropriated to expand existing drug courts in nine counties. These stimulus dollars will provide for case management services, and drug treatment and testing for offenders who meet certain criteria. The courts anticipate this expansion and additional treatment dollars will divert 1,600 offenders from state prisons, saving Florida more than \$100,000,000.

## **FIRE AND EMS**

---

Due to the complex nature of emergency situations, many counties combine fire and emergency medical services (EMS) services, while others may provide only fire service, or only EMS service, and contract with other local governments, hospitals, non-profits, or private providers for services. Many municipal governments and special districts also provide fire and/or EMS services. To improve service delivery and achieve cost efficiencies, many counties and other fire/EMS providers have established automatic aid agreements under which the closest unit responds to the incident regardless of the jurisdiction.

As with law enforcement, the basic mission of fire departments is to save lives and protect property. Today's fire departments play a larger role in the community than they did even just 20 years ago. Modern fire departments can be an all-hazards response organization for many types of events, including emergency responses to medical calls, removal of victims from automobile accidents, rescues and responses to hazardous incidents, emergency management activities, and disaster response.

Some counties may operate only EMS service while municipalities or special districts within the county operate fire departments. Florida law grants counties the authority to issue Certificates of Public Convenience and Necessity (COPCN), which are written statements or documents issued by the governing board of a county granting permission for an applicant or licensee to provide services authorized under such license for the benefit of the population of that county or an area within the county. A county may issue a COPCN to a municipality, special district, or other entity to provide either "basic life support" or "advanced life support" services, and to allow the entity to transport a patient to a medical facility. In order to be licensed by the Florida Department of Health to provide basic or advanced life support services or air ambulance services, an applicant must have obtained a COPCN from each county in which the applicant will provide services. Counties are allowed, but not required, to adopt ordinances to provide reasonable standards for the issuance of COPCNs. In adopting such ordinances, the counties must consider state guidelines, the recommendations of the local or regional trauma agency, and the recommendations of municipalities within their jurisdiction.

## **STANDARDS AND TRAINING**

The Firefighters Employment, Standards, and Training Council consists of 14 members representing fire chiefs and firefighters, Florida League of Cities, Florida Association of Counties, Florida Association of Special Districts, the State Fire Marshal, and a member of the public. The Council is responsible for the recommendation of uniform standards in connection with the employment, training,



and education of firefighters.<sup>5</sup> The National Fire Protection Association also develops, publishes, and disseminates more than 300 codes and standards intended to minimize the risk and effects of fire. The NFPA's Fire Code provides minimum requirements for building, construction, operation, maintenance, and fire department access in order to establish a reasonable level of fire safety and property protection in new and existing buildings.<sup>6</sup>

The provision of emergency medical services saves lives and reduces disabilities associated with illness and injury. Florida has two levels of certification for pre-hospital EMS providers: Emergency Medical Technician and Paramedic. The profession of Paramedics and Emergency Medical Technicians was legislatively established to ensure that every Paramedic and Emergency Medical Technician practicing in this state meets minimum requirements for safe practice. The Department of Health, Division of Medical Quality Assurance is responsible for certifying Paramedics and Emergency Medical Technicians to ensure competency and safety to practice.

## **EQUIPMENT AND FACILITIES**

Fire departments need various types of equipment, including vehicles to transport firefighters and to transport and pump water; fire-fighting equipment on the vehicles, such as pumps, ladders, hoses, breathing apparatus, and fire extinguishers; and protective clothing, such as coats, helmets, and boots. Fire stations should be strategically deployed throughout the community to provide for effective response times to emergencies. Strategic locations help minimize response times and enable firefighters to suppress reported fires as quickly as possible. From a medical perspective, response times should be structured to allow personnel to intervene and provide life-saving procedures within critical time frames. Fire stations should also be constructed to provide a safe haven for community residents during inclement weather or other natural or man-made disasters. And sufficient space should allow for the normal conduct of business as well as provide resources needed for 24-hour per day staffing.

EMS departments, whether attached to a fire department or operating as a standalone service, have unique equipment and facility needs. Since the transfer of patients in medical emergency situations is one of the most important missions of EMS departments, adequate and reliable vehicles are needed to safely and quickly transport patients to a nearby medical facility. Vehicle needs may vary considerably according to whether an EMS department is licensed as a transport service (which typically requires a fully equipped ambulance), a non-transport service (which may utilize fire trucks or other non-ambulance vehicles properly equipped), or an air ambulance service (utilizing a helicopter or other aircraft). EMS personnel are also supplied with a variety of medical equipment, medications, and protective clothing. EMS vehicles may be stationed at fixed locations, such as a fire station, or scheduled and positioned at strategic locations according to a "dynamic deployment" model. Dynamic deployment may allow an EMS department to respond more quickly to calls. Under this model, ambulances are scheduled and positioned based on historical call data. During traditionally busier times of the day, more ambulances are on duty. This process is similar to how law enforcement agencies often schedule and position their officers.

## **EMERGENCY 911**

---

### **FLORIDA E911**

Since 1973, the State of Florida has been updating and building advanced technology statewide emergency number 911 systems, implemented by the counties, to serve its citizens and visitors in emergency situations.<sup>7</sup>

In May 1997, 911 was established statewide. As of September 20, 2005, Wireline Enhanced 911 "E911" services provides the Public Safety Answering Point with the telephone number and the caller address in all 67 counties. 2007 Legislation changed the Wireless 911 Board to an E911 Board and revised membership, powers, duties, and responsibilities of the board.



As of March 31, 2008, all counties reported Wireless E911 Phase I and Phase II completion. Phase I service provides the call back number and the location of the cell site. Phase II provides the capability to receive the call back number and the location information (latitude and longitude) provided for the cellular caller from the service provider.

The Department of Management Services has the following responsibilities for statewide coordination of 911 and enhanced 911 (E911) services:

- Statewide Emergency Communications Telephone Number 911 Plan
- Coordinating effective delivery of 911 services statewide
- Assisting counties on technical standards and operational capabilities
- Assisting counties with designing and implementing new systems
- Inspecting and issuing certificates to all Public Service Answering Point (PSAP) in compliance with the State E911 Plan
- Assisting with county 911 coordinator training
- Monitoring the Florida Public Service Commission (FPSC); Federal Communications Commission (FCC) and other regulatory entities on 911/E911 issues.<sup>8</sup>

## **EMERGENCY MANAGEMENT**

---

### **STATE, COUNTY, AND MUNICIPAL COOPERATION AND RESPONSIBILITIES**

Part I of Chapter 252, Florida Statutes, known as the State Emergency Management Act, establishes the State Division of Emergency Management, which is responsible for maintaining a comprehensive statewide program of emergency management by coordinating the efforts of the federal government and agencies of state government with county and municipal governments and school boards.<sup>9</sup>

Counties are required to establish and maintain an emergency management agency and develop a county emergency management plan that is coordinated and consistent with the state's emergency management plan. The director of the county emergency management agency is appointed by the board of county commissioners or the chief executive officer of the county. Upon the declaration of an emergency, the district school board is required to provide facilities and personnel to staff those facilities during the pendency of the declared emergency. Counties, however, are responsible for the costs associated with the use of public school buildings, personnel, and transportation resources. During an emergency, counties are authorized to make, amend, and rescind such orders and rules as are necessary for emergency management purposes, as long as they are not inconsistent with any orders or rules made by the Division of Emergency Management.

Cities are encouraged and authorized to create municipal emergency management programs, which must be coordinated with the county's emergency management agency.

### **DECLARATION OF EMERGENCY**

In the event of an emergency beyond local control, the Governor may issue an executive order declaring an emergency, which shall continue until the Governor finds that the threat has been dealt with. A Governor-declared state of emergency may not continue for longer than 60 days.

A county may declare a state of emergency in the event the emergency affects only one political subdivision. A county-declared state of emergency is limited to 7 days but may be extended on 7-day intervals.



## MUTUAL AID ARRANGEMENTS

Counties are authorized to develop and enter into mutual aid agreements within the state for reciprocal emergency aid and assistance in case of emergencies too extensive to be dealt with unassisted.

## ANIMAL CONTROL

---

County officials often receive complaints about animals, and state law (Chapter 828, F.S.) authorizes counties and municipalities to enact ordinances relating to animal control or cruelty. Most Florida counties operate animal control services under the Board of County Commissioners; however, in nine counties the Sheriff's Office administers the county's animal control program. Many cities in Florida have also established municipal animal control programs.

Many counties have initiated programs to combat the problem of pet overpopulation and animals that roam free. The county's approach to animal control usually consists of:

- Adopting animal control ordinance that makes the owner legally responsible for the pet.
- Developing an enforcement program that employ trained field officers to patrol the community.
- Providing a county facility for the humane and sanitary housing for animals.
- Creating a public education program to inform pet owners of their responsibilities.

In recognition of the public health problems created by the uncontrolled breeding of stray cats and dogs, animal shelters, refuges and control agencies must provide for the sterilization of all dogs or cats adopted from their organizations. The sterilization may be performed by the animal shelter or agency before adoption, or the person adopting an animal must agree to have the animal sterilized as a condition of ownership. Although a county can administer its own animal control program, it can also choose to contract with the local humane society to do so.

## COUNTY HEALTH DEPARTMENTS

---

Pursuant to the provisions of Chapter 154, Florida Statutes, the Florida Department of Health is required to contract with counties in order to provide three levels of county health services, as follows:

- 1) "Environmental health services," which include food hygiene, safe drinking water supply, sewage and solid waste disposal, swimming pools, migrant labor camps, toxic material control, radiological health, occupational health and entomology.
- 2) "Communicable disease control services," which include epidemiology, sexually transmissible disease detection and control, immunization, tuberculosis control, and maintenance of vital statistics.
- 3) "Primary care services," which include first contact acute care services, chronic disease detection and treatment, maternal and child health services, family planning, nutrition, school health, supplemental food assistance, home health and dental services.<sup>10</sup>



Funds for these services are provided out of state and federal funds, local general revenue, and fees and cash contributions. Section 154.02, Florida Statutes, authorizes counties to impose an annual tax of between .5 mill and 2 mills (depending upon the population of the county), in order to provide county health services and maintain public health equipment and facilities.

## NOTES

<sup>1</sup> 15 So.3d 777 (Fla. 1<sup>st</sup> DCA 2009)

<sup>2</sup> 73 So.3d 151 (Fla. 2011).

<sup>3</sup> See [www.flsheriffs.org](http://www.flsheriffs.org) for the current Florida Model Jail Standards.

<sup>4</sup> Section 907.043, Florida Statutes (2014).

<sup>5</sup> Section 633.402, Florida Statutes (2014).

<sup>6</sup> See [www.nfpa.org](http://www.nfpa.org).

<sup>7</sup> Sections 365.171-175, Florida Statutes (2014).

<sup>8</sup> See [www.dms.myflorida.com](http://www.dms.myflorida.com).

<sup>9</sup> Section 252.35, Florida Statutes (2014).

<sup>10</sup> Section 154.01, Florida Statutes (2014).







---

## 16. Health Care and Human Services

---

*Terry Meek, Clark Scott, Claudia Tuck,  
and the Florida Association of Counties  
Human Services Administrators (FACHSA)*

Florida's counties are involved in a number of health care and human services programs and activities. Some are required by the state, while others are voluntary and serve as a safety net for local communities. The county role in providing these types of services is unique in that they have a responsibility to both finance and deliver the services to their residents, while also working to coordinate among local private and non-profit agencies.

County governments play an increasingly important role in determining the nature of local health and human services systems. As state, federal and private sector contributions for these types of programs deteriorate; counties are responding with a variety of innovative programs, drawing upon resources and assets unique to their communities.

Below is an overview of state mandated programs as well as many other safety net programs counties generally participate in for the betterment of their communities.

### MEDICAID COUNTY SHARE OF COSTS

---

Florida is one of 18 states in the nation that require counties to share in the cost of the Medicaid program. The Florida Medicaid program provides health care coverage to qualified low-income individuals meeting certain federal and state eligibility criteria.

Although the state is responsible for the full portion of their share of matching funds required under the Medicaid program, per Section 409.915, Florida Statutes, the state charges counties for certain items of "care and service" in order to meet its share of Medicaid costs. The Agency for Health Care Administration bills counties for their share of these Medicaid costs in accordance with Florida Statutes.

The current methodology for determining the portion of county Medicaid contributions was established during the 2013 Legislative session with the passage of Senate Bill 1520.

**Table 16.1. County Medicaid Allocation.**

| <b>Fiscal Year</b> | <b>Medicaid Enrollment<br/>Weighted Allocation</b> | <b>Historical Payment<br/>Weighted Allocation</b> |
|--------------------|--|---|
| 2013-14            | 0%   | 100%  |
| 2014-15            | 0%   | 100%  |
| 2015-16            | 20%  | 80%   |
| 2016-17            | 40%  | 60%   |
| 2017-18            | 60%  | 40%   |
| 2018-19            | 80%  | 20%   |
| 2019-20 on         | 100%   | 0%  |



**Table 16.2. Assumed Adjusted Percent of the Percentage Change in the State Medicaid Expenditures as Determined by the Social Services Estimating Conference Starting in 2020-2021.**

| <b>County Name</b> | <b>2016-17</b> | <b>2017-18</b> | <b>2018-19</b> | <b>2019-20</b> | <b>2020-21</b> |
|--------------------|----------------|----------------|----------------|----------------|----------------|
| Alachua            | \$3,645,901    | \$3,436,804    | \$3,375,506    | \$3,330,394    | \$3,416,775    |
| Baker              | \$389,584      | \$404,731      | \$435,779      | \$470,457      | \$476,537      |
| Bay                | \$2,257,229    | \$2,408,281    | \$2,651,066    | \$2,928,529    | \$2,988,287    |
| Bradford           | \$533,988      | \$506,820      | \$493,576      | \$481,926      | \$490,526      |
| Brevard            | \$7,029,722    | \$6,881,463    | \$7,033,112    | \$7,231,369    | \$7,382,485    |
| Broward            | \$25,976,436   | \$25,822,179   | \$26,144,518   | \$27,180,517   | \$28,028,851   |
| Calhoun            | \$246,545      | \$245,967      | \$255,817      | \$265,909      | \$268,656      |
| Charlotte          | \$1,734,111    | \$1,700,070    | \$1,762,846    | \$1,809,037    | \$1,826,080    |
| Citrus             | \$1,999,414    | \$1,968,614    | \$2,077,513    | \$2,182,360    | \$2,244,173    |
| Clay               | \$2,010,433    | \$2,111,249    | \$2,275,936    | \$2,509,460    | \$2,600,074    |
| Collier            | \$3,256,059    | \$3,236,069    | \$3,305,610    | \$3,354,779    | \$3,326,905    |
| Columbia           | \$1,464,949    | \$1,408,743    | \$1,411,933    | \$1,420,031    | \$1,455,828    |
| Dade               | \$53,570,262   | \$53,007,256   | \$53,362,935   | \$54,593,811   | \$55,256,875   |
| Desoto             | \$519,429      | \$543,026      | \$584,785      | \$621,819      | \$618,318      |
| Dixie              | \$290,025      | \$303,160      | \$329,866      | \$359,914      | \$370,590      |
| Duval              | \$15,238,891   | \$15,163,059   | \$15,727,479   | \$16,495,579   | \$16,999,234   |
| Escambia           | \$4,856,790    | \$4,899,670    | \$5,109,504    | \$5,385,155    | \$5,506,451    |
| Flagler            | \$1,203,650    | \$1,207,363    | \$1,257,091    | \$1,316,600    | \$1,340,468    |
| Franklin           | \$189,191      | \$183,274      | \$188,266      | \$191,041      | \$193,134      |
| Gadsden            | \$780,756      | \$826,880      | \$908,840      | \$992,167      | \$1,002,475    |
| Gilchrist          | \$237,468      | \$254,833      | \$278,796      | \$306,146      | \$311,379      |
| Glades             | \$129,915      | \$107,378      | \$87,589       | \$62,708       | \$57,372       |
| Gulf               | \$241,233      | \$225,404      | \$214,499      | \$203,359      | \$203,277      |
| Hamilton           | \$261,833      | \$268,088      | \$281,328      | \$296,753      | \$299,217      |
| Hardee             | \$466,916      | \$492,980      | \$551,411      | \$602,835      | \$601,649      |
| Hendry             | \$736,272      | \$821,481      | \$951,713      | \$1,092,895    | \$1,119,012    |
| Hernando           | \$2,342,405    | \$2,441,803    | \$2,720,221    | \$3,010,259    | \$3,091,705    |
| Highlands          | \$1,470,528    | \$1,501,336    | \$1,622,978    | \$1,747,402    | \$1,787,821    |
| Hillsborough       | \$20,392,912   | \$20,385,144   | \$21,520,156   | \$22,633,306   | \$23,009,003   |
| Holmes             | \$316,623      | \$324,747      | \$358,932      | \$385,303      | \$387,699      |
| Indian River       | \$1,362,948    | \$1,491,992    | \$1,646,677    | \$1,869,363    | \$1,926,567    |
| Jackson            | \$751,063      | \$781,526      | \$834,649      | \$889,567      | \$893,656      |
| Jefferson          | \$228,468      | \$220,494      | \$219,715      | \$219,517      | \$221,291      |
| Lafayette          | \$70,803       | \$83,798       | \$99,224       | \$116,928      | \$119,145      |
| Lake               | \$4,285,167    | \$4,240,282    | \$4,456,085    | \$4,667,387    | \$4,761,898    |
| Lee                | \$8,116,709    | \$8,323,958    | \$8,895,098    | \$9,517,137    | \$9,679,380    |
| Leon               | \$2,762,176    | \$2,839,338    | \$3,036,826    | \$3,265,029    | \$3,332,044    |
| Levy               | \$709,849      | \$705,565      | \$730,680      | \$758,776      | \$774,594      |



**Table 16.2. Assumed Adjusted Percent of the Percentage Change in the State Medicaid Expenditures as determined by the Social Services Estimating Conference starting in 2020-2021.**

| <b>County Name</b> | <b>2021-22</b> | <b>2022-23</b> | <b>2023-24</b> | <b>2024-25</b> | <b>2025-26</b> |
|--------------------|----------------|----------------|----------------|----------------|----------------|
| Alachua            | \$3,450,674    | \$3,657,906    | \$3,786,017    | \$3,731,060    | \$3,861,407    |
| Baker              | \$475,161      | \$497,308      | \$508,197      | \$494,467      | \$505,251      |
| Bay                | \$3,001,662    | \$3,164,771    | \$3,257,950    | \$3,193,346    | \$3,287,088    |
| Bradford           | \$491,484      | \$516,890      | \$530,772      | \$518,940      | \$532,833      |
| Brevard            | \$7,419,103    | \$7,826,025    | \$8,060,325    | \$7,904,301    | \$8,140,256    |
| Broward            | \$28,452,448   | \$30,316,215   | \$31,539,283   | \$31,241,238   | \$32,498,876   |
| Calhoun            | \$267,193      | \$278,931      | \$284,308      | \$275,918      | \$281,214      |
| Charlotte          | \$1,814,508    | \$1,892,514    | \$1,927,262    | \$1,868,710    | \$1,902,860    |
| Citrus             | \$2,271,711    | \$2,413,742    | \$2,504,090    | \$2,473,482    | \$2,565,850    |
| Clay               | \$2,651,904    | \$2,839,036    | \$2,967,600    | \$2,953,518    | \$3,087,005    |
| Collier            | \$3,247,758    | \$3,327,881    | \$3,329,458    | \$3,171,603    | \$3,172,837    |
| Columbia           | \$1,469,227    | \$1,556,356    | \$1,609,721    | \$1,585,227    | \$1,639,443    |
| Dade               | \$55,054,903   | \$57,576,688   | \$58,792,084   | \$57,159,787   | \$58,361,447   |
| Desoto             | \$605,238      | \$621,845      | \$623,820      | \$595,849      | \$597,691      |
| Dixie              | \$375,626      | \$399,630      | \$415,128      | \$410,587      | \$426,474      |
| Duval              | \$17,244,791   | \$18,362,318   | \$19,090,555   | \$18,897,711   | \$19,645,521   |
| Escambia           | \$5,542,583    | \$5,855,899    | \$6,040,827    | \$5,933,335    | \$6,120,191    |
| Flagler            | \$1,343,464    | \$1,413,307    | \$1,451,671    | \$1,419,710    | \$1,458,126    |
| Franklin           | \$192,202      | \$200,769      | \$204,766      | \$198,847      | \$202,788      |
| Gadsden            | \$997,078      | \$1,040,939    | \$1,061,068    | \$1,029,819    | \$1,049,644    |
| Gilchrist          | \$311,758      | \$327,633      | \$336,184      | \$328,449      | \$336,994      |
| Glades             | \$51,670       | \$48,845       | \$45,085       | \$39,622       | \$36,568       |
| Gulf               | \$200,022      | \$206,591      | \$208,336      | \$200,040      | \$201,713      |
| Hamilton           | \$296,992      | \$309,416      | \$314,749      | \$304,848      | \$310,075      |
| Hardee             | \$591,092      | \$609,548      | \$613,736      | \$588,377      | \$592,370      |
| Hendry             | \$1,127,866    | \$1,193,223    | \$1,232,557    | \$1,212,250    | \$1,252,105    |
| Hernando           | \$3,125,783    | \$3,317,117    | \$3,437,037    | \$3,390,839    | \$3,513,126    |
| Highlands          | \$1,800,618    | \$1,903,533    | \$1,964,811    | \$1,930,992    | \$1,992,985    |
| Hillsborough       | \$23,025,780   | \$24,186,439   | \$24,805,671   | \$24,223,094   | \$24,841,165   |
| Holmes             | \$384,020      | \$399,259      | \$405,300      | \$391,740      | \$397,633      |
| Indian River       | \$1,954,524    | \$2,081,322    | \$2,164,007    | \$2,142,288    | \$2,227,208    |
| Jackson            | \$883,749      | \$917,336      | \$929,715      | \$897,161      | \$909,190      |
| Jefferson          | \$219,597      | \$228,734      | \$232,625      | \$225,259      | \$229,071      |
| Lafayette          | \$119,509      | \$125,825      | \$129,347      | \$126,603      | \$130,135      |
| Lake               | \$4,782,481    | \$5,041,587    | \$5,189,229    | \$5,085,551    | \$5,234,038    |
| Lee                | \$9,690,709    | \$10,183,676   | \$10,449,008   | \$10,208,106   | \$10,473,189   |
| Leon               | \$3,347,350    | \$3,529,657    | \$3,634,005    | \$3,562,361    | \$3,667,365    |
| Levy               | \$778,397      | \$821,050      | \$845,589      | \$829,179      | \$853,889      |



**Table 16.2. Assumed Adjusted Percent of the Percentage Change in the State Medicaid Expenditures as determined by the Social Services Estimating Conference starting in 2020-2021.**

| <b>County Name</b> | <b>2016-17</b>       | <b>2017-18</b>       | <b>2018-19</b>       | <b>2019-20</b>       | <b>2020-21</b>       |
|--------------------|----------------------|----------------------|----------------------|----------------------|----------------------|
| Liberty            | \$129,119            | \$125,632            | \$127,580            | \$128,501            | \$129,657            |
| Madison            | \$319,232            | \$325,219            | \$350,116            | \$371,031            | \$370,423            |
| Manatee            | \$4,516,495          | \$4,349,527          | \$4,341,074          | \$4,296,723          | \$4,296,511          |
| Marion             | \$5,149,141          | \$5,226,210          | \$5,639,991          | \$6,038,529          | \$6,151,314          |
| Martin             | \$1,310,179          | \$1,315,687          | \$1,367,211          | \$1,451,237          | \$1,498,134          |
| Monroe             | \$799,529            | \$754,187            | \$709,209            | \$681,011            | \$693,818            |
| Nassau             | \$765,937            | \$788,462            | \$838,254            | \$898,830            | \$919,474            |
| Okaloosa           | \$1,943,616          | \$2,031,513          | \$2,179,425          | \$2,381,101          | \$2,455,242          |
| Okeechobee         | \$717,706            | \$750,978            | \$807,848            | \$879,286            | \$898,622            |
| Orange             | \$19,457,701         | \$19,373,019         | \$20,293,697         | \$21,410,848         | \$21,957,697         |
| Osceola            | \$5,342,561          | \$5,790,843          | \$6,863,502          | \$7,985,657          | \$8,343,395          |
| Palm Beach         | \$16,953,070         | \$16,991,429         | \$17,299,086         | \$18,150,802         | \$18,756,990         |
| Pasco              | \$6,544,850          | \$6,564,671          | \$6,992,717          | \$7,424,431          | \$7,629,432          |
| Pinellas           | \$15,278,721         | \$13,770,941         | \$12,853,073         | \$11,764,312         | \$11,847,775         |
| Polk               | \$10,416,887         | \$10,654,710         | \$11,810,604         | \$13,006,365         | \$13,550,334         |
| Putnam             | \$1,530,671          | \$1,557,137          | \$1,653,444          | \$1,751,152          | \$1,776,406          |
| Saint Johns        | \$1,358,399          | \$1,403,900          | \$1,479,045          | \$1,579,078          | \$1,607,443          |
| Saint Lucie        | \$3,791,971          | \$4,088,173          | \$4,499,981          | \$5,080,766          | \$5,279,071          |
| Santa Rosa         | \$2,102,442          | \$1,992,265          | \$1,947,978          | \$1,941,503          | \$2,017,219          |
| Sarasota           | \$3,210,707          | \$3,245,360          | \$3,393,160          | \$3,490,201          | \$3,443,335          |
| Seminole           | \$4,366,341          | \$4,323,757          | \$4,489,621          | \$4,676,051          | \$4,776,264          |
| Sumter             | \$783,383            | \$774,700            | \$826,815            | \$872,798            | \$891,130            |
| Suwannee           | \$819,443            | \$815,995            | \$861,729            | \$905,119            | \$922,503            |
| Taylor             | \$312,581            | \$336,866            | \$376,793            | \$422,235            | \$431,239            |
| Union              | \$217,904            | \$209,038            | \$209,507            | \$205,518            | \$201,827            |
| Volusia            | \$7,067,956          | \$7,181,905          | \$7,580,908          | \$8,079,058          | \$8,278,489          |
| Wakulla            | \$299,241            | \$308,179            | \$320,625            | \$337,830            | \$337,939            |
| Walton             | \$629,009            | \$679,121            | \$753,062            | \$853,853            | \$889,875            |
| Washington         | \$388,555            | \$395,752            | \$435,392            | \$470,649            | \$479,013            |
| <b>Total</b>       | <b>\$288,600,000</b> | <b>\$287,900,000</b> | <b>\$298,500,000</b> | <b>\$312,300,000</b> | <b>\$319,200,000</b> |



**Table 16.2. Assumed Adjusted Percent of the Percentage Change in the State Medicaid Expenditures as determined by the Social Services Estimating Conference starting in 2020-2021.**

| <b>County Name</b> | <b>2021-22</b>       | <b>2022-23</b>       | <b>2023-24</b>       | <b>2024-25</b>       | <b>2025-26</b>       |
|--------------------|----------------------|----------------------|----------------------|----------------------|----------------------|
| Liberty            | \$128,781            | \$134,260            | \$136,668            | \$132,460            | \$134,824            |
| Madison            | \$364,042            | \$375,532            | \$378,236            | \$362,726            | \$365,308            |
| Manatee            | \$4,229,229          | \$4,369,659          | \$4,408,140          | \$4,234,116          | \$4,271,042          |
| Marion             | \$6,168,383          | \$6,492,558          | \$6,672,395          | \$6,529,009          | \$6,709,290          |
| Martin             | \$1,522,403          | \$1,623,864          | \$1,691,185          | \$1,676,997          | \$1,746,373          |
| Monroe             | \$695,831            | \$732,493            | \$752,878            | \$736,792            | \$757,232            |
| Nassau             | \$925,908            | \$978,673            | \$1,010,017          | \$992,474            | \$1,024,173          |
| Okaloosa           | \$2,492,170          | \$2,655,229          | \$2,762,153          | \$2,735,855          | \$2,845,786          |
| Okeechobee         | \$904,045            | \$954,650            | \$984,283            | \$966,263            | \$996,172            |
| Orange             | \$22,166,977         | \$23,489,142         | \$24,302,409         | \$23,940,382         | \$24,767,178         |
| Osceola            | \$8,581,076          | \$9,263,641          | \$9,764,346          | \$9,799,505          | \$10,328,300         |
| Palm Beach         | \$19,080,829         | \$20,373,814         | \$21,240,704         | \$21,084,586         | \$21,979,861         |
| Pasco              | \$7,717,703          | \$8,194,545          | \$8,495,387          | \$8,385,734          | \$8,692,860          |
| Pinellas           | \$11,745,563         | \$12,222,270         | \$12,417,993         | \$12,012,974         | \$12,204,313         |
| Polk               | \$13,896,673         | \$14,959,348         | \$15,723,021         | \$15,734,715         | \$16,536,572         |
| Putnam             | \$1,773,892          | \$1,859,316          | \$1,902,833          | \$1,854,162          | \$1,897,398          |
| Saint Johns        | \$1,610,773          | \$1,694,237          | \$1,739,945          | \$1,701,361          | \$1,747,113          |
| Saint Lucie        | \$5,399,487          | \$5,796,803          | \$6,076,396          | \$6,064,614          | \$6,356,587          |
| Santa Rosa         | \$2,063,170          | \$2,214,919          | \$2,321,679          | \$2,317,107          | \$2,428,588          |
| Sarasota           | \$3,344,067          | \$3,408,879          | \$3,392,889          | \$3,215,343          | \$3,199,991          |
| Seminole           | \$4,802,464          | \$5,068,518          | \$5,222,991          | \$5,124,567          | \$5,280,302          |
| Sumter             | \$895,643            | \$944,865            | \$973,254            | \$954,514            | \$983,110            |
| Suwannee           | \$925,543            | \$974,689            | \$1,002,206          | \$981,178            | \$1,008,794          |
| Taylor             | \$433,560            | \$457,531            | \$471,427            | \$462,495            | \$476,501            |
| Union              | \$195,109            | \$197,977            | \$196,143            | \$185,026            | \$183,297            |
| Volusia            | \$8,350,418          | \$8,841,101          | \$9,139,575          | \$8,995,912          | \$9,298,826          |
| Wakulla            | \$332,771            | \$343,948            | \$347,106            | \$333,528            | \$336,562            |
| Walton             | \$912,938            | \$983,093            | \$1,033,640          | \$1,034,770          | \$1,087,882          |
| Washington         | \$479,915            | \$504,687            | \$518,205            | \$506,618            | \$520,144            |
| <b>Total</b>       | <b>\$321,200,000</b> | <b>\$339,300,000</b> | <b>\$350,000,000</b> | <b>\$343,800,000</b> | <b>\$354,700,000</b> |

The current methodology for determining the portion of county Medicaid contributions is determined by a formula. Counties are notified of their annual Medicaid contribution in June of each year. Contributions are paid in monthly installments.

The formula that determines the payment total for the county contribution begins with calculating the percentage change in state Medicaid expenditures by comparing the two most recently completed state fiscal years. For the 2015-2016 state fiscal year through the 2019-2020 state fiscal year, the total amount of the county annual contribution is the total contribution for the prior fiscal year adjusted by 50% of the growth in the state Medicaid expenditures. For each fiscal year after the 2019-2020 state fiscal year, the total amount of the county annual contribution will grow equal to the growth in state Medicaid expenditures.



Starting in the 2013-2014 state fiscal year, the county individual share of the total county contribution was based on a proportional share of payments made during the 2012-2013 state fiscal year. For the 2015-2016 state fiscal year through the 2019-2020 state fiscal year, the allocation gradually shifts from a historical payment-based contribution to a contribution based on a county's proportional share of Florida Medicaid enrollees as of March 1<sup>st</sup> of each year.

## **MEDICAID VOLUNTARY CONTRIBUTIONS**

---

While counties are exempt from contributing toward special Medicaid payments, many do provide additional ad valorem dollars to help the state draw down more federal funding. Examples of these types of programs include the local match program for Medicaid Substance Abuse Treatment, the Low Income Pool, the Disproportionate Share Program, the Exemption Program and Buy-Back Program.

### **LOCAL MATCH FOR MEDICAID SUBSTANCE ABUSE TREATMENT**

This program provides an opportunity for counties to maximize public funds committed to substance abuse treatment for Medicaid recipients, by drawing down federal match for three substance abuse services. Those services include alcohol or drug intervention services, comprehensive community support services – peer recovery support and comprehensive community support services – aftercare services. All counties are eligible for and encouraged to participate if they are willing to commit county tax, or other public dollars that are not already matched to other funding sources. If a county has already committed local, public funds to substance abuse treatment, it may choose to redirect all or a portion of these dollars to the designated services for citizens who are Medicaid enrolled, to draw down the federal match.

### **THE LOW INCOME POOL**

The Low Income Pool (LIP) program is a partnership between the local, state, and federal governments. It is a Medicaid special financing strategy where the state uses tax-based resources from local government entities, referred to as intergovernmental transfers (IGTs), to match federal Medicaid funds in order to increase federal financial participation. The program was established to ensure continued government support for the provision of health care services to the Medicaid, underinsured and uninsured populations. The LIP consists of an annual allotment of \$1.5 billion from state fiscal year 2018 through 2022 determined under an amendment to extend Florida's 1115 Managed Medical Assistance Waiver. The LIP provides government support for safety net providers for the costs of uncompensated charity care for low-income individuals who are uninsured. Uncompensated care includes charity care for the uninsured but does not include care for insured individuals, “bad debt,” or Medicaid and CHIP shortfall.

### **THE DISPROPORTIONATE SHARE PROGRAM**

Federal regulations permit state Medicaid programs to make supplemental payments to hospitals that provide a high proportion of their care to Medicaid recipients and the uninsured. These payments are known as Disproportionate Share Hospital payments. Like the Low Income Pool, intergovernmental transfers, or IGTs, from counties and special taxing districts are matched by federal funds at the Federal Medical Assistance Percentage, or FMAP, rate. The FMAP is used to calculate the amount of federal share of state expenditures for Medicaid services. Disproportionate Share Hospital payments are not reimbursement for specific patient services, but are a supplemental



payment based on a hospital meeting qualifying eligibility. Payments are made to hospitals meeting program eligibility defined in both federal regulations and Florida statutes.

Again, counties are exempt from contributing toward the cost of special reimbursement for hospitals serving a disproportionate share of low-income patients, but many participate on a voluntary basis.

### **EXEMPTION PROGRAM**

Many hospital providers are subject to limitations or provider targets that adjust allowable costs on the provider cost reports submitted to the Agency for Health Care Administration. Under specific legislation, qualifying hospitals may be exempt from certain cost limitations. These facilities are known as exempt hospitals. Hospitals that do not qualify are considered non-exempt. The cost of the Exemption Program is the cost associated with exempting those hospitals from certain cost limitations, thus increasing the hospital's reimbursement rate to cover a higher percentage of the hospital's costs to provide health services to Medicaid participants. Recent state budgets have not required county participation in the Exemption Program as local matching funds for this program were provided with state general revenue.

### **BUY-BACK PROGRAM**

The Buy-Back Program is similar to the Exemption Program; however, the program is used to offset additional reimbursement rate reductions applied by the Legislature as a result of budget cutting. These rate reductions are reflected as a Medicaid trend adjustment on each hospital's rate sheet developed by the Agency for Health Care Administration as part of the biannual hospital rate setting process. This program restores the rates to a level where they would reflect the individual hospital per diem prior to the Medicaid trend adjustments. The financing mechanism for the Buy-Back Program is like the Exemption Program outlined above. Recent state budgets have not required county participation in the Buy-Back Program as local matching funds for this program were provided with state general revenue.

## **HEALTH CARE RESPONSIBILITY ACT (HCRA)**

---

In 1977, the Florida Legislature declared that it is inequitable for hospitals and taxpayers of one county to be expected to subsidize the care of out-of-county indigent persons. In order to assure that adequate and affordable health care is available to all Floridians, the Health Care Responsibility Act (HCRA) was enacted. The Act places the ultimate financial obligation for an indigent patient's out-of-county emergency care on the county in which the indigent patient resides. The Health Care responsibility act can be found in Chapter 154.301-.331, Florida Statutes, and Rule Chapter 59H-1.001-.015, Florida Administrative Code.

In 1998, the legislature revised the act to allow counties to use up to half of the HCRA funds to reimburse eligible in-county hospitals for indigent care. Currently there are twelve counties that elected to reimburse their county hospital(s) for resident indigents under the HCRA. These counties include Bradford, Calhoun, Hamilton, Hardee, Holmes, Levy, Madison, Suwannee, Taylor, Union, Volusia and Washington.

In 2001, the legislature revised the act to allow a county with a population of 100,000 or less to reduce the maximum amount that it may be required to pay. The Agency for Health Care Administration must reduce the official state population estimates by the number of inmates and patients residing in the county in institutions operated by the federal government, the Florida Department of Corrections, the Florida Department of Health, or the Florida Department of Children and Family Services, and by the number of active-duty military personnel residing in the county. A



county is entitled to receive the benefit of the reduction only if it accepts and does not require any reverification of the documentation of financial eligibility and county residency provided to it by the participating hospital. The submitted documentation must be complete and in accordance with the requirements of Section 154.3105, Florida Statutes. Currently there are twelve counties that have elected to participate in the reduction. These counties include Baker, Bradford, Glades, Gulf, Hardee, Holmes, Jefferson, Madison, Nassau, Taylor, Union, and Wakulla.

Non-Emergency and Elective services require prior approval or prior authorization when one of two conditions are present: 1) The services are available within the county of residence and funding for the services is available, or 2) the county of residence has written procedures on file with the Agency for Health Care Administration for prior approval or prior authorization for nonemergency and elective procedures. The following counties have such written procedures on file: Brevard, Flagler, Hernando, St. Lucie, Nassau, and Seminole.

## **CHILD PROTECTION SERVICES**

---

Mandated by Sections 39.303 and 39.304, Florida Statutes, this service provides payment for the initial examination of children who have been abused or where abuse is suspected. Child Protection Teams are authorized to provide the exams and may be contracted by the county to provide this service.

The statutes require the county in which the child is a resident to bear the initial costs of the physical examination of the allegedly abused or neglected child. However, the parents or legal custodian of the child are required to reimburse the county for the costs of such an examination, other than an initial forensic physical examination as provided in Section 960.28, Florida Statutes, and to reimburse the Florida Department of Children and Families for the cost of the photographs taken (in practice, counties don't often seek reimbursement for these medical exams). Medical providers are not allowed to bill a child victim, directly or indirectly, for the cost of an initial forensic physical examination.

## **COMMUNITY MENTAL HEALTH/SUBSTANCE ABUSE TREATMENT**

---

Florida law requires county governments to participate in funding the state's mental health and substance abuse system. The state's publicly funded mental health services and supports are managed by the Mental Health Program Office, within the larger Florida Department of Children and Families. There is both a Mental Health Program Office and a Substance Abuse Program Office. The state offices are combined in local Substance Abuse and Mental Health (SAMH) Circuit Program Offices.

The primary purpose of the funding allocated under the Mental Health Match is to provide funding to community mental health agencies as a match to state contracted funding. This is a statutory obligation stated in Chapter 394, Florida Statutes, which requires that community mental health and alcohol programs be funded in part by local matching funds on a 75% to 25% state-to-local ratio. Chapter 65E-14, Florida Administrative Code, specifies what types of funds or contributions may count toward satisfying the local match requirement.

Section 394.76(3)b, Florida Statutes, exempts from the local match requirement: 1) residential and case management services funded as part of a deinstitutionalization project; 2) residential, and supported housing programs; and 3) children's mental health services. This section further stipulates that only community alcohol and mental health services, not drug abuse services, shall require match.



Per Section 394.76(9)a, Florida Statutes, “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 participation shall be at least that amount which, when added to other available local matching funds, is necessary to match state funds.”

Chapter 394, Part IV, Florida Statutes, provides the statutory framework for the financing of public mental health and substance abuse services.

## **DISPOSITION OF INDIGENT AND UNCLAIMED BODIES**

---

Each county in Florida is required by statute (Section 406.50, Florida Statutes) to dispose of any unclaimed body of persons that die within the confines of their county. County governments have to accept responsibility for the cost of proper burial or cremation arrangements for residents who are indigent and/or whose bodies are unclaimed. Payment for indigent burial, cremation and transportation to the Veteran National Cemeteries in Bushnell or Sarasota, Florida, will be made only when it has been determined that there are no relatives or other resources available to cover these costs. For a current listing of Department of Veterans Affairs National Cemeteries in Florida, refer to: <http://www.cem.va.gov/cems/state.asp?State=FL>

County responsibility also includes making a reasonable effort to identify the body, contact relatives, and determine if the deceased is entitled to burial in a national cemetery.

Local customs and ordinances governing whether disposition is via burial or cremation varies from county to county.

## **HUMAN SERVICES**

---

Counties in Florida provide a vast array of social services for their citizens depending on Board direction, identified need, and available resources. Most serve the county’s needy and vulnerable populations and seek to provide the resources necessary to sustain a safe, decent and healthy quality of life. These services are provided by counties through their Departments or Divisions of Community or Human Services. Counties may provide these services directly or under contract with partner agencies and include temporary shelter, emergency rent and utility assistance. Funding for these services may come from ad valorem dollars, designated taxes or through federal and state grants. The federal government may award counties funds for reallocation under the Emergency Solutions Grant (ESG), Community Development Block Grants (CDBG), and Community Services Block Grant (CSBG).

Counties may also serve as the Lead Agency/Collaborative Applicant for homeless services, coordinating the local continuum of care. The county may be the recipient of state and federal homeless funds or the applicant for the funds which are then awarded directly to provider agencies.

Some counties offer assistance with paying utility bills which comes in the form of the 5T Low Income Home Energy Assistance Program 5T (LIHEAP) and Emergency Home Energy Assistance for the Elderly (EHEAP) funding. Many counties receive these funds from the federal government and/or Florida Department of Elder Affairs and directly or under contract, provide this funding to residents. Additional sources of revenue for this service include ad valorem funds and foundation grants. Some counties provide services to seniors either directly or under contract in the form of Personal Care, Homemaking, Nutrition/Meals services, Senior Centers and Day Care. Counties may serve as the Lead Agency for Senior Services with grants from the Florida Department of Elder Affairs issued through the district Area Agency on Aging. Other counties are sponsors of the 5T Summer Food Service Program 5T (SFSP) ensuring that low-income children who receive meals at school during the school year under the free and reduced lunch program, have access to meals during



the summer. Funding for the SFSP is granted by the USDA through the Florida Department of Agriculture and Consumer Services.

Counties may also provide funding for medical assistance and medications to those unable to access this service through any other means.

While the services and course of provision varies, all county Human and Community Service Departments or Divisions work to meet the needs of their most vulnerable residents. County staff considers their respective county needs and direction from this board of county commissioners in designing programs to address those needs.

## COUNTY HEALTH DEPARTMENTS

---

Counties are not mandated to provide financial assistance to county health departments; however, historically there has always been a cooperative relationship between the counties and the county health departments. Chapter 154, Florida Statutes, was revised in 1983 to require a contract between county health departments and the local board of county commissioners. A contractual relationship creates a true partnership between the state and county and emphasizes that public health is a shared responsibility. The contract also provides a mechanism to provide the county with an opportunity for input into county health department operations, records county contributions and specifies how county funds are to be used.

Section 154.01, Florida Statutes, requires a functional system of county health department services which includes the following three levels of services:

- Environmental Health Services
- Communicable Disease Control Services
- Primary care services

***Environmental health services*** are those services which are organized and operated to protect the health of the general public through monitoring and regulating activities in the environment which may contribute to the occurrence or transmission of disease.

***Communicable disease control services*** protect the health of the general public through the detection, control, and eradication of diseases which are primarily transmitted by humans.

***Primary care*** is defined as health care services for the prevention or treatment of acute or chronic medical conditions or minor injuries of individuals which are provided in a clinic setting and may include family planning and maternity care. Florida's 67 health departments are charged with the responsibility of ensuring access to primary care services for well and sick persons who are unable to obtain such services due to lack of income or other barriers beyond their control.

Most health departments provide many more services than the three types listed above, based on the needs of the community. Examples of additional services include health education, disaster planning and recovery, behavioral health and specialty clinics such as dental and obstetrics/gynecology.

Section 274.11, Florida Statutes, states that property purchased by a county health department, whether purchased with federal, state or county funds, is the property of the board of county commissioners and must be accounted for in the county's property records.

## EMERGENCY MEDICAL SERVICES (EMS)

---

Emergency Medical Services (EMS), also known as ambulance services, are generally regulated by the Department of Health. Chapter 401, Florida Statutes, regulates the spectrum of



medical telecommunication and transportation in Florida. Administrative rules implementing Chapter 401, Florida Statutes, are found in Chapter 64-J-1, Florida Administrative Code. Ambulance providers in Florida are operated by counties, cities, special districts, private providers, not-for-profit foundations, volunteer organizations, hospitals, and possibly, by other entities.

The legislative underpinning for EMS in Florida recognizes that “the systematic provision of EMS saves lives and reduces disability associated with illness and injury. In addition, that system of care must be equally capable of assessing, treating, and transporting children, adults, and frail elderly persons.” The legislature encourages the development and maintenance of EMS “because such services are essential to the health and well-being of all citizens of the state.”

Counties are an integral part of EMS in Florida. Among legislatively enumerated powers and duties of county governments is the provision of “hospitals, ambulance service, and health and welfare programs.” Counties have developed their EMS systems using a myriad of structures based on the needs of the individual communities. EMS systems in a county may be developed using a single provider or using multiple public and/or private providers to meet various requirements for medical treatment and transport of the citizens of and visitors to each county.

Chapter 401, Florida Statutes, requires, as a condition of ambulance licensure, that an EMS provider obtain a “certificate of public convenience and necessity” (COPCN) from any county in which the provider operates. COPCNs are issued by the governing body of the county.

There are essentially two types of care provided by ambulance personnel, basic life support and advanced life support. Basic life support includes more basic, non-invasive medical procedures and may be provided by a certified emergency medical technician (EMT) or paramedic. Advanced life support services include a number of more medically complex procedures and may, generally, only be provided by a paramedic. Each licensed EMS provider must have a physician medical director who is responsible for the medical care provided by EMTs and paramedics under his/her medical supervision.

There are two essential types of transport service categories relative to the provision of EMS in Florida: pre-hospital services and interfacility transfers. Pre-hospital services are basically those that are commonly associated with the 911 system. Interfacility transfers are the transportation by ambulance of a patient between two health care facilities as defined in Chapter 401, Florida Statutes. In Florida, if it is determined that a patient needs, or is likely to need, medical attention during an interfacility transfer, such transfer must be conducted in a permitted ambulance.

There are administrative, civil, and criminal penalties for uncertified individuals practicing or holding themselves out as being certified as an EMT or paramedic. Similarly, there are penalties for vehicles or entities that are not licensed ambulances, but that provide pre-hospital services or interfacility transfers to patients who are in need of or likely to need basic life support or advanced life support services in transport.

A separate category of EMS transport is “air ambulance” service. The more common illustration of air ambulance service is the helicopter aeromedical service. Such service might provide either pre-hospital services, such as flying to a scene of an accident on the freeway; or might provide interfacility transfers between hospitals to patients in critical need. Air ambulance providers also include “fixed-wing” airplane providers. Air ambulance providers are governed by Florida Department of Health but are also subject to other stringent state and federal regulations, particularly relative to the aviation components of operation.

EMS is funded by billing and collection for services provided. Medicaid, Medicare, private insurers or managed care organizations, other governmental funding entities, a number of third-party payers, and individuals, themselves, are examples of payors for EMS services. Many local governments also provide subsidies to their EMS system providers, both public and private. With budget pressures facing local governments in Florida, such subsidization of EMS has become an increasing challenge. Local governments have been faced with difficult decisions regarding how to “streamline” their EMS systems without compromising the ready responsiveness of the system or quality of care and transport provided to individuals in need of treatment or transport. Counties have chosen different ways to fund their EMS systems, often based on the commissioners’ determination



of the needs of the citizens of and visitors to the county. As governmental and private payors consider budget cuts, potential reductions to payment for or reimbursement of ambulance services provided pose a risk to our EMS systems.

## **VETERAN SERVICES**

---

Veteran Service Officers (VSO) employed by counties provide advocacy and counseling to veterans and their families in accordance with established Veterans Administration (VA) benefits under federal and Florida state laws. According to Section 292.11, Florida Statutes, *“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.”* Currently, all 67 counties in Florida employ or contract for at least one Veteran Service Officer to assist their residents.

There are over 100 different federal and Florida State programs available to Florida’s veterans. Florida has the third largest concentration of veterans in the nation; only Texas and California have larger populations. Through compensation and pension benefits, medical services and military retired pay, the Veterans Administration plays a significant role in the direct infusion of more than \$17.9 billion annually into Florida’s economy from the federal government.

There are 1,525,400 veterans in the State of Florida. Florida has the third largest population of disabled veterans in the nation, with more than 249,000. In excess of 789,000 veterans residing in Florida are over the age of 65.

Of the 1.5 million veterans in Florida, nearly three-quarters served during a war or an official period of conflict. A large portion of Florida’s population is potentially eligible for VA benefits and services based on their status as veterans, family members or survivors of veterans. Veterans often have difficulty applying for benefits independently and require assistance with the process. All services performed by county Veteran Service Officers are provided without charge to veterans and their dependents.

Veteran Service Officers in each county benefit the community in many ways. Being trained in VA programs, they directly assist veterans and their dependents in applying for and resolving possible financial problems and medical care needs. They are interactive liaisons in the community helping the local veterans’ organizations, including the Veterans of Foreign Wars (VFW) and American Legion (AL), who assist Veterans and their dependents file claims with the VA to acquire benefits. County VSOs work with the state’s VA Regional Office, VA Medical Center staff, VA Community Based Outpatient Clinic personnel, and the local Veteran Adjustment Centers. These trained professionals are the county’s personal contact with the local veteran constituents working under the local government jurisdiction; they guide residents through the procedures required to apply for VA benefits.

Veteran Service Officers have quarterly meetings with the VA medical centers directors and work closely with the Florida Department of Veterans Affairs as partners, receiving training, and maintaining certification each year under state statute. The Florida Department of Veterans Affairs and the County Veterans Service Officer Association (CVSOA) of Florida work together to ensure that Veterans Service Officers are trained to meet the needs of Florida’s veterans.

## **HOMELESS SERVICES**

---

Florida has the third largest homeless population in the United States. While not a mandated service, counties provide for homeless residents and support initiatives towards making homelessness rare, brief and non-reoccurring. County responses to serving homeless individuals and families



include participating on planning bodies, providing for Ad Valorem support either directly or indirectly through non-profit agencies, and advocating for additional resources.

A Homeless Continuum of Care (CoC) is a regional or local planning body that coordinates housing and services funding for homeless families and individuals. There are twenty-seven (27) CoC's across Florida, some serving one county, while others serve multiple counties. Some county governments in Florida serve as the Lead Agency in charge of coordinating the local CoC, while others actively engage in committees and planning processes in partnership with the CoC, as well as providing housing and support services through their own staff. Some counties also provide funding to their local non-profit agencies to support ending homelessness. Other counties are fiscally constrained and are unable to provide Ad Valorem support but can direct State and federal resources under their auspices towards housing assistance.

At a minimum of every two years, all CoC's are required to count the number of homeless individuals who are residing in their area. They also evaluate the beds contained in their service system, with a goal towards identifying any resources that are needed.

New best practice approaches to serving homeless households include coordinated entry, where there is a centralized/coordinated system to intake all requests for assistance, conduct a common assessment and prioritize services based on the individual's/family's vulnerability. The focus is also to reduce the length of stay in shelters, reduce the emphasis on emergency shelter, and prioritize housing. Another best practice is the Housing First approach to homeless assistance that prioritizes providing permanent housing to people experiencing homelessness. Individuals and families are placed from the street or short-term shelter directly into permanent housing where they can remain without having to be transitioned from one program to another. Treatment and services are offered after housing is arranged on a voluntary basis.

## **AFFORDABLE HOUSING—HOUSING TRUST FUNDS**

In excess of 911,000 very low-income households in Florida pay more than 50% of their income on housing – they may be one missed paycheck away from homelessness.

The Sadowski Act passed in 1992, increasing the doc stamp tax paid on all real estate transaction and placing these monies in a dedicated state and local housing trust fund.

- 70% of monies go to the Local Government Housing Trust Fund for the State Housing Initiatives Partnership (SHIP) program which funds housing programs in all 67 counties and larger cities.
- 30% of monies go to the State Housing Trust Fund for Florida Housing Finance Corporation programs such as the State Apartment Incentive Loan (SAIL) program.

Based upon documentary stamp projections from the August 2017 Revenue Estimating Conference, a total of \$314.08 million would be available for FY 18-19 in the Housing Trust Fund. Full allocation of housing trust fund monies by the Florida Legislature for housing programs would significantly expand the ability to serve residents in need of housing related repairs, purchase and rental assistance.







---

# 17. *Understanding County Finance*

---

*Robert E. Lee*

Each county is required to provide financial reports. These reports are classified according to their content and the purposes for which they are used. Internal reports are generally prepared to monitor financial progress throughout the year. Annual financial reports are mandated by the state and require strict adherence in terms of content and timing. This chapter examines the legal requirements of financial reporting, explains the purpose of audit reports, as well as describes the basics of fund accounting.

---

## **FINANCIAL STATEMENTS**

---

Generally, local governments provide operating statements throughout the year (monthly or quarterly) that include year-to-date revenues and expenditures and compare this information with the corresponding budget categories. These statements, described above as internal reports, are available for public review but are primarily used to manage the budget. The reports generally include a narrative explaining unanticipated revenue or expenditure changes, any finance numbers that appear inconsistent with the budget plan, or any events or developments that have an impact or are anticipated to cause a financial impact on the annual budget.

---

## **ACCOUNTING AND FINANCIAL REPORTING RULES**

---

The Government Accounting Standards Board (GASB) establishes and updates a set of minimum standards and guidelines for local government financial reporting and accounting. These policies are referred to as Generally Accepted Accounting Principles (GAAP). The following is a summary of those principles<sup>1</sup>:

Principle 1: That accounts be maintained on a GAAP basis and demonstrate compliance with finance-related legal requirements.

Principle 2: That funds be the basis for maintaining accounting records.

Principle 3: That eleven basic types of funds are used in governmental accounting.

Principle 4: That governments maintain a minimum number of funds and only those required by law.

Principle 5: That accounting records maintain a distinction among the capital assets of proprietary funds, fiduciary funds, and governmental funds.

Principle 6: That the historical cost of capital assets (land, buildings, equipment, and infrastructure) and long-term debt be maintained in the accounting records.



Principle 7: That depreciation of capital assets be recorded in the accounting records.

Principle 8: That accounting records maintain a clear distinction between long term liabilities attributed to a specific fund and those attributed to the general government.

Principle 9: That the accrual basis of accounting be used for government-wide financial statements and for proprietary and fiduciary funds, and that the modified accrual basis of accounting be used for fund specific financial statements.

Principle 10: That an annual budget be adopted, budgetary control be provided by the accounting system, and the budget be compared annually with the actual results of the operations.

Principle 11: That inter-fund transfers be recognized and reported depending on whether the transfers involve reciprocity.

Principle 12: That a common terminology and classification system be used throughout all financial records.

Principle 13: That interim financial reports be prepared and that the format of the comprehensive annual financial report (CAFR) follow a specific format.

The GASB routinely evaluates and considers modifications to GAAP that provide clarity and prudence in financial reporting.

## **INDEPENDENT AUDITS**

---

### **COUNTIES AUDITS: REASONS AND LEGAL REQUIREMENTS**

The GASB and Government Finance Officers' Association (GFOA) have recommended that the financial statements of all governments be independently audited and, according to Chapter 218.39, Florida Statutes, each Florida county shall have an annual financial audit of its accounts and records completed within twelve months of the end of the fiscal year by an independent certified public accountant retained by the county and paid with its public funds.

Chapter 218.39, Florida Statutes, also provides that the county audit report be a single document that includes a financial audit of the county as a whole and, for each county agency other than the board of county commissioners, an audit of its financial accounts and records, including reports on compliance and internal control, management letters, and financial statements. In addition, the board of county commissioners may elect to have a separate audit of its financial accounts and records in a manner required for the other county agencies. This separate audit shall be included in the county audit report. Moreover, Chapter 218.39, Florida Statutes, requires each county to follow uniform accounting practices and procedures as promulgated by the state which include a uniform classification of accounts. Among other things, this uniformity in accounts enables data collections to occur state-wide.

After the audit is completed, Chapter 218.32, Florida Statutes, requires the chair of the board of county commissioners and the chief financial officer of the county to sign the annual financial report. Moreover, Chapter 218.39, Florida Statutes, provides that at the conclusion of the audit, the auditor shall discuss with the board chair or designee all of the auditor's comments that will be included in the report. The county's written statement of explanation or rebuttal concerning the



auditor's findings, including corrective action to be taken, must be filed with the board of county commissioners within 30 days after delivery of the auditor's findings. This statute further requires that all audit reports and the county's written statement of explanation or rebuttal must be submitted to the Auditor General within 45 days after delivery of the audit report to the BCC, but no later than twelve months after the end of the fiscal year.

In addition to following recommendations from GASB and GFOA and complying with state law, the results of an independent audit, as described in the previous paragraphs, enables the board of county commissioners to make more confident decisions and constructive changes to improve operations, and helps control or curtail circumstances involving inefficiencies or fraud.

## **AUDITOR SELECTION PROCESS**

In Florida, the selection of an Independent Auditor must follow strict guidelines outlined in Chapter 218.391, Florida Statutes. The process begins with the board of county commissioners establishing an audit selection committee made up of, at a minimum, each county officer or designee and one member of the board or designee. The public shall not be excluded from the proceedings.

The Audit Selection Committee has the responsibility to do the following:

- 1) Establish evaluation criteria to include: ability of personnel, experience, ability to furnish the required services, and other factors determined by the committee to be applicable.
- 2) Publicly announce the Request for Proposals (RFP).
- 3) Provide interested firms with an RFP.
- 4) Evaluate proposals provided by qualified firms (note: compensation cannot be the predominant factor used to evaluate proposals).
- 5) Rank no less than 3 firms deemed the most qualified.
- 6) The board of county commissioners shall inquire as to compensation if not part of the evaluation criteria and negotiate an agreement with the number one ranked firm.
- 7) If unsuccessful, the board may negotiate with the next ranked firm (note: only one firm can be negotiated with at one time).
- 8) A written agreement is required.

## **BASICS OF ACCOUNTING**

---

### **THE CONCEPT**

The accounting system provides the record-keeping framework in which transactions authorized in the budget are logged.<sup>2</sup> Every financial transaction, whether a bank deposit, a receipt for recreation fees, a payment of overtime, or any other transaction, is recorded in an account. These transactions are aggregated into interim financial reports that managers use to maintain budget compliance throughout the year. At the end of the year, all transactions are compiled into a



comprehensive annual financial report (CAFR) which shows the actual results of all transactions during the year.

In order to be effective, accounting must be accurate, timely, and formatted to answer key budget questions. The system should have a common set of standards so that transactions are recorded the same way over time, enabling the user of this information to track trends and compare financial periods. As previously provided, Florida law requires such consistency in reporting to enable one to compare between different jurisdictions as well as comparing a jurisdiction's records from year to year.

## **BASIS OF ACCOUNTING**

Many of the standards that guide accounting practices originated in the private sector. The general rule in the private sector is to use the ***accrual basis of accounting*** because it works well for businesses that sell a product or service: “in accrual accounting, revenues from the sale of products are recognized when they are both earned and measurable, and expenses for raw materials and labor are recorded when they are used in the production process.”<sup>3</sup> According to GASB 34, Government Propriety Fund Statements (including financial data for enterprise and internal service funds) should be prepared using the accrual basis of accounting.

For tax supported government operations that do not earn revenue, the accrual basis of accounting does not provide useful information. For example, the cost of responding to a sheriff deputy's call has little connection to the amount of taxes paid by the caller. For that reason, governments use the ***modified accrual basis of accounting*** for other government type funds. Chapter 129.06, Florida Statutes, actually requires that county accounting records for general government operations be maintained on the “modified accrual basis” of accounting. In this format, revenues are recorded when available and measurable, and expenditures are recorded when services or goods are received and related liabilities are incurred.

A third basis of accounting is the ***cash basis of accounting***. Basically, this method only recognizes a transaction when actual cash is exchanged, whether it is a receipt or expenditure. This is similar to how most people keep their personal check books. While some government budgets in the country may employ this method for certain types of budgeting, state law and general accepted accounting principles dictate that accounting and financial reporting be on a modified or accrual basis, depending on the type of fund referenced above.

## **FUND ACCOUNTING**

---

### **IDENTIFYING FUND TYPES**

Unlike businesses that generally combine the results of their operations into one consolidated report, a county government divides its operations into funds and creates a separate report for each type of fund. County funds are usually created by law, either by state law or through legislative approval by the board of county commissioners. The fundamental purpose of establishing different funds is for fiscal control. The law that establishes the fund includes strict requirements regarding the use of revenues that come into a fund.

Fund accounting requires counties to keep separate records for each fund the county has established. The number of funds depends on the size and complexity of the county's operations. There are eleven basic types of funds required by the Government Standards Accounting Board (GASB). These funds are grouped into three broad categories: governmental, proprietary, and fiduciary. Following is a breakdown of each category:



### Governmental Funds

- General Fund (Accounts for general operations: Sheriff, Parks, etc.)
- Special Revenue Fund (e.g., Tourist Tax Fund)
- Debt Service Fund (e.g., 2018 Series Debt Service Fund)
- Capital Projects Fund (e.g., Capital Projects not located in other funds)
- Permanent funds (e.g., Cemetery Care Fund)

### Propriety Funds (Business Type Funds)

- Enterprise Funds (e.g., Solid Waste Fund or Water/Sewer Funds)
- Internal Service Funds (e.g., Fleet Maintenance or Technology Fund)

### Fiduciary Funds

- Investment Trust Funds (e.g., Countywide Cash Investment Fund)
- Private-Purpose Trust Funds (e.g., Employees' Credit Union)
- Pension Trust Funds (e.g., Employees' Retirement Fund)
- Agency Funds (e.g., Local Option Sales Tax Fund)

## DESCRIPTION OF FUND TYPES

The **General Fund** is usually the largest and most important in terms of the operating budget. There is only one general fund, and it is defined as general because it contains all transactions not provided for in any other fund.

The **Special Revenue Fund** is typically used to account for a source of revenue that has specific restriction on its use. For example, a special revenue fund may be established to account for the use of a federal grant because the use of the proceeds is limited. Separating the revenue and expenditure transactions makes it easier to audit and account for the use of the grant. A county may elect to have more than one revenue account.

The **Debt Service Fund** is used to account for the financial resources to pay the principle and interest on debt. For example, a debt service fund would be established for a General Obligation Bond to evidence that the money has been set aside exclusively to repay the debt on this bond. Depending on the county's financial policies, there may be several debt service funds (i.e. one for each bond obligation).

The **Capital Projects Fund** is used to account for the financial resources needed to pay for capital projects within the county. The fund will reflect the revenues (i.e., transfer from bond proceeds, grants, etc.) and reflect the expenditures paid (i.e., to engineers, contractors, etc.). The primary purpose of the fund is to control expenditures on projects. Keeping a detailed report on a project in the general fund is more difficult, thus the importance of a separate capital projects fund.

The **Permanent Fund** is used to provide for provide a permanent source of revenue for a specific purpose. It is basically an endowment where the interest earned from the revenue is used to continue a service (e.g., maintenance of a cemetery or funding a special scholarship). The use of the earnings are legally restricted.

The **Enterprise Fund** is used to account for services that are supported by fees on customers (e.g., water, waste water, electricity, docks, golf courses, etc.). By establishing a separate fund for each operation, the board of county commissioners can determine whether the operation is bringing in enough revenue to pay for the cost of providing the service. GASB principles also require an enterprise fund to be set up if debt is being backed by the fees generated by the activity. This is an important distinction between enterprise funds and revenue funds as service charge revenue cannot be used as collateral for revenue bonds in special revenue funds.

The **Internal Service Fund** is similar to enterprise funds except they account for services provided within the government (i.e., to other departments or funds) rather than to the public. Each user department or fund is charged proportionately for the amount of service they are provided. Two examples are maintenance of the county's vehicles and service of county-wide technology.



Establishing an internal service fund tracks actual usage and cost by department or fund and can encourage more efficient use of these services.

The **Investment Trust Fund** is used to commingle funds (can include funds from other jurisdictions in the county) and held in trust and invested.

The **Private-Purpose Trust Fund** is similar to investment funds except the funds are held in trust for individuals or private organizations.

The **Pension Trust Fund** is used to hold funds in trust to pay for employee retirement benefits. There is usually a Board of Trustees that oversees the fund investments and expenditures.

The **Agency Fund** is used to account for funds paid into an account where the government services as the custodian of resources on behalf of other governments. For example, the county has a local option sales tax account that distributes some of the proceeds to cities based upon a predetermined formula.

## FINANCIAL POLICIES

---

Financial policies are used to guide the board of county commissioners and staff in making financial decisions within the county. Good policies incorporate legal requirements governing accounting, fund management, budgeting, reserves, debt management, investments, general purchasing, capital expenditures and other financial related matters with additional constraints or financial provisions imposed by the BCC.

There are many good reasons for establishing county financial policies. Following are a few of these reasons:

- 1) Improve understanding of county finances. Public financial management is very complicated and a set of uniform policies helps all parties (i.e. BCC, staff, and the public) to better understand why certain decisions are made.
- 2) Facilitate consistent application. Financial policies provide a guide for managing the county's finances to facilitate consistency and help employees understand county financial expectations.
- 3) Improve public's perception of county government. Meaningful financial policies can instill public confidence in the board of county commissioners in terms of financial oversight of public funds.
- 4) Provide continuity after election of new commissioners. Established financial policies enable new elected officials to assume office without having to make major changes in the financial management of the county. Although newly elected commissioners may want to change some policies, the existence of policies promote continuity for the financial operations of the county.
- 5) Establish a basis for addressing emergencies. Every county will experience the unexpected. Some unanticipated events can have a severe financial impact on the county. Foresight in establishing policies to handle such emergencies can enable to the county to maintain financial solvency during and after the event.

Florida statutes provide numerous policies that should be included in a county's financial policies. For example, an investment policy should include reference to Chapter 218.415, Florida Statutes. The policy should identify whose responsible for investment of funds, what specific types of investment instruments can be used, what the investment objectives are, a description of the bidding



process, a statement of the diversification guidelines, provisions to ensure there is adequate liquidity, and guidelines to explain ethical and prudent conduct.

The Government Finance Officers Association (GFOA) is a good resource to assist a county with developing draft financial policies. Surprisingly, many county governments still have not developed and promulgated detailed financial policies.

## REFERENCES

Bland, Robert L. A Budgeting Guide for Local Government. Third edition. International City and County Management Association. 2013.

## NOTES

<sup>1</sup>A portion of GASB Codification of Governmental Accounting and financial reporting as of June 2010 as referenced in Bland (2013).

<sup>2</sup> Bland, Robert L. A Budgeting Guide for Local Government. Third edition. International City and County Management Association. 2013.

<sup>3</sup> Bland, p. 243.







---

# 18. Operations Budgeting

---

Robert E. Lee

---

## STATE LEGAL REQUIREMENTS

---

### DESIGNATED BUDGET OFFICER

According to Florida's state statutes<sup>1</sup> each board of county commissioners may designate a county budget officer to carry out budget duties prescribed in 129, Florida Statutes. Unless the board designates a different officer, the clerk of the circuit court or the county comptroller, if applicable, shall serve as the budget officer. The duties of the budget officer do not fall within the state constitutional responsibilities performed by several clerks of the circuit court as auditor and custodian of county funds, and the position of county budget officer does not constitute an office as prescribed in the State Constitution.

### STATE STATUTE AND COUNTY POLICY

State statutes provide minimum requirements for county budget preparation, execution, and auditing. In addition, each county may develop policies that further enhance the budget process and reporting as long as these policies are not in conflict with those mandated by the state. For example, a county must approve a balanced budget, the percentage of receipts versus balances brought forward may vary from county to county depending upon county budget requirements and local policies that have been established.

### STAGES OF COUNTY BUDGETARY PROCESS

As described in *A Budgeting Guide for Local Government* (see sources at the end of this chapter), there is a four-phased cycle that is nearly universal among state and local governments regardless of the size or location of the government. The cycle is characterized by the acronym PLEA and represents the following steps: preparation, legislative approval, executive implementation, and accounting and reporting.

#### Preparation

In the preparation stage, a proposed spending and operational plan for the forthcoming budget period is drafted, usually under the guidance of the county manager or elected chief executive (if in a charter county, which provides for an elected executive). Each county shall begin its fiscal year on October 1 of each year and end on September 30. Budget preparation begins well before the fiscal year begins and, for some governments, as early as January. Each county shall follow uniform accounting practices and procedures to ensure the use of proper accounting and fiscal management. These rules also require a uniform classification of accounts.<sup>2</sup>



The first step in the budget process is usually the preparation and promulgation of the budget calendar. The calendar identifies tasks, deadlines, and the individuals responsible for completing the tasks in a timely manner.

Before most counties officially begin their budget process, the county budget office begins compiling estimates of yields for major sources of revenue. These estimates are regularly updated throughout the preparation and approval process. Upon completion of the assessment of all property, the county property appraiser certifies the taxable value within the entire county and within each taxing district within the county. In preparing the budget, the figures so certified shall be noted on each tentative budget and each official budget.<sup>3</sup>

On or before June 1 of each year, the sheriff, clerk of the circuit court or county comptroller, tax Collector, and supervisor of elections shall each submit to the board of county commissioners a tentative budget for their respective offices for the ensuing year, the board may require the tentative budgets to be submitted by May 1 of each year.<sup>4</sup>

Within 15 days after the property appraiser certifies the taxable value of property, the county budget officer shall present a tentative budget for the ensuing fiscal year, including all revenue estimates, taxes to be levied, balances expected to be brought forward, and all estimated expenditures, reserves, and balances to be carried over at the end of the year.<sup>5</sup>

### **Legislative Approval**

Upon receipt of the tentative budgets for each fund, the board of county commissioners may make revisions to the proposed budgets provided their revised budget remains balanced. However, the county budget officer's estimates of receipts other than taxes, and balances to be brought forward, shall not be revised except by a resolution of the board.<sup>6</sup>

Upon completion of any revisions made by the board, the board shall prepare a statement summarizing all the adopted tentative budgets. The summary statement for each budget, and total of all budgets, shall show the proposed tax millage, balances, reserves, and total of all receipts and expenditures according to the uniform classification of accounts provided by the state. The board shall cause this summary statement to be advertised one time in a newspaper of general circulation. If no such paper is available, then the summary statement can be posted at the county courthouse door adjacent to the notice required in 200.65, Florida Statutes, for the proposed millage rate needed and proposed to fund the budget.<sup>7</sup>

Within 35 days after the property appraiser certifies the taxable value of property, the board must advise the property appraiser of its proposed millage rate, rollback rate, and the date, time, and place for a public hearing to be held to consider the proposed millage rate and the tentative budget. In computing the millage rates, the board of county commissioners shall utilize not less than 95 percent of the taxable value certified by the property appraiser. If the board fails to provide this information in a timely manner to the property appraiser, the county shall be prohibited from levying a millage rate greater than the rollback rate and that rate will be computed by the property appraiser and be used in preparing the notice of proposed property taxes for the county.<sup>8</sup>

Within 80 days of the certification of value, but not earlier than 65 days after certification, the board of county commissioners must hold a public hearing on the tentative budget and proposed millage rate. Prior to the conclusion of this public hearing, the board must amend the budget as it sees fit, adopt the amended tentative budget, recompute the proposed millage, and publicly announce the percent, if any, by which the recalculated millage rate exceeds the rollback rate.<sup>9</sup>

Within 15 days after the public meeting adopting the tentative budget, the board of county commissioners shall advertise its intent to hold a second public meeting or hearing during which they will finally adopt a millage rate and budget. This hearing should be held not less than two days nor more than five days after the day that the advertisement is first published and, like the first hearing, should be held after 5:00 p.m., unless held on a Saturday. No Sunday hearings are permitted. During the hearing, the board must amend the budget as it sees fit, adopt a final budget, and adopt a



resolution or ordinance stating the millage rate to be levied. The adoption of the budget and the millage-levy resolution or ordinance shall be by separate votes.<sup>10</sup>

In the public hearings referenced above, the first substantial issue discussed shall be the percentage increase in millage over the rollback rate, if any, and the specific purposes for which ad valorem tax revenues are being increased. The general public must be given an opportunity to speak and to ask questions prior to the board adopting their final budget and millage rate.

Upon the final adoption of the budget, the budget so adopted shall regulate the expenditures of the county and each special district included within the county budget. The board of county commissioners may amend the budget anytime within a fiscal year in accordance with the provisions provided in section 129.06, Florida Statutes

### **Executive Implementation**

The executive branch implements the board of county commissioners' approved spending plan by approving contracts, purchase orders, and other agreements that legally commit the county government to the disbursement of funds once the goods and services are delivered. It is important for the executive branch to have a set of board-approved policies that govern these budget implementation responsibilities. *A Budgeting Guide for Local Government* describes several key components of such a policy. For example, the policy should include executive spending limits, budget transfers across accounts within a department, budget transfers across departments but within the same fund, and budget transfers from one fund to another. When spending needs change, policies covering such budget adjustments are critical. Moreover, the budget policies should include sections on inter-fund borrowing, debt issuance and administration, capital improvement financing, levels of budget reserves to be maintained, standards that govern accounting, reporting, and auditing, and the broad outlines of key duties by county personnel responsible for implementing the budget.

In Florida, state statutes govern how money is handled, notably in sections 218 and 219, Florida Statutes. However, the statutes are limited in terms of many of the policies referenced in the previous paragraph.

### **Accounting and Reporting**

Accounting provides the record-keeping framework in which all transactions authorized by the budget are recorded (e.g., bank deposits, receipt of taxes, or payment of overtime, etc.). These transactions are recorded into interim financial reports that are routinely made available to managers and the board of county commissioners to help maintain compliance with the budget throughout the year. At year end, all transactions are compiled into a standardized format called the comprehensive annual financial report (CAFR). The CAFR shows the actual results from the transactions made throughout the year and provides a comparison to the budget as amended.

Accounting systems should be understandable, relevant, comparable, consistent, and timely.<sup>11</sup> These goals of accounting form the basis for the standards referred to as generally accepted accounting principles (GAAP) that are adopted by the accounting profession to guide the recording and reconciling of transactions for state and local governments. Florida statutes further mandate the uniform accounting practices and procedures required for all local governments.<sup>12</sup>

Adhering to a common set of accounting standards ensures that the same types of transactions are recorded in the same way over time. For example, by recording receivables and payables the same way each year, it is possible for all local governments to compare financial reports across time and compare them with financial reports from other counties. *A Budgeting Guide for Local Government* also emphasizes the importance of this consistency to those who oversee the county's finances to enable them to understand and interpret what they are reading (e.g., auditors, state officials, bond rating firms, etc.).

At the close of the fiscal year, the board of county commissioners retains an external auditor, working under the guidelines of generally accepted auditing standards (GAAS), to determine whether



county financial reporting was prepared in accordance with GAAP, whether the county complied with internal and external policies, and whether the county's internal controls provide adequate protection of its assets and reasonable assurances against errors and omissions. Before entering into an agreement for auditing services, all Florida counties are required to follow auditor selection procedures outlined in section 218.391, Florida Statutes. Briefly stated, these procedures require the appointment of a selection committee, the establishment of selection criteria, the public announcement of a request for proposal, the ranking of no less than three firms, the selection of a firm, and the negotiation of a contract.

## **BUDGET PHILOSOPHIES, METHODOLOGIES, AND FORMATS**

---

### **LINE-ITEM BUDGETS**

The line-item budget originated in the late nineteenth century and is the format most widely used and most often associated with budgeting. This form of budgeting was a response to the political machines that controlled many state and local governments at the time. The format shifted the power away from political bosses to legislative bodies, which were more accountable to voters. The focus of the line-item budget is on the objects of expenditures allowed for each department, and it lists goods and services to be purchased (e.g., labor, supplies, utilities, capital items, etc.). The detailed line-item information can then be collected and made readily available. The line items correspond to the accounts in the accounting system and make it easy for budget overseers to compare budget amounts with actual expenditures.

### **PERFORMANCE BUDGETING**

Although effective at controlling expenditures, the line-item budget provided no information on outputs or level of efficiency. In the 1950s, local governments began experimenting with performance budgeting when the approach gained popularity following a report by the second Hoover commission that recommended collecting and reporting output measures in the federal budget. Performance measures were being used to monitor the use of funds and to identify ways to improve productivity of public programs.

Budgeting became a financial management tool that not only reported information on a line-item level but, with performance budgeting, also included information on performance and outcomes (actual results achieved). The trend aligned budgeting with other finance functions that shared a broader management focus and was no longer considered a subfield of accounting.

### **PROGRAM BUDGETING**

Although performance budgets focus on outputs, they do not address fundamental policy questions such as whether a program is necessary at all or how best to allocate limited resources among competing programs. The quest to add a policy focus to budgeting gained momentum in the 1960s with the introduction of the planning, programming, budgeting systems (PPBS), or program budgeting for short. This format interjected policy analysis into budget decision making—that is, how much to allocate to program A versus program B.

This new analytical focus created an organizational shift as the budgeting function became more independent of accounting and finance, resulting in stand-alone budgeting offices reporting directly to county managers. This opened up the opportunities for more independent analysis to guide budget deliberations and resulted in the merger of budgeting and management.



## **ENTREPRENEURIAL BUDGETING**

As strategic planning gained widespread acceptance among local government managers in the 1990s, local government managers began to examine ways to integrate strategic planning into the budget process. This focus on strategic planning has evolved into a new budget innovation in the early 21st century that attempts to transform local governments into entrepreneurial enterprises.

With entrepreneurial budgeting, local governments have added a community value perspective to the budgeting process. For example, how do spending proposals achieve the strategic priorities of the county to the satisfaction of the customers of government services? Two different approaches to entrepreneurial budgeting have gained attention in recent years: balanced score card and budgeting for outcomes.

The balanced scorecard approach was developed by Richard Kaplan and David Norton in 1996 as a tool for translating an organization's mission into a series of action plans. The balanced scorecard process begins by developing a mission statement that clearly articulates the organization's purpose and values. Next, it involves developing the expectations and needs of its customers of government services and a corresponding strategic plan (goals, objectives, and strategies). The county executive then prepares a budget that allocates funds to the strategic priorities and, in accordance with the mission and strategic plan, develops 10-15 key measures of success that the organization will pursue. Each department will develop performance measures that show how it will contribute to those outcomes. The organization employing this process is expected to learn from its experiences and improve its internal processes to ensure that the measures are jurisdiction specific and important to the customers.

The alternative approach begins with the board of county commissioners articulating the community-wide goals that it wants to focus on in the forthcoming year. For example, the commissioners could develop five to seven such goals to which all budget requests have to be anchored. Examples of such goals include: improve public safety, diversify recreational opportunities, ensure long-term financial stability, focus on transportation capital improvement, enhance esthetics, etc. Departments then prepare budget proposals to achieve these goals and each goal must have quantifiable measures of the results to be delivered.

## **HYBRID BUDGET FORMATS**

Effective budgeting in the 21st century requires a "blending" of these formats in a manner that works best for each county. What works best depends upon, among other things, past budget practices, available resources, commissioner preferences, and public involvement.

## **BUDGET-RELATED POLICIES**

---

### **MUST THE BUDGET BALANCE?**

State law requires that the budget be balanced.<sup>13</sup> That is, the total of the estimated receipts, including balances brought forward, shall equal the total of the appropriations and reserves. The receipts referenced shall include 95 percent of all receipts anticipated from all sources, including taxes to be levied, and 100 percent of the amount of the balances of both cash and liquid securities estimated to be brought forward at the beginning of the fiscal year. The appropriations shall include all costs contemplated to be made for the benefit of the county, and a reserve for contingencies may be provided in a sum not to exceed 10 percent of the total budget.

According to section 129.01(c)(2), Florida Statutes, a reserve for cash balance to be carried over may be provided for the purpose of paying expenses from October 1 of the ensuing fiscal year



until the time when the revenue for that year are expected to be available. This reserve may not be more than 20 percent of the total receipts and balances of the budget.

## HOW MUCH SHOULD THE FUND BALANCE BE?

According to the Governmental Accounting Standards Board, a fund balance refers to the difference between assets and liabilities in the governmental funds. That is, each government fund has a fund balance depicting this difference between assets and liabilities. The fund balance is used by bond analysts when determining a credit rating for the county as well as by research bodies, local taxpayers, and reporters. Fund balance information is used to identify available liquid resources that can be used to repay long-term debt, reduce property taxes (although not recommended on a recurring basis), and enhance the financial position of the government.

Before determining how much a fund balance should be, one must first understand the types of fund balance reported on government statements. The following classifications and their definitions are provided:<sup>14</sup>

**Nonspendable fund balance** includes amounts that are not in a spendable form (inventory, for example) or are required to be maintained intact (the principle of an endowment fund, for example).

**Restricted fund balance** includes amounts that can be spent only for the specific purposes stipulated by external resource providers (for example grant providers), constitutionally, or through enabling legislation (that is, legislation that creates a new revenue source and restricts its use). Effectively, restrictions may be changed or lifted only with the consent of resource providers.

**Committed fund balance** includes amounts that can be used only for the specific purposes determined by a formal action of the government's highest level of decision-making authority. Commitments may be changed or lifted only by the government taking the same action that imposed the constraint originally.

**Assigned fund balance** comprises amounts intended to be used by the government for specific purposes. Intent can be expressed by the government body or by an official or body to which the government body delegates the authority. In governmental funds other than the general fund, assigned fund balance represents the amount that is not restricted or committed. This indicates that resources in other governmental funds are, at a minimum, intended to be used for the purpose of that fund.

**Unassigned fund balance** is the residual classification for the general fund and includes all amounts not contained in the other classifications. Unassigned amounts are technically available for any purpose.

A simpler description of a fund balance is provided in *A Budgeting Guide for Local Government*. They divide fund balance into three components: reserved, designated, and undesignated. The reserve portion of fund balance represents the net financial assets that are not available for appropriation because they have been "legally committed" to some future use.

The unreserved portion represents money that is available for appropriation during the next budget period. County commissioners are always interested in what unreserved fund balance is available for reappropriation in the next year. This unreserved balance is divided into designated and undesignated portions. "Designated fund balance may include resources that management has earmarked for contingencies such as a rainy day fund or pending litigation."<sup>15</sup> Unlike the reserve portion of fund balance, the designated portion of unreserved fund balance is not "legally committed"



to a future use. The undesignated portion of the unreserved fund balance, on the other hand, has neither reservations nor management designations and is available for re-appropriation.<sup>16</sup>

The question of how much a county's fund balance should be is, therefore, a complicated question, the answer to which is based on numerous factors: How much is in a non-spendable form (i.e. inventory)? How much is required to be maintained in tact (i.e., an endowment fund)? How much is restricted by external service providers (i.e., grant providers)? How much is restricted constitutionally or by enabling legislation? How much has been committed by the board of county commissioners? How much is available in funds other than the general fund (i.e., these fund balances are generally committed for the use within those other funds)? How much is actually available in the unassigned fund balance (i.e., the funds available for any public purpose)?

Government finance experts disagree on the exact amount of fund balance required, but most agree that the unreserved fund balance should represent approximately 15-25 % of the total annual budget within each fund or the equivalent of approximately three months of operation cost. Too little fund balance can cause a county to face serious financial problems in the event of unexpected revenue losses (i.e., a dramatic drop in assessed value of property) or unexpected expenditure increases (i.e., a major disaster such as a hurricane or unfunded mandates such as a state's delegation of a service responsibility to the county). Too much fund balance, on the other hand, can trigger a citizen revolt because the perception is created that the government has been taxing and assessing citizens more than the amount needed to effectively operate the government.

A balanced approach to maintaining an adequate fund balance is recommended. It is important to understand that different types of fund balances are needed for different reasons and the constraints imposed on these different types of fund balance, unless understood, can eschew what the total amount of fund balance truly represents.

## **DO APPROPRIATIONS LAPSE AT THE END OF THE FISCAL YEAR?**

According to section 129.01(e), Florida Statutes, "any surplus arising from an excess of the estimated cash balance over the estimated amount of unpaid obligations to be carried over in a fund at the end of the current fiscal year may be transferred to any of the other funds of the county." However, it is understood that in cases where the surplus in a fund was raised for debt service, the surplus cannot be transferred to another fund unless it is to a fund raised for the same purpose. If the debt in that new fund has also been extinguished, then the surplus funds may be transferred to any other fund. In the case of a Capital Outlay Reserve Fund, the surplus cannot be transferred to another fund unless the projects for which the reserve fund was raised have been completed and all obligations paid.

## **REFERENCES**

Bland, Robert L. A Budgeting Guide for Local Government. International City and County Management Association. 2013.

Gauthier, Stephen J. Governmental Accounting, Auditing, and Financial Reporting: Using the GASB34 Model (GAAFR). Government Finance Officers Association. 2005.

## **NOTES**

<sup>1</sup> See § 129.025, Fla. Stat.

<sup>2</sup> See § 218.33 Fla. Stat.

<sup>3</sup> See § 129.03

<sup>4</sup> See *Id.*



<sup>5</sup> *See Id.*

<sup>6</sup> *See Id.*

<sup>7</sup> *See Id.*

<sup>8</sup> *See* § 200.065, Fla. Stat.

<sup>9</sup> *See Id.*

<sup>10</sup> *See Id.*

<sup>11</sup> Gauthier, 2005.

<sup>12</sup> *See* § 218.33, Fla. Stat.

<sup>13</sup> *See* § 129.01, Fla. Stat.

<sup>14</sup> Governmental Accounting Standards Board, 2009.

<sup>15</sup> Bland, p. 115.

<sup>16</sup> *Ibid.*



---

# 19. County Revenue Sources

---

Virginia “Ginger” Delegal

In Florida, county revenues are derived from three sources: (1) taxes imposed by the counties, (2) non-tax charges imposed by the counties, and (3) other governmental (e.g., state and federal) revenues that are shared with, directly imposed on behalf of, or given to the counties. The Florida Constitution prescribes a county’s ability to generate these first two revenue sources. The Constitution authorizes the levy of ad valorem (value-based) taxes on real and tangible personal property but preempts the county’s ability to levy other taxes (e.g., sales, gas, tourist, utility) to the state. Non-tax revenues (e.g., user fees, impact fees, special assessments) may be imposed by county ordinance without state legislative authority.

The examination of the revenue sources for Florida’s counties is not complete unless one remembers that Florida has granted its counties strong *home rule* powers. These *home rule* powers are different for charter and non-charter counties, but the powers of *home rule* are extended to each. These powers include the ability to locally develop revenue solutions, provided the solutions are not in conflict with general or special laws and the constitution. Accordingly, the analysis of whether a revenue source is legally authorized is often not whether the State Legislature has granted counties the power to do something, but whether the Legislature has taken away counties’ power.

---

## TAXES

---

### AD VALOREM PROPERTY TAXES

While ad valorem property taxes are the most significant revenue sources for Florida’s counties, the taxes are subject to significant limitations. The Constitution prescribes the rate or amount of the tax that may be levied:

- Ten mills for “municipal purposes.”
- Ten mills for “county purposes.”
- When authorized by law, a county furnishing municipal services may levy additional taxes within the limits fixed for municipal purposes
- The ten mills for county purposes and municipal purposes may be exceeded if approved by electors: (1) for two years for general governmental purposes and (2) for payment of bonds
- Statutory caps: Within the 10 mill caps, the Legislature requires super majority and unanimous votes to exceed certain defined millage rates, making the ability to increase taxes by way of either millage or value increases difficult.



**Table 19.1. County Revenues 2011-2016.**

| <b>County</b> | <b>Taxes</b>  | <b>Permits, Fees, and<br/>Special Assessments</b> | <b>Intergovernmental<br/>Revenues</b> | <b>Charges for<br/>Services</b> |
|---------------|---------------|---|---------------------------------------|---------------------------------|
| Alachua       | \$152,355,182 | \$13,295,844                                      | \$34,044,944                          | \$66,038,715                    |
| Baker         | \$8,102,854   | \$1,249,171                                       | \$10,149,826                          | \$20,830,556                    |
| Bay           | \$100,785,637 | \$2,545,288                                       | \$37,880,733                          | \$85,595,232                    |
| Bradford      | \$10,582,951  | \$844,611   | \$9,194,830                           | \$4,520,350                     |
| Brevard       | \$241,395,529 | \$58,454,004                                      | \$93,328,982                          | \$216,842,058                   |
| Broward       | \$964,190,000 | \$37,741,000                                      | \$287,529,000                         | \$1,132,119,000                 |
| Calhoun       | \$4,948,222   | \$33,507  | \$17,800,364                          | \$439,435                       |
| Charlotte     | \$157,121,962 | \$71,316,743                                      | \$32,527,696                          | \$150,901,454                   |
| Citrus        | \$74,518,601  | \$9,492,773                                       | \$26,478,845                          | \$57,736,915                    |
| Clay          | \$100,022,437 | \$4,070,137                                       | \$24,634,879                          | \$49,099,165                    |
| Collier       | \$322,914,879 | \$64,778,659                                      | \$88,383,809                          | \$303,483,355                   |
| Columbia      | \$31,124,362  | \$9,455,051                                       | \$17,987,760                          | \$9,167,156                     |
| DeSoto        | \$18,749,638  | \$4,892,356                                       | \$8,962,858                           | \$11,041,494                    |
| Dixie         | \$7,699,417   | \$1,895,635                                       | \$10,955,673                          | \$2,119,441                     |
| Escambia      | \$177,312,093 | \$30,848,356                                      | \$79,559,074                          | \$103,160,391                   |
| Flagler       | \$62,859,975  | \$1,744,695                                       | \$30,824,555                          | \$24,773,131                    |
| Franklin      | \$13,802,189  | \$676,314   | \$7,019,351                           | \$6,499,427                     |
| Gadsden       | \$17,864,900  | \$353,191   | \$10,696,105                          | \$4,373,987                     |
| Gilchrist     | \$7,597,895   | \$1,434,569                                       | \$8,147,168                           | \$2,551,365                     |
| Glades        | \$7,834,583   | \$251,954   | \$8,642,863                           | \$6,015,878                     |
| Gulf          | \$15,299,678  | \$41,219  | \$10,738,868                          | \$2,379,968                     |
| Hamilton      | \$11,318,768  | \$76,835  | \$6,443,197                           | \$1,768,299                     |
| Hardee        | \$16,087,341  | \$3,122,153                                       | \$11,527,926                          | \$5,423,135                     |
| Hendry        | \$23,101,888  | \$724,534   | \$17,653,647                          | \$10,137,310                    |
| Hernando      | \$72,115,355  | \$29,807,643                                      | \$23,915,671                          | \$86,811,872                    |
| Highlands     | \$52,101,154  | \$7,421,135                                       | \$18,717,993                          | \$15,259,430                    |
| Hillsborough  | \$966,897,407 | \$72,194,202                                      | \$279,680,793                         | \$678,279,331                   |
| Holmes        | \$5,238,533   | \$105,709   | \$8,950,463                           | \$1,672,238                     |
| Indian River  | \$109,101,602 | \$31,271,127                                      | \$33,535,027                          | \$73,771,698                    |
| Jackson       | \$22,183,108  | \$1,818,674                                       | \$16,981,317                          | \$6,850,856                     |
| Jefferson     | \$7,906,619   | \$136,151   | \$6,424,967                           | \$4,281,046                     |
| Lafayette     | \$2,429,429   | \$582,221   | \$4,339,362                           | \$689,648                       |
| Lake          | \$127,287,477 | \$25,767,082                                      | \$46,536,558                          | \$77,670,730                    |
| Lee           | \$379,171,238 | \$34,418,707                                      | \$143,695,331                         | \$551,562,270                   |
| Leon          | \$155,120,117 | \$11,351,159                                      | \$32,805,766                          | \$43,933,930                    |
| Levy          | \$17,448,795  | \$5,612,848                                       | \$10,430,080                          | \$6,637,610                     |
| Liberty       | \$2,823,809   | \$20,722  | \$6,659,564                           | \$1,586,337                     |
| Madison       | \$10,338,950  | \$1,647,402                                       | \$9,202,698                           | \$3,872,600                     |



**Table 19.1. County Revenues 2011-2016.**

| <b>County</b> | <b>Judgments,<br/>Fines, and<br/>Forfeits</b> | <b>Miscellaneous<br/>Revenues</b> | <b>Other Sources</b> | <b>TOTAL<br/>All Revenue<br/>Account Codes</b> |
|---------------|---|-----------------------------------|----------------------|--|
| Alachua       | \$1,421,096                                   | \$8,704,214                       | \$96,118,963         | \$371,978,958                                  |
| Baker         | \$222,490                                     | \$650,551                         | \$9,056,257          | \$50,261,705                                   |
| Bay           | \$1,325,077                                   | \$8,764,391                       | \$4,194,832          | \$241,091,190                                  |
| Bradford      | \$355,322                                     | \$572,782                         | \$11,566,144         | \$37,636,990                                   |
| Brevard       | \$3,324,200                                   | \$19,228,785                      | \$101,179,028        | \$733,752,586                                  |
| Broward       | \$23,989,000                                  | \$49,104,000                      | \$458,620,000        | \$2,953,292,000                                |
| Calhoun       | \$69,250                                      | \$348,631                         | \$475,856            | \$24,115,265                                   |
| Charlotte     | \$2,030,296                                   | \$19,161,458                      | \$118,192,520        | \$551,252,129                                  |
| Citrus        | \$981,873                                     | \$4,928,820                       | \$28,436,806         | \$202,574,633                                  |
| Clay          | \$1,167,654                                   | \$4,020,991                       | \$28,685,890         | \$211,701,153                                  |
| Collier       | \$2,708,004                                   | \$15,901,494                      | \$170,822,060        | \$968,992,260                                  |
| Columbia      | \$875,694                                     | \$1,546,423                       | \$53,638,538         | \$123,794,984                                  |
| DeSoto        | \$143,679                                     | \$672,724                         | \$9,184,813          | \$53,647,562                                   |
| Dixie         | \$208,668                                     | \$541,277                         | \$1,679,594          | \$25,099,705                                   |
| Escambia      | \$2,528,843                                   | \$9,849,647                       | \$23,514,046         | \$426,772,450                                  |
| Flagler       | \$870,842                                     | \$1,245,480                       | \$13,934,835         | \$136,253,513                                  |
| Franklin      | \$15,905                                      | \$1,504,995                       | \$4,302,330          | \$33,820,511                                   |
| Gadsden       | \$332,501                                     | \$1,469,384                       | \$28,057,444         | \$63,147,512                                   |
| Gilchrist     | \$38,745                                      | \$541,414                         | \$1,344,674          | \$21,655,830                                   |
| Glades        | \$307,831                                     | \$776,157                         | \$1,406,786          | \$25,236,052                                   |
| Gulf          | \$81,995                                      | \$176,762                         | \$5,173,914          | \$33,892,404                                   |
| Hamilton      | \$196,365                                     | \$627,192                         | \$1,708,671          | \$22,139,327                                   |
| Hardee        | \$235,642                                     | \$4,639,880                       | \$1,477,394          | \$42,513,471                                   |
| Hendry        | \$365,212                                     | \$1,595,690                       | \$17,408,981         | \$70,987,262                                   |
| Hernando      | \$1,543,229                                   | \$8,078,101                       | \$18,586,857         | \$240,858,728                                  |
| Highlands     | \$659,069                                     | \$14,823,242                      | \$1,121,712          | \$110,103,735                                  |
| Hillsborough  | \$16,479,233                                  | \$35,929,894                      | \$945,883,258        | \$2,995,344,118                                |
| Holmes        | \$323,505                                     | \$656,940                         | \$1,289,747          | \$18,237,135                                   |
| Indian River  | \$1,708,273                                   | \$24,698,003                      | \$23,614,463         | \$297,700,193                                  |
| Jackson       | \$327,969                                     | \$787,633                         | \$17,219,623         | \$66,169,180                                   |
| Jefferson     | \$194,258                                     | \$162,551                         | \$11,137,785         | \$30,243,377                                   |
| Lafayette     | \$140,397                                     | \$254,068                         | \$3,539,439          | \$11,974,564                                   |
| Lake          | \$2,224,705                                   | \$2,235,042                       | \$30,538,497         | \$312,260,091                                  |
| Lee           | \$4,669,389                                   | \$29,392,957                      | \$222,219,538        | \$1,365,129,430                                |
| Leon          | \$814,980                                     | \$5,846,300                       | \$117,083,485        | \$366,955,737                                  |
| Levy          | \$272,447                                     | \$1,408,319                       | \$1,174,448          | \$42,984,547                                   |
| Liberty       | \$33,816                                      | \$240,487                         | \$1,489,734          | \$12,854,469                                   |
| Madison       | \$644,691                                     | \$564,911                         | \$16,842,508         | \$43,113,760                                   |



**Table 19.1. County Revenues 2011-2016.**

| <b>County</b>        | <b>Taxes</b>            | <b>Permits, Fees, and<br/>Special Assessments</b> | <b>Intergovernmental<br/>Revenues</b> | <b>Charges for<br/>Services</b> |
|----------------------|-------------------------|---|---------------------------------------|---------------------------------|
| Manatee              | \$225,327,000           | \$33,842,000                                      | \$97,158,000                          | \$288,153,000                   |
| Marion               | \$124,619,778           | \$51,783,959                                      | \$56,060,666                          | \$97,611,937                    |
| Martin               | \$165,949,315           | \$16,201,249                                      | \$46,178,269                          | \$110,755,893                   |
| Miami-Dade           | \$2,494,035,780         | \$238,241,507                                     | \$857,930,701                         | \$4,362,063,833                 |
| Monroe               | \$141,160,646           | \$19,409,011                                      | \$52,473,074                          | \$75,376,635                    |
| Nassau               | \$69,085,080            | \$5,274,427                                       | \$11,112,912                          | \$9,581,978                     |
| Okaloosa             | \$78,314,200            | \$2,656,085                                       | \$34,247,309                          | \$105,404,398                   |
| Okeechobee           | \$28,996,093            | \$973,924   | \$8,831,662                           | \$4,565,155                     |
| Orange               | \$1,009,909,649         | \$224,148,609                                     | \$312,805,330                         | \$640,040,415                   |
| Osceola              | \$265,163,232           | \$72,080,965                                      | \$67,722,384                          | \$88,161,429                    |
| Palm Beach           | \$1,168,930,531         | \$106,847,308                                     | \$225,766,024                         | \$931,849,844                   |
| Pasco                | \$247,590,538           | \$80,092,779                                      | \$86,351,265                          | \$260,088,862                   |
| Pinellas             | \$607,448,322           | \$30,898,155                                      | \$149,275,912                         | \$565,487,223                   |
| Polk                 | \$306,847,585           | \$55,196,541                                      | \$82,765,833                          | \$244,594,838                   |
| Putnam               | \$41,322,354            | \$1,194,234                                       | \$18,484,929                          | \$28,769,531                    |
| St. Johns            | \$160,970,671           | \$21,723,707                                      | \$50,711,693                          | \$136,056,705                   |
| St. Lucie            | \$144,840,462           | \$20,112,728                                      | \$32,298,560                          | \$52,459,948                    |
| Santa Rosa           | \$59,737,005            | \$13,785,840                                      | \$31,265,577                          | \$25,634,541                    |
| Sarasota             | \$258,609,335           | \$131,508,469                                     | \$74,813,434                          | \$301,634,974                   |
| Seminole             | \$240,022,036           | \$23,951,091                                      | \$74,870,056                          | \$137,983,647                   |
| Sumter               | \$73,272,168            | \$9,830,954                                       | \$15,658,827                          | \$10,018,631                    |
| Suwannee             | \$20,342,993            | \$4,686,700                                       | \$22,291,308                          | \$6,170,818                     |
| Taylor               | \$14,148,755            | \$1,423,047                                       | \$9,050,222                           | \$2,052,346                     |
| Union                | \$3,724,034             | \$545,192   | \$5,495,584                           | \$1,982,958                     |
| Volusia              | \$282,165,653           | \$20,319,512                                      | \$71,746,730                          | \$184,585,444                   |
| Wakulla              | \$15,042,576            | \$1,179,301                                       | \$8,629,981                           | \$9,881,248                     |
| Walton               | \$97,267,784            | \$2,902,887                                       | \$24,836,880                          | \$11,897,351                    |
| Washington           | \$12,436,415            | \$154,086   | \$17,644,940                          | \$3,290,467                     |
| <b>County Totals</b> | <b>\$12,835,034,564</b> | <b>\$1,732,457,648</b>                            | <b>\$4,079,466,605</b>                | <b>\$12,526,050,862</b>         |
|                      |                         |   |                                       |                                 |
| Jacksonville         | \$979,464,897           | \$71,389,779                                      | \$476,079,558                         | \$2,353,574,971                 |



**Table 19.1. County Revenues 2011-2016.**

| <b>County</b>        | <b>Judgments,<br/>Fines, and<br/>Forfeits</b> | <b>Miscellaneous<br/>Revenues</b> | <b>Other Sources</b>   | <b>TOTAL<br/>All Revenue<br/>Account Codes</b> |
|----------------------|---|-----------------------------------|------------------------|--|
| Manatee              | \$5,744,000                                   | \$25,554,000                      | \$212,581,000          | \$888,359,000                                  |
| Marion               | \$2,731,517                                   | \$12,357,506                      | \$82,297,512           | \$427,462,875                                  |
| Martin               | \$2,510,665                                   | \$18,277,839                      | \$27,381,756           | \$387,254,986                                  |
| Miami-Dade           | \$48,708,362                                  | \$200,723,494                     | \$2,901,779,280        | \$11,103,482,957                               |
| Monroe               | \$3,403,630                                   | \$5,840,993                       | \$130,839,638          | \$428,503,627                                  |
| Nassau               | \$594,721                                     | \$2,153,056                       | \$22,456,471           | \$120,258,645                                  |
| Okaloosa             | \$1,431,519                                   | \$10,403,194                      | \$32,577,201           | \$265,033,906                                  |
| Okeechobee           | \$457,936                                     | \$4,883,438                       | \$1,282,506            | \$49,990,714                                   |
| Orange               | \$17,800,542                                  | \$62,418,362                      | \$513,300,563          | \$2,780,423,470                                |
| Osceola              | \$2,379,415                                   | \$11,287,969                      | \$168,465,898          | \$675,261,292                                  |
| Palm Beach           | \$7,462,921                                   | \$57,660,523                      | \$567,811,345          | \$3,066,328,496                                |
| Pasco                | \$2,697,873                                   | \$21,966,787                      | \$98,565,726           | \$797,353,830                                  |
| Pinellas             | \$7,051,446                                   | \$66,240,566                      | \$34,455,652           | \$1,460,857,276                                |
| Polk                 | \$5,708,783                                   | \$34,220,524                      | \$58,624,998           | \$787,959,102                                  |
| Putnam               | \$376,935                                     | \$1,611,648                       | \$25,368,028           | \$117,127,659                                  |
| St. Johns            | \$4,515,351                                   | \$8,683,835                       | \$55,465,184           | \$438,127,146                                  |
| St. Lucie            | \$2,901,264                                   | \$17,576,280                      | \$79,538,221           | \$349,727,463                                  |
| Santa Rosa           | \$1,412,344                                   | \$4,419,373                       | \$19,539,250           | \$155,793,930                                  |
| Sarasota             | \$3,358,081                                   | \$22,381,488                      | \$157,896,988          | \$950,202,769                                  |
| Seminole             | \$1,882,985                                   | \$10,575,739                      | \$20,808,171           | \$510,093,725                                  |
| Sumter               | \$569,941                                     | \$4,944,781                       | \$22,349,337           | \$136,644,639                                  |
| Suwannee             | \$342,355                                     | \$1,659,634                       | \$14,569,355           | \$70,063,163                                   |
| Taylor               | \$178,933                                     | \$897,942                         | \$10,129,739           | \$37,880,984                                   |
| Union                | \$60,993                                      | \$103,008                         | \$1,663,165            | \$13,574,934                                   |
| Volusia              | \$3,690,929                                   | \$10,048,153                      | \$139,774,740          | \$712,331,161                                  |
| Wakulla              | \$164,538                                     | \$478,753                         | \$16,980,395           | \$52,356,792                                   |
| Walton               | \$630,385                                     | \$8,498,362                       | \$18,743,928           | \$164,777,577                                  |
| Washington           | \$6,610                                       | \$624,310                         | \$2,685,221            | \$36,842,049                                   |
| <b>County Totals</b> | <b>\$202,607,119</b>                          | <b>\$908,143,147</b>              | <b>\$8,039,852,738</b> | <b>\$40,323,612,683</b>                        |
|                      |   |                                   |                        |  |
| Jacksonville         | \$9,244,543                                   | \$781,659,436                     | \$849,942,438          | \$5,521,355,622                                |



**Table 19.2. County Expenditures 2011-2016.**

| <b>County</b> | <b>General Gov't<br/>Services (Not<br/>Court-Related)</b> | <b>Public Safety</b> | <b>Physical<br/>Environment</b> | <b>Transportation</b> | <b>Economic<br/>Environment</b> |
|---------------|---|----------------------|---------------------------------|-----------------------|---------------------------------|
| Alachua       | \$92,238,560  | \$106,840,795        | \$24,687,232                    | \$16,083,322          | \$12,643,761                    |
| Baker         | \$6,782,148   | \$25,012,496         | \$810,641                       | \$3,832,287           | \$1,274,453                     |
| Bay           | \$34,913,097  | \$72,036,437         | \$50,215,388                    | \$25,761,355          | \$44,537,383                    |
| Bradford      | \$4,985,725   | \$11,429,992         | \$1,314,964                     | \$4,576,085           | \$688,448                       |
| Brevard       | \$206,612,278   | \$184,037,458        | \$97,595,823                    | \$67,203,746          | \$18,962,483                    |
| Broward       | \$443,126,000   | \$824,210,000        | \$179,145,000                   | \$562,931,000         | \$13,664,000                    |
| Calhoun       | \$3,140,098   | \$3,751,762          | \$328,839                       | \$13,783,847          | \$337,319                       |
| Charlotte     | \$85,453,787  | \$113,906,498        | \$85,679,705                    | \$100,010,507         | \$3,411,095                     |
| Citrus        | \$38,182,451  | \$72,449,083         | \$22,128,469                    | \$35,255,150          | \$1,782,740                     |
| Clay          | \$39,021,735  | \$75,844,055         | \$18,901,937                    | \$25,982,136          | \$1,730,885                     |
| Collier       | \$190,614,330   | \$225,158,557        | \$148,513,636                   | \$76,236,189          | \$11,156,149                    |
| Columbia      | \$9,781,224   | \$25,982,980         | \$7,803,549                     | \$17,749,363          | \$2,072,284                     |
| DeSoto        | \$11,475,317  | \$15,883,682         | \$8,398,873                     | \$4,154,478           | \$798,322                       |
| Dixie         | \$3,397,910   | \$8,955,752          | \$1,735,028                     | \$6,917,780           | \$382,331                       |
| Escambia      | \$106,223,376   | \$148,482,327        | \$13,879,205                    | \$52,096,366          | \$35,057,880                    |
| Flagler       | \$36,913,067  | \$47,801,775         | \$5,384,609                     | \$23,407,939          | \$2,606,788                     |
| Franklin      | \$4,136,137   | \$6,251,960          | \$2,112,055                     | \$4,504,104           | \$1,567,595                     |
| Gadsden       | \$8,457,573   | \$12,673,780         | \$350,075                       | \$10,095,647          | \$801,331                       |
| Gilchrist     | \$4,131,884   | \$6,932,275          | \$1,020,744                     | \$5,054,952           | \$406,927                       |
| Glades        | \$4,107,923   | \$11,349,719         | \$952,300                       | \$3,880,765           | \$764,947                       |
| Gulf          | \$6,630,776   | \$7,719,167          | \$2,062,832                     | \$7,948,657           | \$2,339,070                     |
| Hamilton      | \$3,116,624   | \$7,133,458          | \$1,212,597                     | \$5,032,460           | \$745,151                       |
| Hardee        | \$14,599,328  | \$13,946,977         | \$4,129,204                     | \$4,489,779           | \$1,098,470                     |
| Hendry        | \$11,273,669  | \$22,078,574         | \$3,351,779                     | \$14,671,610          | \$753,371                       |
| Hernando      | \$52,927,296  | \$83,216,132         | \$35,498,451                    | \$28,509,731          | \$3,031,373                     |
| Highlands     | \$25,914,004  | \$52,038,242         | \$12,069,006                    | \$14,340,353          | \$2,913,806                     |
| Hillsborough  | \$596,193,801   | \$605,754,382        | \$364,510,598                   | \$126,352,426         | \$62,403,124                    |
| Holmes        | \$2,580,313   | \$5,857,195          | \$304,260                       | \$6,088,453           | \$279,080                       |
| Indian River  | \$54,836,501  | \$81,535,582         | \$49,148,815                    | \$30,991,899          | \$424,593                       |
| Jackson       | \$11,425,134  | \$13,563,031         | \$1,607,470                     | \$17,737,751          | \$810,102                       |
| Jefferson     | \$4,731,060   | \$8,363,447          | \$2,218,006                     | \$1,972,285           | \$347,517                       |
| Lafayette     | \$2,130,930   | \$2,491,703          | \$733,738                       | \$2,452,016           | \$100,032                       |
| Lake          | \$70,830,355  | \$129,270,316        | \$21,252,762                    | \$32,973,284          | \$7,455,680                     |
| Lee           | \$237,298,168   | \$261,504,530        | \$213,830,174                   | \$224,926,786         | \$27,620,627                    |
| Leon          | \$53,527,535  | \$104,407,935        | \$29,137,550                    | \$26,040,928          | \$6,073,602                     |
| Levy          | \$8,165,965   | \$20,355,537         | \$3,239,806                     | \$6,067,381           | \$794,944                       |
| Liberty       | \$2,241,889   | \$3,080,162          | \$1,076,102                     | \$3,435,844           | \$277,984                       |
| Madison       | \$5,610,134   | \$9,052,124          | \$2,293,635                     | \$7,033,419           | \$436,156                       |



**Table 19.2. County Expenditures 2011-2016.**

| <b>County</b> | <b>Human Services</b> | <b>Culture/ Recreation</b> | <b>Other Uses and Non-Operating</b> | <b>Court-Related Expenditures</b> | <b>TOTAL All Expenditure Account Codes</b> |
|---------------|-----------------------|----------------------------|-------------------------------------|-----------------------------------|--|
| Alachua       | \$16,334,636          | \$1,899,067                | \$92,235,529                        | \$21,834,484                      | \$384,797,386                              |
| Baker         | \$806,165             | \$331,714                  | \$9,056,257                         | \$1,225,677                       | \$49,131,838                               |
| Bay           | \$6,152,342           | \$5,445,725                | \$3,266,590                         | \$8,533,854                       | \$250,862,171                              |
| Bradford      | \$876,215             | \$979,284                  | \$11,455,987                        | \$1,700,542                       | \$38,007,242                               |
| Brevard       | \$22,617,877          | \$45,673,717               | \$41,243,717                        | \$27,195,506                      | \$711,142,605                              |
| Broward       | \$150,872,000         | \$167,784,000              | \$370,503,000                       | \$70,561,000                      | \$2,782,796,000                            |
| Calhoun       | \$311,637             | \$753,485                  | \$493,970                           | \$700,654                         | \$23,601,611                               |
| Charlotte     | \$15,321,005          | \$26,032,383               | \$103,585,482                       | \$7,168,087                       | \$540,568,549                              |
| Citrus        | \$9,417,974           | \$4,619,266                | \$16,036,190                        | \$3,130,774                       | \$203,002,097                              |
| Clay          | \$5,590,837           | \$4,505,487                | \$28,819,759                        | \$6,114,870                       | \$206,511,701                              |
| Collier       | \$14,156,805          | \$47,105,670               | \$196,073,455                       | \$11,130,513                      | \$920,145,304                              |
| Columbia      | \$2,614,961           | \$2,285,583                | \$44,323,169                        | \$2,114,774                       | \$114,727,887                              |
| DeSoto        | \$1,620,716           | \$1,091,029                | \$6,246,896                         | \$1,168,514                       | \$50,837,827                               |
| Dixie         | \$517,553             | \$659,212                  | \$1,805,128                         | \$722,526                         | \$25,093,220                               |
| Escambia      | \$2,548,924           | \$14,962,638               | \$33,041,809                        | \$13,996,733                      | \$420,289,258                              |
| Flagler       | \$4,400,814           | \$4,420,722                | \$9,957,597                         | \$3,792,327                       | \$138,685,638                              |
| Franklin      | \$9,376,200           | \$870,202                  | \$2,969,477                         | \$1,497,218                       | \$33,284,948                               |
| Gadsden       | \$11,101,539          | \$2,809,798                | \$18,892,748                        | \$1,669,585                       | \$66,852,076                               |
| Gilchrist     | \$1,117,014           | \$518,999                  | \$915,302                           | \$788,003                         | \$20,886,100                               |
| Glades        | \$340,138             | \$351,433                  | \$1,494,456                         | \$101,058                         | \$23,342,739                               |
| Gulf          | \$1,280,923           | \$519,156                  | \$5,173,264                         | \$647,744                         | \$34,321,589                               |
| Hamilton      | \$581,622             | \$973,166                  | \$1,226,391                         | \$693,963                         | \$20,715,432                               |
| Hardee        | \$1,090,858           | \$1,545,833                | \$1,477,394                         | \$28,100                          | \$42,405,943                               |
| Hendry        | \$925,567             | \$983,447                  | \$16,245,354                        | \$1,435,614                       | \$71,718,985                               |
| Hernando      | \$5,542,488           | \$5,220,229                | \$12,251,629                        | \$6,664,291                       | \$232,861,620                              |
| Highlands     | \$3,830,092           | \$3,016,026                | \$1,121,712                         | \$4,453,875                       | \$119,697,116                              |
| Hillsborough  | \$207,930,255         | \$86,987,508               | \$835,096,588                       | \$72,150,325                      | \$2,957,379,007                            |
| Holmes        | \$449,075             | \$223,325                  | \$1,182,366                         | \$1,005,894                       | \$17,969,961                               |
| Indian River  | \$7,868,392           | \$24,240,179               | \$18,471,147                        | \$6,605,682                       | \$274,122,790                              |
| Jackson       | \$1,206,558           | \$1,203,318                | \$14,629,537                        | \$1,229,287                       | \$63,412,188                               |
| Jefferson     | \$355,634             | \$1,246,999                | \$10,037,047                        | \$631,868                         | \$29,903,863                               |
| Lafayette     | \$131,631             | \$267,595                  | \$3,120,137                         | \$89,395                          | \$11,517,177                               |
| Lake          | \$9,945,006           | \$11,287,817               | \$29,635,669                        | \$11,447,571                      | \$324,098,460                              |
| Lee           | \$20,818,656          | \$65,613,956               | \$234,309,333                       | \$48,865,765                      | \$1,334,787,995                            |
| Leon          | \$9,768,671           | \$15,340,578               | \$117,074,750                       | \$20,869,045                      | \$382,240,594                              |
| Levy          | \$1,908,954           | \$770,142                  | \$740,091                           | \$1,624,943                       | \$43,667,763                               |
| Liberty       | \$267,058             | \$301,579                  | \$890,955                           | \$323,348                         | \$11,894,921                               |
| Madison       | \$545,636             | \$856,397                  | \$15,769,665                        | \$1,305,399                       | \$42,902,565                               |



**Table 19.2. County Expenditures 2011-2016.**

| <b>County</b>            | <b>General Gov't<br/>Services (Not<br/>Court-Related)</b> | <b>Public Safety</b>   | <b>Physical<br/>Environment</b> | <b>Transportation</b>  | <b>Economic<br/>Environment</b> |
|--------------------------|---|------------------------|---------------------------------|------------------------|---------------------------------|
| Manatee                  | \$160,523,000   | \$159,410,000          | \$161,643,000                   | \$91,026,000           | \$16,171,000                    |
| Marion                   | \$73,434,982  | \$139,749,510          | \$32,927,043                    | \$44,159,221           | \$3,564,799                     |
| Martin                   | \$97,959,546  | \$113,974,213          | \$71,029,727                    | \$31,816,348           | \$3,132,537                     |
| Miami-Dade               | \$2,214,837,330   | \$1,429,644,061        | \$917,889,316                   | \$1,578,735,558        | \$437,881,774                   |
| Monroe                   | \$56,892,958  | \$108,409,721          | \$67,128,134                    | \$25,554,638           | \$35,331,686                    |
| Nassau                   | \$22,278,151  | \$42,981,436           | \$4,073,700                     | \$8,217,715            | \$4,532,564                     |
| Okaloosa                 | \$59,252,491  | \$67,737,523           | \$35,750,510                    | \$32,073,832           | \$9,174,474                     |
| Okeechobee               | \$8,195,963   | \$21,806,257           | \$2,882,071                     | \$6,126,681            | \$625,598                       |
| Orange                   | \$286,618,976   | \$569,874,413          | \$323,734,304                   | \$205,491,373          | \$283,309,652                   |
| Osceola                  | \$172,012,718   | \$183,505,522          | \$19,059,785                    | \$56,466,462           | \$81,336,581                    |
| Palm Beach               | \$626,350,339   | \$851,707,309          | \$432,603,444                   | \$238,547,375          | \$85,695,675                    |
| Pasco                    | \$154,065,550   | \$199,884,489          | \$175,563,784                   | \$51,832,011           | \$12,900,034                    |
| Pinellas                 | \$265,132,708   | \$494,525,171          | \$251,208,727                   | \$75,511,550           | \$70,349,705                    |
| Polk                     | \$173,590,485   | \$237,383,275          | \$84,567,555                    | \$81,045,005           | \$17,290,016                    |
| Putnam                   | \$41,063,394  | \$31,714,158           | \$11,788,868                    | \$12,849,865           | \$986,521                       |
| St. Johns                | \$59,969,337  | \$121,599,099          | \$65,716,125                    | \$38,776,542           | \$5,463,321                     |
| St. Lucie                | \$74,054,343  | \$89,423,710           | \$34,784,984                    | \$28,223,479           | \$6,837,468                     |
| Santa Rosa               | \$27,264,030  | \$54,401,491           | \$22,469,276                    | \$14,582,479           | \$3,494,301                     |
| Sarasota                 | \$134,103,243   | \$218,013,985          | \$181,485,744                   | \$84,250,593           | \$11,045,988                    |
| Seminole                 | \$83,832,621  | \$186,767,020          | \$71,067,839                    | \$76,668,202           | \$12,480,991                    |
| Sumter                   | \$29,444,443  | \$53,442,939           | \$1,791,765                     | \$21,439,745           | \$1,248,979                     |
| Suwannee                 | \$8,924,887   | \$14,575,393           | \$3,520,070                     | \$14,089,991           | \$2,879,802                     |
| Taylor                   | \$4,929,977   | \$8,660,781            | \$1,511,284                     | \$5,652,636            | \$1,683,131                     |
| Union                    | \$2,224,859   | \$4,435,238            | \$1,032,816                     | \$1,981,180            | \$583,079                       |
| Volusia                  | \$139,221,577   | \$174,314,459          | \$41,452,073                    | \$93,123,774           | \$35,234,116                    |
| Wakulla                  | \$6,037,329   | \$15,980,679           | \$4,510,206                     | \$3,078,812            | \$453,123                       |
| Walton                   | \$27,946,645  | \$45,020,468           | \$10,324,789                    | \$22,515,344           | \$34,493,438                    |
| Washington               | \$12,452,790  | \$7,804,457            | \$429,246                       | \$9,110,076            | \$1,194,638                     |
| <b>County<br/>Totals</b> | <b>\$7,520,342,774</b>                                    | <b>\$9,077,106,654</b> | <b>\$4,450,581,042</b>          | <b>\$4,573,528,567</b> | <b>\$1,451,926,794</b>          |
|                          |   |                        |                                 |                        |                                 |
| Jacksonville             | \$1,386,048,089   | \$647,566,513          | \$1,670,654,707                 | \$384,515,744          | \$53,808,863                    |



**Table 19.2. County Expenditures 2011-2016.**

| <b>County</b>        | <b>Human Services</b>  | <b>Culture/ Recreation</b> | <b>Other Uses and Non-Operating</b> | <b>Court-Related Expenditures</b> | <b>TOTAL All Expenditure Account Codes</b> |
|----------------------|------------------------|----------------------------|-------------------------------------|-----------------------------------|--|
| Manatee              | \$31,198,000           | \$26,646,000               | \$122,815,000                       | \$12,880,000                      | \$782,312,000                              |
| Marion               | \$14,436,257           | \$12,146,137               | \$83,714,598                        | \$9,637,088                       | \$413,769,635                              |
| Martin               | \$6,974,048            | \$17,524,851               | \$14,770,390                        | \$8,418,428                       | \$365,600,088                              |
| Miami-Dade           | \$2,056,986,048        | \$400,955,946              | \$1,552,668,674                     | \$106,555,386                     | \$10,696,154,093                           |
| Monroe               | \$30,166,803           | \$5,713,850                | \$83,751,761                        | \$8,713,002                       | \$421,662,553                              |
| Nassau               | \$3,712,834            | \$2,740,354                | \$22,361,235                        | \$3,513,368                       | \$114,411,357                              |
| Okaloosa             | \$4,783,440            | \$7,755,268                | \$9,274,151                         | \$7,885,871                       | \$233,687,560                              |
| Okeechobee           | \$2,103,731            | \$2,176,766                | \$1,282,506                         | \$1,926,230                       | \$47,125,803                               |
| Orange               | \$170,148,046          | \$45,553,055               | \$672,601,918                       | \$57,054,440                      | \$2,614,386,177                            |
| Osceola              | \$12,654,060           | \$31,893,143               | \$77,281,908                        | \$20,168,359                      | \$654,378,538                              |
| Palm Beach           | \$82,454,148           | \$117,948,172              | \$413,775,086                       | \$73,441,043                      | \$2,922,522,591                            |
| Pasco                | \$14,984,457           | \$18,492,783               | \$48,476,637                        | \$20,390,236                      | \$696,589,981                              |
| Pinellas             | \$67,091,115           | \$31,572,029               | \$20,466,451                        | \$61,310,784                      | \$1,337,168,240                            |
| Polk                 | \$62,715,554           | \$12,901,722               | \$50,274,067                        | \$32,369,482                      | \$752,137,161                              |
| Putnam               | \$2,571,177            | \$2,119,738                | \$6,156,139                         | \$3,348,369                       | \$112,598,229                              |
| St. Johns            | \$12,336,688           | \$31,521,923               | \$44,716,131                        | \$9,772,427                       | \$389,871,593                              |
| St. Lucie            | \$11,042,067           | \$20,649,010               | \$66,207,984                        | \$17,467,537                      | \$348,690,582                              |
| Santa Rosa           | \$5,043,000            | \$3,966,985                | \$14,257,098                        | \$5,620,029                       | \$151,098,689                              |
| Sarasota             | \$20,529,020           | \$51,255,420               | \$221,315,706                       | \$22,073,672                      | \$944,073,371                              |
| Seminole             | \$18,920,353           | \$33,060,812               | \$16,230,095                        | \$17,603,339                      | \$516,631,272                              |
| Sumter               | \$3,275,305            | \$3,843,645                | \$22,567,890                        | \$3,582,742                       | \$140,637,453                              |
| Suwannee             | \$1,104,823            | \$5,202,843                | \$14,569,358                        | \$1,702,696                       | \$66,569,863                               |
| Taylor               | \$1,888,650            | \$1,788,457                | \$10,129,739                        | \$799,896                         | \$37,044,551                               |
| Union                | \$283,899              | \$275,622                  | \$1,355,324                         | \$711,997                         | \$12,884,014                               |
| Volusia              | \$20,539,278           | \$50,646,868               | \$102,533,498                       | \$25,716,539                      | \$682,782,182                              |
| Wakulla              | \$850,098              | \$1,979,504                | \$16,990,151                        | \$1,234,169                       | \$51,114,071                               |
| Walton               | \$2,221,095            | \$1,841,449                | \$17,898,837                        | \$463,293                         | \$162,725,358                              |
| Washington           | \$635,504              | \$812,798                  | \$2,685,221                         | \$793,721                         | \$35,918,451                               |
| <b>County Totals</b> | <b>\$3,212,191,926</b> | <b>\$1,496,681,814</b>     | <b>\$6,041,997,100</b>              | <b>\$900,372,951</b>              | <b>\$38,724,729,622</b>                    |
|                      |                        |                            |                                     |                                   |  |
| Jacksonville         | \$112,512,695          | \$146,469,595              | \$475,130,677                       | \$32,252,306                      | \$4,908,959,189                            |

In addition to the limits on the rate of taxes that may be levied by a county, other constitutional constraints exist on the ability to levy ad valorem taxes. The additional limitations include the following:

***Referendum Required–Debt.*** Any pledge of ad valorem taxes for debt that extends beyond 12 months must be approved by vote of the electors.<sup>1</sup>



**Uniformity of Tax Rate.** The rate of ad valorem taxes must be uniform throughout a taxing unit. Accordingly, a county cannot levy an extra one mill of ad valorem tax on only commercial property for a specified purpose. The tax rate must be the same across all property use categories and, as a general matter, throughout the county.<sup>2</sup>

**Just Value.** All property must be assessed at “just value” for purposes of ad valorem taxes.<sup>3</sup> “Just value” has been defined by the courts to mean fair market value which is that price a willing buyer would pay to a willing seller, each acting without compulsion to either buy or sell.

**Public Purpose.** Ad valorem taxes can only be used for valid public purposes and only when any private benefit or gain is incidental to the primary public purpose. The revenue derived from ad valorem taxes may be used for general governmental functions – those functions that make and sustain an organized, civilized society without regard to use, benefit, or burden.<sup>4</sup>

**Municipal Real and Substantial Benefit.** The services and facilities funded with ad valorem taxes must provide a real and substantial benefit to municipal areas within a county.<sup>5</sup>

### **Exemptions.**

- Homestead Exemptions: The Florida Constitution authorizes and the Florida Legislature implemented a tax exemption on homestead property that the first \$25,000 of assessed value of homestead property is not subject to taxation.<sup>6</sup> In January 2008, voters approved the doubling of the \$25,000 exemption up to \$50,000.<sup>7</sup> In November 2010, voters approved an additional homestead tax exemption for military personnel deployed outside the United States.<sup>8</sup>
- “Save Our Homes”: This constitutional amendment limits the annual increase in the assessed value of homestead property to the annual change in the Consumer Price Index, or three percent, whichever is smaller.<sup>9</sup>
- “Portability”: The SOH benefit is transferable from one homestead to another, beginning January 1, 2007.<sup>10</sup>
- Cap on taxable value of non-homestead property: There is a 10 percent cap on increases in assessed value of residential and non-residential non-homestead properties, beginning January 1, 2009.<sup>11</sup>
- “Save Our Seniors”: Counties may, by ordinance, enact an additional \$50,000 homestead exemption to property owners aged 65 and older that have a household income of \$20,000 or less (may be adjusted for inflation). Counties may also enact by super majority vote additional homestead tax exemption equal to the assessed value of the homestead property when the just value is less than \$250,000, when the owner has lived there for 25 years or more, and when the owner has a low household income as defined by general law.<sup>12</sup>
- “Granny Flats”: Counties may, by ordinance, grant an additional exemption for additions or improvements to homestead property that is built to provide



primary living quarters for parents or grandparents, over the age of 62, of the property owner (or owner's spouse). The exemption applies only to those improvements that have been made after January 7, 2003, but is equal in amount to the increase in the assessed value resulting from the construction or 20 percent of the total assessed value of the property as improved, whichever is less.<sup>13</sup>

- **Disabled Veterans Discount:** Those veterans who are 65 or older and who are partially or totally permanently disabled may receive a discount percentage equal to the percentage of disability.<sup>14</sup>
- **Serving Spouse, Military Veteran, and First Responder:** Homestead property owned by the serving spouse of a veteran or a first responder who died in the line of duty is exempt from ad valorem property taxes.<sup>15</sup>
- **Wind and Renewable Energy:** The Legislature may, by general law, prohibit consideration of changes or improvements to residential real property which increase resistance to wind damage and installation of renewable energy source devices as factors in assessing the property's value for ad valorem taxation purposes.<sup>16</sup>
- **Conservation Land:** The Legislature must provide a property tax exemption for real property encumbered by perpetual conservation easements or other perpetual conservation protections, defined by general law and provide for classification and assessment of land used for conservation purposes, and not perpetually encumbered, solely on the basis of character or use.
- **Working Waterfront:** Assessment is to be based upon use of land used predominantly for commercial fishing purposes; land used for vessel launches into waters that are navigable and accessible to the public; marinas and drystacks that are open to the public; and water-dependent marine manufacturing facilities, commercial fishing facilities, and marine vessel construction and repair facilities and their support activities, subject to conditions, limitations, and reasonable definitions specified by general law.<sup>17</sup>
- **Immune property:** property owned by the federal government, the State of Florida, and its counties.<sup>18</sup>
- **Exempt property:** Property owned by municipalities when used for public purposes is exempt from ad valorem taxes as is property that is used predominantly for educational, literary, scientific, religious, or charitable purposes.<sup>19</sup> No exemption may be granted by either the Legislature or the counties that is not authorized by the Constitution.<sup>20</sup>
- **Tangible personal property:** Non-homestead property owners can qualify for a \$25,000 exemption from tangible personal property taxes.<sup>21</sup>

## **LOCAL OPTION SALES TAXES**

The Legislature has authorized eight local option sales taxes to counties (listed and explained below), but some of them are restricted to certain types of counties. For example, only counties with a population of 50,000 or less, as of April 1, 1992, may levy the Small County Surtax. The local option



sales tax base extends to all admissions, rentals of property, and sales of items of tangible personal property subject to the state sales tax and the payment for all services taxable under the state sales tax base, including commercial cleaning services, pest control services, and security services. The local option sales tax base applies only to the first \$5,000 of the purchase price of an item of tangible personal property and telecommunication services while the state sales tax applies to the entire purchase price regardless of amount. The \$5,000 limitation of the local option sales tax does not apply to payment for services. The \$5,000 cap on other taxable transactions restricts the revenue collections of the local option sales taxes to an amount much lower than the revenues generated by the state general sales tax without the cap.

### **1) Local Government Infrastructure Surtax<sup>22</sup>**

The Infrastructure Surtax may be levied countywide, with referendum approval, by the county commission or the governing bodies of municipalities representing a majority of the county population. The Infrastructure Surtax is limited in rate to one-half or one percent. The tax proceeds must be shared between the county and the municipalities within the county under an interlocal agreement or under the half-cent sales tax formula provided in statute.<sup>23</sup> The surtax may also be shared with the school board.

**General Uses.** The Infrastructure Surtax revenue may be used to finance, plan, and construct infrastructure. Additionally, surtax revenues may be used to acquire land for public recreation or conservation or protection of natural resources and to finance the closure of county-owned or municipally-owned solid waste landfills that are already closed or required to close by the order of the Florida Department of Environmental Protection. Fifteen percent of the surtax revenues may be expended on economic development activities under certain circumstances. The surtax revenues may also be used for expenditures for the construction, lease, maintenance, utilities, or security of courthouse facilities, as defined in section 29.008.

**Special Uses for Small Counties and Areas of Critical State Concern.** In addition to the general uses outlined above, certain counties and the municipalities within those counties may use the Infrastructure Surtax proceeds for any public purpose after certain conditions are met. The certain counties are those counties with a population of 50,000 or less on April 1, 1992 (“Small Counties”), and counties designated as areas of critical state concern. Those counties and the municipalities within those counties may use the surtax proceeds for any public purpose if all of the following conditions are met:

- 1) The surtax was imposed before July 1, 1992.
- 2) Debt service obligations are met.
- 3) The county's comprehensive plan is in compliance with the Growth Management Act.
- 4) The county adopted an amendment to the ordinance levying the surtax.

Counties that are designated areas of critical state concern may not expend more than 10 percent of the Infrastructure Surtax proceeds for any public purpose other than infrastructure needs.

**Parks and Recreation Uses.** The Legislature has authorized certain defined counties in which 40 percent or more of the just value of real property is exempt or immune from ad valorem taxation and in which the population is greater than 75,000 to use the Infrastructure Surtax proceeds for the operation and maintenance of parks and recreation programs and facilities established with the proceeds of the surtax.

**Charter County Uses.** Miami-Dade County and all other charter counties may use the revenue for the additional purpose of retiring bonds that were issued before July 1, 1987, and for bonds that were issued to refund such bonds.



**Rate Limitations.** The Infrastructure Surtax may be levied at a rate of one-half or one percent. The combined rate of all the local sales taxes may not exceed one percent, omitting the Charter County Transit System Surtax from this calculation limitation.

## **2) Small County Surtax<sup>24</sup>**

Small counties, defined as those with a population of less than 50,000 on April 1, 1992, may levy a one-half or one percent sales tax denominated the Small County Surtax.

**Method of Imposition.** The method of imposition depends on the uses of the revenue. The Small County Surtax may be imposed by county ordinance enacted with an “extraordinary vote” of the county commission, if the revenue will be used for “operating purposes” or any other public purpose except servicing bonded indebtedness. “Extraordinary vote” is not defined in the applicable statute, but by conventional practice appears to mean a majority plus one member of the governing board. If the Small County Surtax revenues are to be used to service bonded indebtedness, the surtax must be approved by referendum and, it appears, by extraordinary vote of the county commission.

**Uses of the Revenue.** If approved by referendum, the tax revenues may be used for “servicing bonded indebtedness to finance, plan, and construct infrastructure and to acquire land for public recreation or conservation or protection of natural resources.” These uses are similar to those provided in the Local Government Infrastructure Surtax. If not subjected to referendum approval, which is solely within the county commission’s discretion, the revenue may not be pledged to retire bonded indebtedness but may be used “for any public purpose authorized in the ordinance under which the surtax is levied.”

**Rate Limitations.** The Legislature authorized the rate to be either one-half or one percent, but limited the combined rate for all the local sales taxes to one percent, except for the Charter County Transit System Surtax, which Small Counties have no authority to levy.

## **3) Indigent Care and Trauma Center Surtax for Certain Large Counties<sup>25</sup>**

Counties with a population above 800,000—except for consolidated counties (Duval) and counties authorized to levy a county Public Hospital Surtax (Miami-Dade)—can levy a one-half percent local sales tax to fund indigent health care and trauma center care. Four counties currently meet the Surtax qualifications: Broward County, Hillsborough County, Palm Beach County and Pinellas County. The Indigent Care Surtax may be adopted by extraordinary vote of the governing board members or with referendum approval. The levying county must develop a detailed health care plan to meet certain requirements.<sup>26</sup>

Further, the revenue must be shared with a certain type of trauma center.<sup>27</sup> The Legislature authorized the rate to be one-half percent and limited the combined rate of all the local sales taxes to one percent, omitting the Charter County Transit System Surtax from this limitation.

## **4) Indigent Care and Trauma Care Surtax for Counties with a Population of Fewer Than 800,000<sup>28</sup>**

Effective July 1, 2004, counties with a population of fewer than 800,000 may seek referendum approval of a Surtax for the purpose of funding trauma care services provided by a licensed trauma center. The rate is limited to 0.25 percent. The combined rate of this surtax and the other surtaxes except the Charter County Transit System Surtax may not exceed one percent. The Indigent Care and Trauma Surtax expires four years after the effective date of the surtax, unless reapproved by referendum.



## **5) Voter-Approved Indigent Care Surtax<sup>29</sup>**

Effective July 1, 2004, counties with a population of 800,000 and less may seek referendum approval of a surtax for the purpose of funding indigent health care.

***Uses of the Revenue for Small Counties.*** The proceeds of the Voter-Approved Indigent Care Surtax levied by a small county may be pledged for new or existing bond indebtedness to finance, plan, and construct a public or not-for-profit hospital and any land acquisition related thereto, if the governing body of the county determines that such a hospital existing at the time of issuance of the bonds would more likely than not otherwise cease to operate; the issuance of debt must be by extraordinary vote of the governing body of the county. Effective June 17, 2005, counties with a population of fewer than 50,000 can levy an indigent care surtax by referendum vote at a rate not to exceed one percent.

***Limitations on Rate.*** For counties with a publicly supported medical school, the rate may be one-half or one percent. For all other counties with a population of 800,000 or less, the rate is limited to 0.5 percent.

The combined rate of this Surtax and the other surtaxes may not exceed one percent, except in counties with a publicly supported medical school and counties with a population of fewer than 50,000, where the rate may not exceed a combined rate of 1.5 percent.

## **6) County Public Hospital Surtax<sup>30</sup>**

Available only to Miami-Dade County, the County Public Hospital Surtax allows the board of county commissioners to impose a surtax of 0.5 percent by extraordinary vote of the governing board. Proceeds shall be used to supplement the operation, maintenance, and administration of the county public general hospital. Miami-Dade currently has this levy in place. This surtax and the Small County Surtax, the Indigent Care Surtax, and Local Government Infrastructure Surtax are restricted to a combined one percent.

## **7) Charter County Transportation System Surtax<sup>31</sup>**

Those counties that have adopted a charter and those counties that have consolidated with one or more municipalities may levy the Charter County Transportation System Surtax. The surtax may be up to one percent. This Surtax may be imposed by a charter amendment approved by a majority of the electorate within the county or by countywide referendum. The proceeds of this surtax may be used for development, construction, equipment, maintenance, operation, and supportive services, including a countywide bus system, and related costs of a fixed guideway rapid transit system, or for the development, construction, operation, or maintenance of roads or bridges in the county. This surtax is not subject to, and may be in addition to, the combined one percent for the County Hospital Surtax, the Small County Surtax, the Indigent Care Surtax, and Local Government Infrastructure Surtax.

## **8) Fire Rescue Services<sup>32</sup>**

Those counties that do not already have two unexpired discretionary surtaxes may impose a new discretionary sales surtax of up to one percent for emergency fire rescue services and facilities. “Emergency fire rescue services” are those preventing and extinguishing fires, protecting and saving life and property from fires or natural or intentional acts or disaster, enforcing fire prevention codes and laws pertaining to the fire prevention and control, and providing pre-hospital emergency medical treatment. If the surtax is authorized, the proceeds must be shared with other local governmental entities providing these services in the county. Once the county authority has adopted an ordinance, the levy of the surtax must be placed on the ballot by the governing authority of the county enacting the ordinance. The surtax will take effect if approved by a majority of the electors of



the county voting in the referendum. After the levy of the surtax has been approved by referendum, the following conditions must be met:

- The Department of Revenue must administer, collect, and enforce the surtax as required under s. 212.054(4), Florida Statutes;
- The surtax, less the department's costs of administration, must be distributed by the county to the participating jurisdictions. The county imposing the surtax may charge an administrative fee for receiving and distributing the surtax, provided that the fee equals the costs incurred and does not exceed 2 percent of the surtax collected; and
- The appropriate portions of proceeds must be distributed to the participating jurisdictions.

After the surtax is in effect and collections have begun, a county and any participating jurisdiction must reduce the ad valorem tax levy or any non-ad valorem assessments for fire control and emergency rescue services in the next and subsequent budgets by the estimated amount of surtax revenues.

The use of surtax proceeds does not relieve any local government from complying with the provisions of chapter 200, Florida Statutes, and any related provisions of law that establish millage caps or limit undesignated budget reserves and procedures for establishing rollback rates for ad valorem taxes and budget adoption. In any year that surtax collections exceed the estimated collections, the surplus shall be used to further reduce ad valorem taxes in the next year. These proceeds shall be applied as a rebate to the final millage after the TRIM notice is completed in accordance with this provision. Municipalities, special fire control and rescue districts, and contract service providers that do not enter into an interlocal agreement are not eligible to receive a portion of the surtax proceeds collected and are not required to reduce ad valorem taxes or non-ad valorem assessments.

### **9) Pension Liability Surtax**

By ordinance, and after referendum on the question, a county may levy up to 0.5 percent of a local option sales tax to fund underfunded defined benefit retirement plans. Under section 212.055(9), Florida Statutes, other restrictions apply, including sunset dates on the local option levy.

## **LOCAL MOTOR FUEL TAXES**

### **Constitutional Gas Tax**<sup>33</sup>

The Florida Constitution authorizes the imposition of a two cents per gallon tax on motor fuel and special fuel (diesel) to finance the acquisition and construction of roads as defined by law (the "Constitutional Gas Tax"). The tax is collected by the Florida Department of Revenue and is transferred to the State Board of Administration (SBA) for allocation to the counties. The SBA is required to calculate a distribution factor based on the sum of three weighted ratios: one-fourth in the ratio of county area to state area, one-fourth in the ratio of the total county population to the population of the state in accordance with the latest available federal census, and one-half in the ratio of the total Constitutional Gas Tax collected in each county to the total collected in all counties of the state during the previous fiscal year.



**Table 19.3. History of Local Discretionary Sales Surtax Levies: Summary of Impositions, Expirations, Extensions, Rate Changes, and Imposition Attempts.**

*Active Levies, as of December 1, 2017, Are Noted in Bold Italics.*

| County or School District   | Action               | Rate        | Effective Date  | Expiration Date       |
|---|----------------------|-------------|-----------------|-----------------------|
| <b>Charter County and Regional Transportation System Surtax - s. 212.055(1), F.S.</b> |                      |             |                 |                       |
| <i>Duval</i>  | <i>Imposed Levy</i>  | <i>0.5%</i> | <i>1-Jan-89</i> | <i>Until Repealed</i> |
| <i>Miami-Dade</i>   | <i>Imposed Levy</i>  | <i>0.5%</i> | <i>1-Jan-03</i> | <i>Until Repealed</i> |
| Walton  | Imposed Levy         | 0.5%        | 1-Jan-13        | 31-Dec-15             |
| <b>Local Government Infrastructure Surtax - s. 212.055(2), F.S.</b>                   |                      |             |                 |                       |
| Alachua   | Imposed Levy         | 1%          | 1-Jan-02        | 31-Dec-02             |
| Alachua   | Imposed Levy         | 0.5%        | 1-Jan-09        | 31-Dec-10             |
| <i>Alachua</i>  | <i>Imposed Levy</i>  | <i>0.5%</i> | <i>1-Jan-17</i> | <i>31-Dec-24</i>      |
| Bay   | Imposed Levy         | 0.5%        | 1-Jun-88        | 31-Dec-93             |
| Bay   | Increased Rate       | 1%          | 1-Jan-94        | 31-Dec-94             |
| Bay   | Decreased Rate       | 0.5%        | 1-Jan-95        | 31-May-03             |
| <i>Bay</i>  | <i>Imposed Levy</i>  | <i>0.5%</i> | <i>1-Jan-17</i> | <i>31-Dec-26</i>      |
| <i>Brevard</i>  | <i>Imposed Levy</i>  | <i>0.5%</i> | <i>1-Jan-17</i> | <i>31-Dec-26</i>      |
| Charlotte   | Imposed Levy         | 1%          | 1-Apr-95        | 31-Mar-99             |
| Charlotte   | Extended Levy        | 1%          | -               | 31-Dec-02             |
| Charlotte   | Extended Levy        | 1%          | -               | 31-Dec-08             |
| Charlotte   | Extended Levy        | 1%          | -               | 31-Dec-14             |
| <i>Charlotte</i>  | <i>Extended Levy</i> | <i>1%</i>   | <i>-</i>        | <i>31-Dec-20</i>      |
| Clay  | Imposed Levy         | 1%          | 1-Feb-90        | 31-Jan-05             |
| Clay  | Extended Levy        | 1%          | -               | 31-Dec-19             |
| <i>Clay</i>   | <i>Extended Levy</i> | <i>1%</i>   | <i>-</i>        | <i>31-Dec-39</i>      |
| DeSoto  | Imposed Levy         | 1%          | 1-Jan-88        | 31-Dec-02             |
| Dixie   | Imposed Levy         | 1%          | 1-Apr-90        | 31-Mar-05             |
| <i>Duval</i>  | <i>Imposed Levy</i>  | <i>0.5%</i> | <i>1-Jan-01</i> | <i>31-Dec-30</i>      |
| Escambia  | Imposed Levy         | 1%          | 1-Jun-92        | 31-May-99             |
| Escambia  | Extended Levy        | 1%          | -               | 31-May-07             |
| Escambia  | Extended Levy        | 1%          | -               | 31-Dec-17             |
| <i>Escambia</i>   | <i>Extended Levy</i> | <i>1%</i>   | <i>-</i>        | <i>31-Dec-28</i>      |
| Flagler   | Imposed Levy         | 1%          | 1-Dec-90        | 31-Dec-02             |
| Flagler   | Imposed Levy         | 0.5%        | 1-Jan-03        | 31-Dec-12             |
| Gadsden   | Imposed Levy         | 1%          | 1-Jan-88        | 31-Dec-95             |
| Glades  | Imposed Levy         | 1%          | 1-Feb-92        | 31-Jan-07             |
| <i>Glades</i>   | <i>Extended Levy</i> | <i>1%</i>   | <i>-</i>        | <i>31-Dec-21</i>      |
| Hamilton  | Imposed Levy         | 1%          | 1-Jul-90        | 30-Jun-05             |
| Hardee  | Imposed Levy         | 1%          | 1-Jan-90        | 31-Dec-97             |



**Table 19.3. History of Local Discretionary Sales Surtax Levies: Summary of Impositions, Expirations, Extensions, Rate Changes, and Imposition Attempts.**  
*Active Levies, as of December 1, 2017, Are Noted in Bold Italics.*

| County or School District | Action               | Rate        | Effective Date  | Expiration Date  |
|---------------------------|----------------------|-------------|-----------------|------------------|
| Hendry                    | Imposed Levy         | 1%          | 1-Jan-88        | 31-Dec-02        |
| Highlands                 | Imposed Levy         | 1%          | 1-Nov-89        | 31-Oct-04        |
| Highlands                 | Extended Levy        | 1%          | -               | 31-Dec-18        |
| <b>Highlands</b>          | <b>Extended Levy</b> | <b>1%</b>   | <b>-</b>        | <b>31-Dec-33</b> |
| <b>Hillsborough</b>       | <b>Imposed Levy</b>  | <b>0.5%</b> | <b>1-Dec-96</b> | <b>30-Nov-26</b> |
| Indian River              | Imposed Levy         | 1%          | 1-Jun-89        | 31-May-04        |
| Indian River              | Extended Levy        | 1%          | -               | 31-Dec-19        |
| <b>Indian River</b>       | <b>Extended Levy</b> | <b>1%</b>   | <b>-</b>        | <b>31-Dec-34</b> |
| Jackson                   | Imposed Levy         | 1%          | 1-Jun-88        | 1-Jul-92         |
| Jefferson                 | Imposed Levy         | 1%          | 1-Jun-88        | 31-May-03        |
| Lake                      | Imposed Levy         | 1%          | 1-Jan-98        | 31-Dec-02        |
| Lake                      | Extended Levy        | 1%          | -               | 31-Dec-17        |
| <b>Lake</b>               | <b>Extended Levy</b> | <b>1%</b>   | <b>-</b>        | <b>31-Dec-32</b> |
| Leon                      | Imposed Levy         | 1%          | 1-Dec-89        | 30-Nov-04        |
| Leon                      | Extended Levy        | 1%          | -               | 31-Dec-19        |
| <b>Leon</b>               | <b>Extended Levy</b> | <b>1%</b>   | <b>-</b>        | <b>31-Dec-39</b> |
| Madison                   | Imposed Levy         | 1%          | 1-Aug-89        | 31-Jul-04        |
| Manatee                   | Imposed Levy         | 1%          | 1-Jan-90        | 1-Jan-93         |
| Manatee                   | Imposed Levy         | 1%          | 1-Jul-94        | 30-Jun-99        |
| <b>Manatee</b>            | <b>Imposed Levy</b>  | <b>0.5%</b> | <b>1-Jan-17</b> | <b>31-Dec-31</b> |
| Marion                    | Imposed Levy         | 1%          | 1-Jan-03        | 31-Dec-04        |
| <b>Marion</b>             | <b>Imposed Levy</b>  | <b>1%</b>   | <b>1-Jan-17</b> | <b>31-Dec-20</b> |
| Martin                    | Imposed Levy         | 1%          | 1-Jun-96        | 31-May-97        |
| Martin                    | Imposed Levy         | 1%          | 1-Jan-99        | 31-Dec-01        |
| Martin                    | Imposed Levy         | 0.5%        | 1-Jan-07        | 31-Dec-11        |
| Monroe                    | Imposed Levy         | 1%          | 1-Nov-89        | 31-Oct-04        |
| Monroe                    | Extended Levy        | 1%          | -               | 31-Dec-18        |
| <b>Monroe</b>             | <b>Extended Levy</b> | <b>1%</b>   | <b>-</b>        | <b>31-Dec-33</b> |
| Okaloosa                  | Imposed Levy         | 0.5%        | 1-Oct-89        | 30-Sep-91        |
| Okaloosa                  | Imposed Levy         | 1%          | 1-Aug-95        | 31-Jul-99        |
| Osceola                   | Imposed Levy         | 1%          | 1-Sep-90        | 31-Aug-05        |
| <b>Osceola</b>            | <b>Extended Levy</b> | <b>1%</b>   | <b>-</b>        | <b>31-Aug-25</b> |
| <b>Palm Beach</b>         | <b>Imposed Levy</b>  | <b>1%</b>   | <b>1-Jan-17</b> | <b>31-Dec-26</b> |
| Pasco                     | Imposed Levy         | 1%          | 1-Jan-05        | 31-Dec-14        |



**Table 19.3. History of Local Discretionary Sales Surtax Levies: Summary of Impositions, Expirations, Extensions, Rate Changes, and Imposition Attempts.**

*Active Levies, as of December 1, 2017, Are Noted in Bold Italics.*

| County or School District                        | Action                       | Rate               | Effective Date         | Expiration Date              |
|--|------------------------------|--------------------|------------------------|------------------------------|
| <b><i>Pasco</i></b>                              | <b><i>Extended Levy</i></b>  | <b><i>1%</i></b>   | <b><i>-</i></b>        | <b><i>31-Dec-24</i></b>      |
| Pinellas   | Imposed Levy                 | 1%                 | 1-Feb-90               | 31-Dec-19                    |
| <b><i>Pinellas</i></b>                           | <b><i>Extended Levy</i></b>  | <b><i>1%</i></b>   | <b><i>-</i></b>        | <b><i>31-Dec-29</i></b>      |
| Putnam   | Imposed Levy                 | 1%                 | 1-Jan-03               | 31-Dec-17                    |
| <b><i>Putnam</i></b>                             | <b><i>Extended Levy</i></b>  | <b><i>1%</i></b>   | <b><i>-</i></b>        | <b><i>31-Dec-32</i></b>      |
| Santa Rosa                                       | Imposed Levy                 | 1%                 | 1-Sep-93               | 1-Sep-98                     |
| <b><i>Santa Rosa</i></b>                         | <b><i>Imposed Levy</i></b>   | <b><i>0.5%</i></b> | <b><i>1-Jan-17</i></b> | <b><i>31-Dec-21</i></b>      |
| Sarasota   | Imposed Levy                 | 1%                 | 1-Sep-89               | 31-Aug-04                    |
| Sarasota   | Extended Levy                | 1%                 | -                      | 31-Aug-09                    |
| <b><i>Sarasota</i></b>                           | <b><i>Extended Levy</i></b>  | <b><i>1%</i></b>   | <b><i>-</i></b>        | <b><i>31-Dec-24</i></b>      |
| Seminole   | Imposed Levy                 | 1%                 | 1-Oct-91               | 30-Sep-01                    |
| Seminole   | Imposed Levy                 | 1%                 | 1-Jan-02               | 31-Dec-11                    |
| <b><i>Seminole</i></b>                           | <b><i>Imposed Levy</i></b>   | <b><i>1%</i></b>   | <b><i>1-Jan-15</i></b> | <b><i>31-Dec-24</i></b>      |
| Suwannee   | Imposed Levy                 | 1%                 | 1-Jan-88               | 31-Dec-02                    |
| Taylor   | Imposed Levy                 | 1%                 | 1-Aug-89               | 31-Dec-99                    |
| Wakulla  | Imposed Levy                 | 1%                 | 1-Jan-88               | 31-Dec-02                    |
| Wakulla  | Extended Levy                | 1%                 | -                      | 31-Dec-17                    |
| <b><i>Wakulla</i></b>                            | <b><i>Extended Levy</i></b>  | <b><i>1%</i></b>   | <b><i>-</i></b>        | <b><i>31-Dec-37</i></b>      |
| <b>Small County Surtax - s. 212.055(3), F.S.</b> |                              |                    |                        |                              |
| <b><i>Baker</i></b>                              | <b><i>Imposed Levy</i></b>   | <b><i>1%</i></b>   | <b><i>1-Jan-94</i></b> | <b><i>Until Repealed</i></b> |
| <b><i>Bradford</i></b>                           | <b><i>Imposed Levy</i></b>   | <b><i>1%</i></b>   | <b><i>1-Mar-93</i></b> | <b><i>Until Repealed</i></b> |
| Calhoun  | Imposed Levy                 | 1%                 | 1-Jan-93               | 31-Dec-00                    |
| Calhoun  | Extended Levy                | 1%                 | -                      | 31-Dec-08                    |
| <b><i>Calhoun</i></b>                            | <b><i>Extended Levy</i></b>  | <b><i>1%</i></b>   | <b><i>-</i></b>        | <b><i>Until Repealed</i></b> |
| <b><i>Columbia</i></b>                           | <b><i>Imposed Levy</i></b>   | <b><i>1%</i></b>   | <b><i>1-Aug-94</i></b> | <b><i>Until Repealed</i></b> |
| <b><i>DeSoto</i></b>                             | <b><i>Imposed Levy</i></b>   | <b><i>1%</i></b>   | <b><i>1-Jan-03</i></b> | <b><i>Until Repealed</i></b> |
| <b><i>Dixie</i></b>                              | <b><i>Imposed Levy</i></b>   | <b><i>1%</i></b>   | <b><i>1-Apr-05</i></b> | <b><i>31-Dec-29</i></b>      |
| <b><i>Flagler</i></b>                            | <b><i>Imposed Levy</i></b>   | <b><i>0.5%</i></b> | <b><i>1-Jan-13</i></b> | <b><i>31-Dec-32</i></b>      |
| <b><i>Franklin</i></b>                           | <b><i>Imposed Levy</i></b>   | <b><i>1%</i></b>   | <b><i>1-Jan-08</i></b> | <b><i>Until Repealed</i></b> |
| <b><i>Gadsden</i></b>                            | <b><i>Imposed Levy</i></b>   | <b><i>1%</i></b>   | <b><i>1-Jan-96</i></b> | <b><i>Until Repealed</i></b> |
| <b><i>Gilchrist</i></b>                          | <b><i>Imposed Levy</i></b>   | <b><i>1%</i></b>   | <b><i>1-Oct-92</i></b> | <b><i>Until Repealed</i></b> |
| Gulf   | Imposed Levy                 | 0.5%               | 1-Jan-06               | 31-Dec-09                    |
| <b><i>Gulf</i></b>                               | <b><i>Increased Rate</i></b> | <b><i>1%</i></b>   | <b><i>1-Jan-10</i></b> | <b><i>Until Repealed</i></b> |
| <b><i>Hamilton</i></b>                           | <b><i>Imposed Levy</i></b>   | <b><i>1%</i></b>   | <b><i>1-Jul-05</i></b> | <b><i>31-Dec-19</i></b>      |



| <b>Table 19.3. History of Local Discretionary Sales Surtax Levies: Summary of Impositions, Expirations, Extensions, Rate Changes, and Imposition Attempts.</b><br><i>Active Levies, as of December 1, 2017, Are Noted in Bold Italics.</i> |                       |             |                 |                       |
|--|-----------------------|-------------|-----------------|-----------------------|
| County or School District  | Action                | Rate        | Effective Date  | Expiration Date       |
| Hardee   | Imposed Levy          | 1%          | 1-Jan-98        | 31-Dec-04             |
| <i>Hardee</i>  | <i>Extended Levy</i>  | <i>1%</i>   | -               | <i>Until Repealed</i> |
| <i>Hendry</i>  | <i>Imposed Levy</i>   | <i>1%</i>   | <i>1-Jan-03</i> | <i>Until Repealed</i> |
| Holmes   | Imposed Levy          | 1%          | 1-Oct-95        | 30-Sep-99             |
| Holmes   | Extended Levy         | 1%          | -               | 30-Sep-06             |
| Holmes   | Extended Levy         | 1%          | -               | 31-Dec-13             |
| <i>Holmes</i>  | <i>Extended Levy</i>  | <i>1%</i>   | -               | <i>31-Dec-28</i>      |
| Jackson  | Imposed Levy          | 1%          | 1-Jun-95        | 31-May-10             |
| <i>Jackson</i>   | <i>Extended Levy</i>  | <i>1%</i>   | -               | <i>31-Dec-25</i>      |
| <i>Jefferson</i>   | <i>Imposed Levy</i>   | <i>1%</i>   | <i>1-Jun-03</i> | <i>Until Repealed</i> |
| <i>Lafayette</i>   | <i>Imposed Levy</i>   | <i>1%</i>   | <i>1-Sep-06</i> | <i>Until Repealed</i> |
| <i>Levy</i>  | <i>Imposed Levy</i>   | <i>1%</i>   | <i>1-Oct-92</i> | <i>Until Repealed</i> |
| <i>Liberty</i>   | <i>Imposed Levy</i>   | <i>1%</i>   | <i>1-Nov-92</i> | <i>Until Repealed</i> |
| <i>Madison</i>   | <i>Imposed Levy</i>   | <i>1%</i>   | <i>1-Aug-04</i> | <i>Until Repealed</i> |
| Nassau   | Imposed Levy          | 0.5%        | 1-Dec-93        | 30-Nov-94             |
| <i>Nassau</i>  | <i>Imposed Levy</i>   | <i>1%</i>   | <i>1-Mar-96</i> | <i>Until Repealed</i> |
| Okeechobee   | Imposed Levy          | 1%          | 1-Oct-95        | 30-Sep-99             |
| <i>Okeechobee</i>  | <i>Extended Levy</i>  | <i>1%</i>   | -               | <i>Until Repealed</i> |
| <i>Sumter</i>  | <i>Imposed Levy</i>   | <i>1%</i>   | <i>1-Jan-93</i> | <i>Until Repealed</i> |
| <i>Suwannee</i>  | <i>Imposed Levy</i>   | <i>1%</i>   | <i>1-Jan-03</i> | <i>Until Repealed</i> |
| Taylor   | Imposed Levy          | 1%          | 1-Jan-00        | 31-Dec-29             |
| <i>Taylor</i>  | <i>Extended Levy</i>  | <i>1%</i>   | -               | <i>31-Dec-37</i>      |
| Union  | Imposed Levy          | 1%          | 1-Feb-93        | 31-Jan-96             |
| Union  | Extended Levy         | 1%          | -               | 31-Jan-01             |
| Union  | Extended Levy         | 1%          | -               | 31-Dec-05             |
| <i>Union</i>   | <i>Extended Levy</i>  | <i>1%</i>   | -               | <i>Until Repealed</i> |
| <i>Walton</i>  | <i>Imposed Levy</i>   | <i>1%</i>   | <i>1-Feb-95</i> | <i>Until Repealed</i> |
| <i>Washington</i>  | <i>Imposed Levy</i>   | <i>1%</i>   | <i>1-Nov-93</i> | <i>Until Repealed</i> |
| <b>Indigent Care and Trauma Center Surtax - s. 212.055(4), F.S.</b>  |                       |             |                 |                       |
| Hillsborough   | Imposed Levy          | 0.5%        | 1-Dec-91        | 30-Sep-97             |
| Hillsborough   | Decreased Rate        | 0.25%       | 1-Oct-97        | 28-Feb-01             |
| Hillsborough   | Extended Levy         | 0.25%       | -               | 30-Sep-01             |
| <i>Hillsborough</i>  | <i>Increased Rate</i> | <i>0.5%</i> | <i>1-Oct-01</i> | <i>Until Repealed</i> |



**Table 19.3. History of Local Discretionary Sales Surtax Levies: Summary of Impositions, Expirations, Extensions, Rate Changes, and Imposition Attempts.**  
*Active Levies, as of December 1, 2017, Are Noted in Bold Italics.*

| County or School District                                  | Action               | Rate        | Effective Date  | Expiration Date       |
|--|----------------------|-------------|-----------------|-----------------------|
| <b>County Public Hospital Surtax - s. 212.055(5), F.S.</b> |                      |             |                 |                       |
| Miami-Dade   | Imposed Levy         | 0.5%        | 1-Jan-92        | 30-Sep-98             |
| <i>Miami-Dade</i>  | <i>Extended Levy</i> | <i>0.5%</i> | -               | <i>Until Repealed</i> |
| <b>School Capital Outlay Surtax - s. 212.055(6), F.S.</b>  |                      |             |                 |                       |
| Bay  | Imposed Levy         | 0.5%        | 1-May-98        | 30-Apr-08             |
| <i>Bay</i>   | <i>Imposed Levy</i>  | <i>0.5%</i> | <i>1-Jan-11</i> | <i>31-Dec-20</i>      |
| <i>Brevard</i>   | <i>Imposed Levy</i>  | <i>0.5%</i> | <i>1-Jan-15</i> | <i>31-Dec-20</i>      |
| <i>Calhoun</i>   | <i>Imposed Levy</i>  | <i>0.5%</i> | <i>1-Jan-09</i> | <i>31-Dec-18</i>      |
| Escambia   | Imposed Levy         | 0.5%        | 1-Jan-98        | 31-Dec-02             |
| Escambia   | Extended Levy        | 0.5%        | -               | 31-Dec-17             |
| <i>Escambia</i>  | <i>Extended Levy</i> | <i>0.5%</i> | -               | <i>31-Dec-27</i>      |
| Flagler  | Imposed Levy         | 0.5%        | 1-Jan-03        | 31-Dec-12             |
| <i>Flagler</i>   | <i>Extended Levy</i> | <i>0.5%</i> | -               | <i>31-Dec-22</i>      |
| Gulf   | Imposed Levy         | 0.5%        | 1-Jul-97        | 31-Dec-09             |
| Hernando   | Imposed Levy         | 0.5%        | 1-Jan-99        | 31-Dec-03             |
| Hernando   | Imposed Levy         | 0.5%        | 1-Jan-05        | 31-Dec-14             |
| <i>Hernando</i>  | <i>Imposed Levy</i>  | <i>0.5%</i> | <i>1-Jan-16</i> | <i>31-Dec-25</i>      |
| <i>Highlands</i>   | <i>Imposed Levy</i>  | <i>0.5%</i> | <i>1-Jan-17</i> | <i>31-Dec-36</i>      |
| Jackson  | Imposed Levy         | 0.5%        | 1-Jul-96        | 31-Dec-15             |
| <i>Jackson</i>   | <i>Imposed Levy</i>  | <i>0.5%</i> | <i>1-Jul-16</i> | <i>31-Dec-25</i>      |
| Leon   | Imposed Levy         | 0.5%        | 1-Jan-03        | 31-Dec-12             |
| <i>Leon</i>  | <i>Extended Levy</i> | <i>0.5%</i> | -               | <i>31-Dec-27</i>      |
| <i>Liberty</i>   | <i>Imposed Levy</i>  | <i>0.5%</i> | <i>1-Jan-12</i> | <i>31-Dec-20</i>      |
| Manatee  | Imposed Levy         | 0.5%        | 1-Jan-03        | 31-Dec-17             |
| <i>Manatee</i>   | <i>Extended Levy</i> | <i>0.5%</i> | -               | <i>31-Dec-32</i>      |
| Marion   | Imposed Levy         | 0.5%        | 1-Jan-05        | 31-Dec-09             |
| Monroe   | Imposed Levy         | 0.5%        | 1-Jan-96        | 31-Dec-05             |
| Monroe   | Extended Levy        | 0.5%        | -               | 31-Dec-15             |
| <i>Monroe</i>  | <i>Extended Levy</i> | <i>0.5%</i> | -               | <i>31-Dec-25</i>      |
| Orange   | Imposed Levy         | 0.5%        | 1-Jan-03        | 31-Dec-15             |
| <i>Orange</i>  | <i>Imposed Levy</i>  | <i>0.5%</i> | <i>1-Jan-16</i> | <i>31-Dec-25</i>      |
| <i>Osceola</i>   | <i>Imposed Levy</i>  | <i>0.5%</i> | <i>1-Jan-17</i> | <i>31-Dec-36</i>      |
| Palm Beach   | Imposed Levy         | 0.5%        | 1-Jan-05        | 31-Dec-10             |
| <i>Polk</i>  | <i>Imposed Levy</i>  | <i>0.5%</i> | <i>1-Jan-04</i> | <i>31-Dec-18</i>      |
| <i>St. Johns</i>   | <i>Imposed Levy</i>  | <i>0.5%</i> | <i>1-Jan-16</i> | <i>31-Dec-25</i>      |



**Table 19.3. History of Local Discretionary Sales Surtax Levies: Summary of Impositions, Expirations, Extensions, Rate Changes, and Imposition Attempts.**  
*Active Levies, as of December 1, 2017, Are Noted in Bold Italics.*

| County or School District   | Action                      | Rate               | Effective Date         | Expiration Date              |
|---|-----------------------------|--------------------|------------------------|------------------------------|
| St. Lucie   | Imposed Levy                | 0.5%               | 1-Jul-96               | 30-Jun-06                    |
| <b><i>St. Lucie</i></b>   | <b><i>Extended Levy</i></b> | <b><i>0.5%</i></b> | <b><i>-</i></b>        | <b><i>31-Dec-26</i></b>      |
| Santa Rosa  | Imposed Levy                | 0.5%               | 1-Oct-98               | 30-Sep-08                    |
| Santa Rosa  | Extended Levy               | 0.5%               | -                      | 31-Dec-18                    |
| <b><i>Santa Rosa</i></b>  | <b><i>Extended Levy</i></b> | <b><i>0.5%</i></b> | <b><i>-</i></b>        | <b><i>31-Dec-28</i></b>      |
| Volusia   | Imposed Levy                | 0.5%               | 1-Jan-02               | 31-Dec-16                    |
| <b><i>Volusia</i></b>   | <b><i>Extended Levy</i></b> | <b><i>0.5%</i></b> | <b><i>-</i></b>        | <b><i>31-Dec-31</i></b>      |
| <b>Voter-Approved Indigent Care Surtax - s. 212.055(7), F.S.</b>                  |                             |                    |                        |                              |
| Alachua   | Imposed Levy                | 0.25%              | 1-Jan-05               | 31-Dec-11                    |
| <b><i>DeSoto</i></b>  | <b><i>Imposed Levy</i></b>  | <b><i>0.5%</i></b> | <b><i>1-Jan-15</i></b> | <b><i>31-Dec-35</i></b>      |
| <b><i>Gadsden</i></b>   | <b><i>Imposed Levy</i></b>  | <b><i>0.5%</i></b> | <b><i>1-Jan-09</i></b> | <b><i>31-Dec-38</i></b>      |
| <b><i>Madison</i></b>   | <b><i>Imposed Levy</i></b>  | <b><i>0.5%</i></b> | <b><i>1-Jan-07</i></b> | <b><i>Until Repealed</i></b> |
| Polk  | Imposed Levy                | 0.5%               | 1-Jan-05               | 31-Dec-19                    |
| <b><i>Polk</i></b>  | <b><i>Extended Levy</i></b> | <b><i>0.5%</i></b> | <b><i>-</i></b>        | <b><i>31-Dec-44</i></b>      |
| <b>Emergency Fire Rescue Services and Facilities Surtax - s. 212.055(8), F.S.</b> |                             |                    |                        |                              |
| <b><i>Liberty</i></b>   | <b><i>Imposed Levy</i></b>  | <b><i>0.5%</i></b> | <b><i>1-Jan-17</i></b> | <b><i>31-Dec-21</i></b>      |
| <b>Pension Liability Surtax - s. 212.055(9), F.S.</b>                             |                             |                    |                        |                              |
| <b>No county government has authorized the levy of this surtax.</b>               |                             |                    |                        |                              |

Note: Chapter 2016-146, Laws of Florida, authorized the Pension Liability Surtax, effective July 1, 2016.  
 Data Source: Florida Department of Revenue's "History of Local Sales Tax and Current Rates" (Last Updated: December 1, 2018). <https://revenue.floridarevenue.com/Pages/Browse.aspx#3-17-23>

History of Local Discretionary Sales Surtax Imposition Attempts That Were Withdrawn from Further Consideration by County BOCCs or Failed in Elections CY 2017 Martin County's 1% Local Government Infrastructure Surtax failed in election. CY 2016 Broward County's 0.5% Charter County and Regional Transportation System Surtax failed in election. Broward County's 0.5% Local Government Infrastructure Surtax failed in election. Citrus County's 0.5% School Capital Outlay Surtax failed in election. Hernando County's 0.5% Local Government Infrastructure Surtax withdrawn from consideration. Hillsborough County's 0.5% Charter County & Regional Transportation System Surtax withdraw from consideration. Leon County's 1% Emergency Fire Rescue Services and Facilities Surtax withdrawn from consideration. Santa Rosa County's 1% Local Government Infrastructure Surtax failed in election. St. Lucie County's 0.5% Local Government Infrastructure Surtax failed in election. CY 2015 St. Johns County's 1% Local Government Infrastructure Surtax withdrawn from consideration.

### **County Fuel Tax<sup>34</sup>**

The Legislature has levied the "County Fuel Tax," a one cent per gallon tax on motor fuel and special fuel for distribution to county governments. The statutory formula for distributing the statewide proceeds is the same one used to distribute the Constitutional Gas Tax.



## LOCAL OPTION MOTOR FUEL TAXES

In addition to the two cents constitutional gas tax for counties levied by Article XII, section 9(c)(4), Florida Constitution, that was implemented by the Legislature in section 206.47, Florida Statutes, and the one cent County Gas Tax that has been imposed by the Legislature and earmarked for counties pursuant to section 206.60, Florida Statutes, counties may impose up to 12 cents of local motor fuel taxes.

The 12 cents of optional motor fuel taxes are divided into three categories: the original six cents motor fuel tax authorized by section 336.025(1)(a), Florida Statutes (the “Original Six Cents Gas Tax”); five cents tax authorized by section 336.025(1)(b), Florida Statutes, as created in the Environmental Lands Management (“ELMS”) legislation, at section 336.025(1)(b), Florida Statutes (the “ELMS Five Cents Gas Tax”); and the penny tax authorized by section 336.021, Florida Statutes, now titled the “Ninth Cent.”

**Uses of Local Option Motor Fuel Taxes.** The statutorily authorized uses of the three taxes differ, as do the methods of imposition and the requirement that the revenue be shared with municipalities. The Original Six Cents Gas Tax may be used by small counties for transportation and other infrastructure projects under certain circumstances. The ELMS Five Cents Gas Tax may be used for transportation expenditures needed to meet the capital improvements element of an adopted comprehensive plan or for expenditures needed to meet immediate local transportation problems and for other transportation-related expenditures that are critical for building comprehensive roadway networks. The Ninth Cent is restricted solely to transportation expenditures.

**Method of Imposition.** Any of the three local option motor fuel taxes may be subject to referendum approval at the discretion of the governing board of the county. The Original Six Cents Gas Tax is the only one that may be imposed by a simple majority vote of the county commission; the Ninth Cent and the ELMS Five Cents Gas Tax must be approved by an extraordinary vote of the governing board members.

## LOCAL TOURIST DEVELOPMENT TAXES

**Base and Rates.** After being recommended by a Tourist Development Council, whose members are appointed by the county commission, a tourist development tax levied in the county for the first time must receive referendum approval prior to imposition. A county may levy a tourist tax at a rate up to five percent; when it is deemed to be a high tourism impact county, the rate may be up to six percent.

The initial tax may be either at a one percent or two percent rate and shall be levied on all short-term residential rental charges subject to the Transient Rental Tax imposed in section 212.03, Florida Statutes, which includes all residential rentals for a period of six months or less.

An additional one percent tax may be levied by extraordinary vote of the governing board or by a referendum of any county that has levied either the one percent or the two percent tax for a minimum of three years and that does not levy a Convention Development Tax.

Additionally, a county may levy up to another two percent tax for the purpose of promoting tourism. Paragraph 3(l) allows a one percent tax to be levied by majority vote of the governing body of the county. When a county levies the one percent tax authorized in Paragraph 3(l), it qualifies to levy an additional one percent tax authorized in Paragraph 3(n) by majority plus one vote of the membership of the governing body of the county.

Both Paragraphs 3(l) and 3(n) allow the additional taxes to be used to promote tourism. Alternatively, revenues from the one percent impose pursuant to Paragraph 3(l) and 3(n) may be used to finance a professional sports facility, and Paragraph 3(l) revenue may also be used to finance a retained spring training franchise and a convention center and for the operation and maintenance of a convention center.

High tourism impact counties, currently defined to include Orange County, Osceola County and Monroe County, may impose an additional one percent tourist development tax.



***Collection and Limitations on Use.*** The county has the option of collecting the tourist development tax; otherwise the Florida Department of Revenue collects the tax, subtracts a fee for administration, and remits the proceeds to the county.

The revenue must be deposited in the county's Tourist Development Trust Fund for use by the county in accordance with the provisions of section 125.0104, Florida Statutes. That section generally authorizes counties to use the revenue derived from the tourist development taxes imposed pursuant to sections 212.0104(3)(c), (3)(d), and (3)(n), Florida Statutes, to acquire and operate a convention center or sports stadium, to promote tourism, to build convention and tourist bureaus, and to finance beach improvements.

The use of tourist tax revenue is restricted to an activity, service, venue, or event that has as one of its main purposes the attraction of tourists as evidenced by the promotion of the activity, service, venue or event to tourists. Counties with a population of less than 750,000 may also use the revenue to build and upgrade fishing piers, museums, zoological parks, and nature centers.

### **COMMUNICATIONS SERVICE TAX<sup>35</sup>**

The Communications Services Tax ("CST") is a tax on communications services. The tax base includes local land-line and long distance telephone services, mobile communications services, and cable television services. The tax base does not include Internet access and information services. Satellite services are also not subject to the CST; they are, however, subject to a tax levied by the state, a portion of which is distributed to local governments in proportion to their participation in the Half-Cent Sales Tax Program.

The CST applies only within the unincorporated area when levied by a county and may be used for any public purpose, including the pledging or repayment of debt. Charter counties may levy the CST up to a rate of 5.1 percent; non-charter counties up to 1.6 percent. The rate may be increased by a county's decision not to charge permit fees for right-of-way use by dealers of communications services. For charter counties, the additional CST rate available is 0.12 percent and for non-charter counties, 0.24 percent.

With one exception, Chapter 202, Florida Statutes, preempts the county's ability to levy taxes and impose charges on communication service providers. The one exception is for "pass-through providers." These dealers may be charged up to \$500 per linear mile for use of the rights-of-way. A "pass-through provider" is a company that puts a communications facility in the right-of-way but does not pay the CST to that municipality or county.

### **PUBLIC SERVICE TAX<sup>36</sup>**

The Public Service Tax is statutorily authorized to municipalities. The authority has been expanded by the Florida Supreme Court to include charter counties also. It is a levy upon the purchase of electricity, metered natural gas, and telecommunication services. The levy upon electricity and gas is 10 percent. This levy may be put in place by majority vote of the board of county commissioners and may be used for general governmental purposes.

### **LOCAL OCCUPATIONAL LICENSE TAX<sup>37</sup>**

Counties may levy an occupational license tax. This tax is imposed upon businesses for the right to engage in business in that county. The tax may be put in place by ordinance. The adopted ordinance must include classifications of businesses, professions, and occupations that are subject to the tax. The ordinance must also establish the applicable rate structure.

### **MISCELLANEOUS TAX SOURCES**

- Convention Development Tax (Miami-Dade, Duval and Volusia Counties)<sup>38</sup>



- Miami-Dade County Local Option Food & Beverage Tax<sup>39</sup>
- “911” Fee and “E911” Fee<sup>40</sup>
- Intergovernmental Radio Communication and Automation Surcharge<sup>41</sup>
- Hazardous Waste Tax<sup>42</sup>
- Miami-Dade County Documentary Stamp Tax<sup>43</sup>
- Green Utility<sup>44</sup>
- School Crossing Guard Surcharge<sup>45</sup>
- Driver Education Surcharge<sup>46</sup>
- Educational Facilities Benefit District<sup>47</sup>

## **OTHER GOVERNMENTAL SOURCES: REVENUE SHARING**

---

### **STATE REVENUE SHARING<sup>48</sup>**

The Revenue Sharing Trust Fund for counties consists of two state revenues: a portion of cigarette tax collections and a portion of net state sales tax collections, pursuant to sections 210.20(2)(a) and 212.20(6)(e)(5), Florida Statutes. The use of the state revenue sharing proceeds is restricted. There are three designated uses for the shared funds received by counties. The first category, the guaranteed entitlement, which is roughly equal to the amount a county received in the 1971-72 fiscal year, may be pledged and used for any county purpose. The second guaranteed entitlement, which equals the difference in the amount a county received in the 1981-1982 fiscal year minus the guaranteed entitlement, may be pledged and used for any county purpose, including acquiring insurance contracts from a local government liability pool. The remainders of the revenue may be used for any public purpose.

### **HALF-CENT SALES TAX PROGRAM<sup>49</sup>**

The local government half-cent sales tax program returns to municipalities and counties 8.814 percent of state sales tax proceeds remitted pursuant to Chapter 212, Florida Statutes. The local government share is based on the sales tax collected in each county. The county’s share is determined by dividing the sum of the unincorporated area population plus two-thirds of the incorporated area population by the sum of the total county population plus two-thirds of the incorporated area population. The municipality’s share is determined by dividing the sum of the population of the municipality by the sum of the total county population plus two-thirds of the incorporated area population. This revenue may be used for any county purpose. A county must be eligible for state revenue sharing in order to qualify for the half-cent sales tax.

Small counties meeting certain requirements may receive an additional distribution from the state appropriation act. The “Emergency Distribution” distributes a percentage of sales tax to counties with a population of 65,000 or less that meet the eligibility requirement. The “Supplemental Distribution” distributes \$592,000 to counties that are eligible to receive the Emergency Distribution and that have a certain percentage of the total population incarcerated in state and federal facilities.

### **PARI-MUTUEL REVENUE<sup>50</sup>**

The state, under the state constitution,<sup>51</sup> distributes the taxation of pari-mutuel pools to the counties in equal amounts. Before 2000 each county received \$446,500 annually. Beginning on July



1, 2000, the Legislature repealed the sharing of pari-mutuel revenues with counties and replaced that revenue with a portion of the state sales tax. The replacement revenue equals \$29,915,500 annually, which is apportioned equally among the 67 counties at \$446,500 each.

### **STATE HOUSING INITIATIVES PARTNERSHIP (SHIP)<sup>52</sup>**

The SHIP Act provides for documentary stamp tax revenue to be distributed to counties and eligible municipalities, if certain conditions are met. SHIP requires the creation of an affordable housing program and a review of regulatory barriers to affordable housing. The distribution is based on population with a \$350,000 annual minimum allocation for each county. The revenue must be shared by the county with eligible municipalities based on an interlocal agreement or by population when no interlocal exists.

## **HOME RULE REVENUE SOURCES**

---

In addition to county-imposed taxes and in addition to revenues that the state shares with counties, counties have the home rule and statutory authority to impose other revenue sources. Generally, these revenue sources are dedicated in their purpose and are tied in amount to the cost of providing the service or facility. While statutory authority may exist for some of them, they are all imposed at the local level, typically through an ordinance.

There are two basic categories of these revenue sources: non-ad valorem special assessments and fees. Special assessments and fees provide diversity to a county's financial portfolio, and they are sound revenue sources for dedicated purposes. In addition, the special assessment can be charged on the annual property tax bill, which guarantees an exceptionally high rate of collection. For this reason, the special assessment is a good revenue source to use for pledging against debt and being able to build infrastructure. Furthermore, the special assessment can be used to fund certain key services that counties provide: fire suppression, solid waste collection, and stormwater. However, again because of certain case law decisions and lack of statutory authority, other critical services are not eligible (e.g., emergency medical services).

Whether a fee, assessment, or charge authorized only by county ordinance, and not general law, is constitutionally permissible depends on the Florida case law requirements. This analysis is difficult, however, because various requirements exist for the different types of constitutionally valid fees.

### **NON-AD VALOREM SPECIAL ASSESSMENTS**

The services and facilities that are generally available to be funded with non-ad valorem special assessments are the following:

- Solid waste collection, disposal and facilities
- Stormwater services and facilities
- Street system (road paving and maintenance) and Accessories (street lights)
- Fire suppression, alone
- Fire suppression and first response rescue (but not emergency medical services)

The legal test for being able to use a non-ad valorem special assessment as a revenue source is that the service or facility being funded must provide a special benefit to property (as opposed to a



general benefit to the community at large).<sup>53</sup> In addition, the amount of the assessment must be fair and reasonable, when compared to the benefit received. The special assessments can be collected on the annual property tax bill.<sup>54</sup>

## **FEES AND SERVICE CHARGES**

Fees are imposed in two main categories: (1) those fees that must be tailored in amount to the cost of the service or regulation for which the charge is collected; and (2) those fees that are proprietary in nature and allow for a “reasonable profit.” Examples of fees in the first category include the following: impact fees on new growth (fire stations, schools, roads, parks), solid waste tipping fees, park admission fees, and stormwater utility fees.

The second category is typically in the utility fee-for-service realm and is generally not as significant for counties as it is for municipalities. For example, municipally-owned electric systems generally provide significant revenues for a municipality’s general fund. A good example of this second category for counties is an electric utility franchise fee.

The requirements for valid fees are generally derived from court case decisions in the state and require analysis. Typically, however, something must be derived in exchange for the payment of fees: a service or a facility. In addition, the fees are required to be reasonable in amount and many fees cannot exceed the cost of the service or regulation. Finally, when no statutory authority exists for the fee it often will need to be paid by choice in that the feepayer can avoid the payment of the fee somehow (e.g., by obtaining the service elsewhere or by choosing not to engage in the activity that triggers the fee).

The topic of impact fees merits discussion. These fees are total or partial reimbursement to counties for the cost of additional facilities needed because of the new development.<sup>55</sup> Rather than imposing the cost of these additional facilities upon the general public, the purpose of impact fees is to shift the capital burden of growth from the general public to the developer and new residents. These fees have been used for water and wastewater utility needs, park needs, school facility needs, and roadways, among others. An impact fee levied by a local government must meet what is referred to as the “dual rational nexus test”<sup>56</sup> in order to withstand legal challenge. First, there must be a reasonable connection, or rational nexus, between the anticipated need for additional capital facilities and the population growth generated by the new development. Second, the government must show a reasonable connection between the expenditures of the funds collected and the benefits accruing to the new development from those expenditures. The Florida Legislature has also enacted the Florida Impact Fee Act.<sup>57</sup> The requirements of that statutory section must also be met.

## **COURT FUNDING**

---

Article V, section 14, of the state constitution requires counties to fund certain portions of the state court system. There are a few miscellaneous revenue sources that can be imposed to assist with some of these funding responsibilities, including: an additional \$65 Court Cost for court innovations, law libraries, legal aid programs, and juvenile alternative programs;<sup>58</sup> a Teen Court assessment;<sup>59</sup> a state court facilities surcharge;<sup>60</sup> and a court facility financing fee.<sup>61</sup> The state also imposes a \$4 per page surcharge on documents filed in the Official Records of the county, with \$2 of that charge being transferred to the boards of county commissioners for technology needs of the courts.<sup>62</sup>



## NOTES

- <sup>1</sup> See Art. VII, § 12, Fla. Const.
- <sup>2</sup> See Art. VII, § 2, Fla. Const.
- <sup>3</sup> See Art. VII, § 4, Fla. Const.
- <sup>4</sup> See Art. VII, § 10(a), Fla. Const.; *see also* City of Bradenton v. State, 102 So. 556 (Fla. 1924); Brandes v. City of Deerfield Beach, 186 So. 2d 6 (Fla. 1966); and State v. Daytona Beach Racing & Rec. Fac. Dist., 89 So. 2d 34 (Fla. 1956).
- <sup>5</sup> See Art. VII, § 1(h), Fla. Const.; *see also* City of St. Petersburg v. Briley, Wild & Assoc., Inc., 239 So. 2d 817 (Fla. 1970).
- <sup>6</sup> See Art. VII, § 6(a), Fla. Const.
- <sup>7</sup> See Art. VII, § 6(b), Fla. Const.
- <sup>8</sup> See Art. VII, § 3, and Art. XII, § 31, Fla. Const.
- <sup>9</sup> See Art. VII, § 4(d)(1), Fla. Const.
- <sup>10</sup> See Art. VII, § 4(d)(8), Fla. Const.
- <sup>11</sup> See Art. VII, § 4(g), Fla. Const.
- <sup>12</sup> See Art. VII, § 6, Fla. Const., § 196.075(4)(a), Fla. Stat.
- <sup>13</sup> See Art. VII, § 4(e), Fla. Const.
- <sup>14</sup> See Art. VII, § 6(f), Fla. Const., § 196.082, Fla. Stat.
- <sup>15</sup> See Art. VII, § 6(e), Fla. Const., § 196.081, Fla. Stat.
- <sup>16</sup> See Art. VII, § 4(i), Fla. Const.
- <sup>17</sup> See Art. VII, § 4(j), Fla. Const.
- <sup>18</sup> See Park-n-Shop, Inc. v. Sparkman, 99 So. 2d 571 (Fla. 1957)
- <sup>19</sup> See Art. VII, § 3(a), Fla. Const.
- <sup>20</sup> See Archer v. Marshall, 355 So. 2d 781 (Fla. 1978); *see also* Sebring Airport Authority v. McIntyre, 783 So. 2d 238 (Fla. 2001).
- <sup>21</sup> See Art. VII, § 3(f), Fla. Const., § 196.083, Fla. Stat.
- <sup>22</sup> See § 212.055(2), Fla. Stat.
- <sup>23</sup> See § 218.62, Fla. Stat.
- <sup>24</sup> See § 212.055(3), Fla. Stat.
- <sup>25</sup> See § 212.055(4), Fla. Stat.
- <sup>26</sup> See § 212.055(4), Fla. Stat.
- <sup>27</sup> See § 212.055(4)(c), Fla. Stat.
- <sup>28</sup> See § 212.055(4), Fla. Stat.
- <sup>29</sup> See § 212.055(7), Fla. Stat.
- <sup>30</sup> See § 212.055(5), Fla. Stat.
- <sup>31</sup> See § 212.055(1), Fla. Stat.
- <sup>32</sup> See § 212.055(8), Fla. Stat.
- <sup>33</sup> See Art. XII, § 9(c), Fla. Const.
- <sup>34</sup> See § 206.60, Fla. Stat.
- <sup>35</sup> See Ch. 202, Fla. Stat.
- <sup>36</sup> See § 166.231, Fla. Stat.
- <sup>37</sup> See Ch. 205, Fla. Stat.
- <sup>38</sup> See § 212.0305, Fla. Stat.
- <sup>39</sup> See § 212.0306, Fla. Stat.
- <sup>40</sup> See § 365.171, et seq., Fla. Stat.
- <sup>41</sup> See § 318.21(9), Fla. Stat.
- <sup>42</sup> See § 403.725, Fla. Stat.
- <sup>43</sup> See § 201.031, Fla. Stat.; *see also* Thomas v. DOR, 466 So. 2d 1069 (Fla. 1985)
- <sup>44</sup> See § 369.255, Fla. Stat.
- <sup>45</sup> See § 318.21(11), Fla. Stat.
- <sup>46</sup> See § 318.1215, Fla. Stat.
- <sup>47</sup> See § 1013.356, Fla. Stat.
- <sup>48</sup> See Ch. 218, Part II, Fla. Stat.
- <sup>49</sup> See Ch. 218, Part VI, § 212.20, Fla. Stat.
- <sup>50</sup> See § 212.60(6)(e)(7), Fla. Stat.



<sup>51</sup> See Art. VII, § 7, Fla. Const.

<sup>52</sup> See Ch. 420, Part VII, Fla. Stat.

<sup>53</sup> See *City of Boca Raton v. State*, 595 So. 2d 25 (Fla. 1992).

<sup>54</sup> See § 197.3632, Fla. Stat.

<sup>55</sup> See *City of Dunedin v. Contractors and Builder's Ass'n of Pinellas County*, 312 So. 2d 763 (Fla. 2d DCA 1975).

<sup>56</sup> See *Hollywood, Inc. v. Broward County*, 431 So. 2d 606 (Fla. 4<sup>th</sup> DCA 1983) and *St. Johns County v. N.E. Fla. Builders Assoc.*, 583 So. 2d 635 (Fla. 1991).

<sup>57</sup> See § 163.31801, Fla. Stat.

<sup>58</sup> See § 939.185(1)(a), Fla. Stat.

<sup>59</sup> See § 938.19, Fla. Stat.

<sup>60</sup> See § 318.18(13), Fla. Stat.

<sup>61</sup> See § 318.18(13), Fla. Stat.

<sup>62</sup> See § 28.24, Fla. Stat.



---

## 20. Capital Budgeting

---

*Robert E. Lee*

In this chapter we examine what is meant by capital budgeting, the purpose of a capital improvement plan, the process in developing such a plan, the conflicts a county encounters when developing their plan, legal requirements imposed upon Florida counties, and some policy questions that should be addressed in preparing for this process.

---

### CAPITAL IMPROVEMENT PLAN

---

A capital improvement plan (CIP) is a plan that identifies needed capital improvements for a period of time, typically over a five-year period. There are four types of capital improvements<sup>1</sup>:

**Infrastructure:** Includes such general-purpose assets as streets, storm drainage, water and sewer lines, waste water treatment facilities, street lighting and sidewalks.

**Public buildings:** Includes government offices, courthouses, warehouses, police and fire stations, jails, school facilities, airport facilities, community centers, and other public-purpose structures.

**Equipment:** Items that are large or costly, including computers, vehicles (e.g., police and fire), communications (e.g., telephones and emergency communications), and machinery. In some governments, computer software is considered to be equipment for budgeting purposes.

**Land Acquisition:** Includes the cost of purchasing and preparing land for construction or for use for parkland or even a landfill.

---

### PURPOSE OF A CAPITAL IMPROVEMENT PLAN

---

As with the operating budget, the demand for capital improvements in a county always far exceeds the financial resources available to fund all requested needs. Therefore, developing a CIP enables the board of county commissioners to establish priorities based on need.

A CIP also enables the county to coordinate agreed upon funding requests to reduce unnecessary delays, coordinate grant funding, and avoid conflicting construction projects. For example, it would be poor planning to resurface a road one year and plan to tear it up again next year to replace an aging sewer line or to not delay an expensive building renovation two years if waiting on a grant cycle will enable the project to be paid for with state or federal funding. A well-constructed CIP will enable a county to avoid such costly mistakes.

A responsible CIP also enables a Florida county to successfully implement level of service standards for public facilities as outlined in Chapter 163, Florida Statutes. State law necessitates a



capital improvement element in a county's comprehensive plan. In addition, a rational, long-term plan for capital improvements can enhance a county's bond rating. Investors and bond-rating agencies consider the CIP as part of their decision-making process.

## **THE CAPITAL IMPROVEMENT PLAN PROCESS**

---

The budget calendar provides the road map to the preparation and adoption of the CIP and capital budget. The capital budget is the first year of the CIP, and it is incorporated and annually approved with the operating budget.

Like the operating budget, the cycle for capital planning and budgeting, is information-intensive, relying on data collected to justify inclusion into the final document. The process typically has three stages: planning, budgeting, and implementation.

Because of the long-lived impact of these expenditures and the politics that impact the selection process, the planning stage may be the most important phase. During this phase, projects are identified, evaluated, ranked, and scheduled. Unlike the operating budget cycle, capital planning is linked to the county's comprehensive planning requirements and the two should be somewhat congruent.

An effective capital budgeting process typically begins with an inventory of existing capital investments and an evaluation of their current condition. It can sometimes be difficult to obtain funding for maintenance and repair because there is generally an absence of any public interest group to lobby for such funding. Politically, new construction possesses much greater appeal than renovation or repairs of existing assets; albeit, attention to the repair and renovation needs may provide returns that greatly exceed comparable investment in new construction.

## **CAPITAL IMPROVEMENT PLAN CONFLICTS**

---

When evaluating capital, several conflicts must be considered. The first, a follow-up to the preceding paragraph, is the struggle to ascertain whether to spend for maintenance or spend for new construction. The Government Services Accounting Board (GASB), which provides accounting principles for government agencies to follow, now requires governments to account for their assets (GASB 24). This requirement forces all governments to evaluate their existing capital inventory, thus providing more information for the board of County Commissioners to consider when ranking projects.

The second conflict involves the criteria for ranking projects: economic or need as compared to political criteria. For example, a board of county commissioners may represent four election districts throughout the county. The board may desire to distribute capital expenditures in an equitable manner to ensure each district has a proportionate share of funding. However, if 75 % of the road repair work needed is in only one district, does the board allocate 75% of the road repair funds to that one district where the need is or do they distribute these dollars based on geography, providing a similar amount in each district?

Another consideration is how best to pay for each capital expense. For example, does the county adopt a pay-as-you-go policy, spending only funds that are currently available? Or, does the county accept a pay-as-you-use policy, electing to finance projects through debt financing? Generally, counties do both, depending on the size, type, and use of the capital expenditures being considered. If bond financing is used, Chapter 129.02, Florida Statutes, requires a bond interest and sinking fund budget shall be made for each county and for each special district included within the county budget having bonds outstanding.



Whether to integrate the operating budget cycle with the CIP and capital budget cycle or conduct them separately is another decision that can create conflict. Often, counties work on the CIP separately, then incorporate the capital budget within the annual operation budget, albeit clearly separating the capital budget items for easy reference.

Another decision is whether a capital budget will be adopted for each special district included within the county budget or a consolidated capital budget will be adopted providing for the consolidation of capital projects for the county and special districts. Chapter 129.02, Florida Statutes, provides this option for Florida counties.

Finally, and often overlooked, is determining who is going to be responsible for implementing each capital budget item identified. It should not be assumed that each department will be responsible for their own capital projects. Implementation of infrastructure projects can be particularly complicated and require expertise in many areas. Assigning responsibility to capable people is paramount to successful completion.

## **ESTABLISH CAPITAL IMPROVEMENT PLANNING POLICIES**

---

Establishing policies to guide the CIP preparations and deliberations is paramount. Policy considerations should include:

Who will be involved in the preparation of the CIP?

How often will CIP budget estimated be updated?

What approvals are needed to amend the CIP?

Will capital projects guide any land use or permissive development decisions?

How will the county's comprehensive plan amendments/updates impact the CIP?

## **REFERENCES**

Bland, Robert L. A Budgeting Guide for Local Government. International City and County Management Association. 2013.

## **NOTES**

<sup>1</sup> Bland, Robert L. A Budgeting Guide for Local Government. International City and County Management Association. 2013, p. 255.







---

# 21. County Indebtedness

---

Robert E. Lee

---

## ECONOMIC CONDITIONS

---

### WHY DO COUNTIES ISSUE DEBT?

County governments incur debt by two methods: short term and long term. Short-term debt, under one year in maturity, can alleviate temporary cash flow gaps between annual revenues and daily expenditures. This short-term debt is used to cover operating and maintenance expenses. Long-term debt, over one year in maturity, provides the financing for capital projects. The use of this type of debt allows a government to spread out payment for the asset over its life, thereby shifting the cost to those who use the asset.

### POLICIES AND GUIDELINES

The issuance of debt raises important questions regarding accountability for and term and amount of the debt. It is suggested in *A Budgeting Guide for Local Government* that if a county chooses to issue debt, it should adopt a debt policy that governs when debt may be issued, the procedures for issuing debt, the purpose for issuing debt, the role of citizens in approving the use of the debt proceeds, and the maximum amount of debt.

### TYPES OF DEBT INSTRUMENTS

Counties have options in terms of the type of which debt instrument to use when borrowing funds. The decision as to the instrument to use depends on the purpose of the debt, the amount of debt, and the period of time to pay the debt. Bonds are the most common debt instrument. Following are examples of bonds as defined in section 215, Florida Statutes:

- 1) **General Obligation Bonds:** Obligations secured by the full faith and credit of a government unit or payable from the proceeds of ad valorem taxes of a governmental unit.
- 2) **Revenue Bonds:** Obligations issued to pay the cost of one or more self-liquidating projects, which are payable from the earnings of such projects and any special funds pledged as additional security.
- 3) **Bond Anticipation Notes:** Notes issued in anticipation of the issuance of general obligation or revenue bonds.
- 4) **Limited Revenue Bonds:** Obligations issued to pay the cost of one or more projects or improvement thereof, which are payable from funds of a governmental



unit, exclusive of ad valorem taxes, special assessments, or earnings from such projects or improvements.

- 5) **Special Assessment Bonds:** Bonds that provide for capital improvements and are paid in whole or part by levying and collecting special assessments on the abutting, contiguous, or other special benefited property.

The State Board of Administration (SBA) adopts rules regarding the maximum rate of interest for bonds. Applicability and formula are provided in section 215, Florida Statutes. The SBA Division of Finance, with respect to general obligation and revenue bonds, serves as a clearinghouse for information on bond issues of units of local governments and the state. They also assist local governments with the preliminary planning of a new bond issue, commission studies on methods to reduce the cost of bond issues and recommend changes in law and local practices to improve the sale and services of local bonds.

A final issue concerns the use of short-term debt, which is generally for the purpose of meeting cash flow needs. Counties that issue short-term debt should develop a policy that protects them from abuse of short-term debt without undermining their ability to meet cash flow needs.

## **FUNDAMENTAL LEGAL RESTRAINTS AND EXCEPTIONS**

---

### **DEBT LIMITATIONS**

One of the more common provisions in a debt policy statement is one that places limits on the amount of debt a county can incur. According to *A Budgeting Guide for Local Government*, the policy should specify the maximum long-term debt burden the government will incur, the mix of debt with current revenues in financing capital improvements, the use of bond proceeds, and the conditions in which short-term debt will be issued.

### **SALE OF BONDS**

All counties must provide the Division of Bond Finance of the State Board of Administration with advanced notice of the impending sale of any new issue of bonds.<sup>1</sup> In addition, all general obligation bonds and revenue bonds shall be sold at public sale by competitive bid. Notice of such sale shall be published at least once 10 days prior to the date of the sale in one or more newspapers or financial journals and shall contain the terms of the sale. The bonds shall be awarded by resolution to the lowest bid consistent with the notice of sale.

If the board of county commissioners determines, by resolution, that a negotiated sale is in the best interest of the county (rather than a competitive bid), it may negotiate for the sale of such bonds.<sup>2</sup> However, a resolution must be adopted authorizing the negotiated sale and shall provide specific findings as to the reasons requiring the negotiated sale.

In addition, the managing underwriter or financial advisor, if applicable, shall provide the county, prior to the award of bonds, a disclosure statement that itemizes the nature and estimated amounts of expenses to be incurred by the managing underwriter in connection with the issuance of such bonds as well as other information regarding finder's fees, management fees, and any other information required by the board of county commissioners.

### **TRUTH-IN-BONDING STATEMENT**

Prior to the award of bonds, all proposals for the purchase of any bonds offered by the county shall include a truth-in-bonding statement that provides the name of the county, the amount of debt,



repayment period, interest rate, and total interest over the life of the debt. The statement shall also include the source of payment, the financial impact on the county fund affected, and the length of time it will be affected.

## **REFERENCES**

Bland, Robert L. A Budgeting Guide for Local Government. International City and County Management Association. 2013.

## **NOTES**

<sup>1</sup> See § 218, Fla. Stat.

<sup>2</sup> See § 218, Fla. Stat.







---

## 22. *Intergovernmental Relationships*

---

*Rodney L. Clouser and Dena Hurst*

Intergovernmental relations or relationships mean many different things to different people. Search long and hard and you will soon see that intergovernmental relations has no cookie-cutter definition. Some people view intergovernmental relations strictly as formal relationships between units of government that encompass formal and informal agreements, annexation of property, or merger and consolidation among units of government. In a broader context, others view it as coordination, communication, economic and managerial synchronization among various units of government.

The complexity and foundation characteristics of intergovernmental relations include “(1) the number and variety of governmental units; (2) the number and variety of the public officials involved; (3) the intensity and regularity of contact among the officials; (4) the importance of the officials’ actions and attitudes; and (5) the preoccupation with financial policy issues.”<sup>1</sup> In Florida, these foundation blocks seem especially appropriate with the state’s rapid growth during the latter portion of the 20<sup>th</sup> century and early portion of the 21<sup>st</sup> century. Intergovernmental relations encompass the formal and informal agreements between various levels of government but it also includes communications, collaboration, and consideration of the many units of government in administrative, regulatory and policy decisions.

### **TYPES OF RELATIONSHIPS**

---

Florida intergovernmental relations are a necessary condition for effective and efficient government but not a sufficient condition to ensure an effective and efficient government. As noted previously, actions and attitudes are a component of intergovernmental relations and political leaders and units of government cannot be forced to agree to communicate or even get along.

The scope and enormity of intergovernmental relations in Florida has the potential to be almost unmanageable at the county level of government. It includes the state’s federal senators and representatives (and staffs) and federal government agencies. At the state level it includes the governor and the cabinet, the state senators and representatives, state agencies and the staffs of those individuals. At the regional level it would include interactions with special districts such as water management districts. It becomes even more complex at the local level with communications, collaboration, and consideration of administrative, regulatory and policy decisions by governmental units as diverse as soil and water conservation districts, school boards and local municipalities.

The structure of intergovernmental communication, collaboration and consideration regarding administrative, regulatory and policy decisions by Florida counties varies by county within the state. Some counties inter-mingle lobbying efforts and intergovernmental relations, primarily at the federal level, through contractual arrangements with outside firms. Other counties internally staff intergovernmental relation and lobbying duties, especially at the state and local level. Finally, in almost every county, elected commissioners are expected to lead some of the intergovernmental efforts at federal, state and local levels. Intergovernmental relations can include interactions with dozens of offices and agencies and hundreds of elected officials and staffs. Although lobbying efforts are sometimes inter-mingled with intergovernmental relations, intergovernmental relations is not



“lobbying” for your specific organizations outcome or only advocating a single acceptable outcome, but it is “having a seat at the table” when other governmental groups are considering administrative, regulatory and policy decisions that will have some impact on your governmental organization.

## **FORMAL AND INFORMAL INTERGOVERNMENTAL RELATIONS**

County government is more complex and demanding than ever in the 21st century. Citizens want the best services delivered effectively and efficiently, superior quality of life, and a clean and healthy environment. At the same time, they typically want lower taxes and fees at the federal, state, and local levels of government. The ideal 21st century county official must therefore be smart, innovative, and politically astute. County commissioners need to be able to work well with their counterparts in municipalities and other counties as well as with officials in federal and state government. Understanding, developing, and maintaining effective intergovernmental relationships are significant in achieving current and future needs and goals.

Relationships among counties and between cities and counties are important as they can foster a variety of creative ways of serving each jurisdiction and the citizens within. It is a good idea for counties to periodically review the services they provide, examine existing sources of funding for those services, and if applicable and reasonable, develop an approach to allocate the delivery and funding of those services among other local governments or authorities.

Formal agreements, such as those mentioned below, work best when the services or functions have cost-benefits that are easily defined. This makes it easier to draft and manage an agreement to the satisfaction of all parties. It also helps if the services are of a noncontroversial nature. This limits the potential for misunderstandings or disparate public perceptions.

### **Formal Relations**

***Mutual Aid Agreements.*** Mutual aid agreements are based on a reciprocal relationship in which parties exchange services, usually emergency management or safety-related services: police, fire, emergency management, and related crises. These agreements must be in writing.

The ability to enter into mutual aid agreements is specified in Section 252.40, Florida Statutes, which provides that the governing body of each political subdivision of the state is authorized to develop and enter into mutual aid agreements within the state for reciprocal emergency aid and assistance in case of emergencies too extensive to be dealt with unassisted.

***Joint Service Agreements.*** Through joint service agreements, two or more local governments or authorities perform a particular function or service. Examples of such functions or services might include joint acquisition, construction, and maintenance of property or joint employment of personnel.

***Service Contracts.*** Under a service contract, one party is the seller and another, the buyer; in effect, one government or division of government purchases services from another. The terms of the contract are developed and agreed to by both parties, but typically the seller will administer the contract. Typical contract services might include office space, water supply and treatment, sewage disposal, fire protection, jail administration, and records storage.

### **Informal Relations**

Formal relationships are important in intergovernmental relations but so are informal relationships. Two primary informal relationships in intergovernmental relations that many people find beneficial are collaboration and partnerships.

Collaboration can be defined as freely working with other governmental individuals, groups and agencies to seek solutions to issues or problems. However, that doesn’t do justice to the concept of collaboration in intergovernmental relations. Intergovernmental collaboration is a non-adversarial approach to discuss administrative, regulatory and policy issues where disagreements may exist, but



the discussion is in greater depth and not a negotiation process. Rather, collaboration concentrates on the core of “why” government units, agencies and individuals take the position they do with respect to the issue being debated or considered. Collaboration is not a win-lose proposition, but it is an attempt to understand why governmental organizations have taken the position they have on certain issues and what workable alternatives exist that address the underlying concerns.<sup>2</sup>

Partnerships are also cooperative ventures with other governmental individuals, groups or agencies. However, with partnerships there are often specific responsibilities (e.g., one group would supply the land and construction cost and another group would be specifically responsible for all operating costs) or joint responsibilities between governmental groups, and this typically evolves into a more formal type (agreements, contracts, etc.) of intergovernmental relationship. Partnerships are more visible and maybe more viable when there are fiscal impacts involved. There is some truth to the old cliché that partnerships lighten the load and share the burdens.

## **RELATIONSHIPS AT THE STATE AND FEDERAL LEVELS**

---

County commissioners should strive to develop good working relationships with state legislators and members of Congress. To foster these federal and state relationships counties are assisted by professional organizations, including the Florida Association of Counties.

### **STATE GOVERNMENT**

The Florida Legislature convenes regular sessions on the first Tuesday after the first Monday in March. The regular legislative session lasts for 60 days. During session, the legislature adopts a state budget and addresses legislation introduced each session. Many bills introduced ultimately have an impact, fiscal or otherwise, on county governments. Counties provide mandated services that are funded by local property taxes and other local revenues. In other cases, required services may be funded by combined financial commitments from both state and local governments. The services include, among others, criminal prosecution and punishment, indigent legal defense, mental health and substance abuse care, environmental management, cooperative extension service, and transportation infrastructure. It is therefore critical that state legislators hear from county commissioners regarding the potential effects of the proposed legislation on the county.

County commissioners are among the state legislature’s most important constituents. Whether a county’s needs at the state level are legislative or financial, county commissioners should not underestimate the benefits of having an effective working relationship and state legislators. While the Florida Association of Counties will communicate counties’ positions on issues, it is still important legislators hear directly from the voters in their home districts, especially county commissioners and other community leaders. Input from county commissioners can broaden the scope of information that legislators typically receive.

When speaking to legislators about issues, remember the way you present yourself, your county and information matters. Always be brief; legislators have many demands on their time and appreciate a concisely presented concern. Stay on your points, and do not add extraneous information. Always act professionally, even if the legislator’s decision does not go your way. Relationships take time to nurture, so burning bridges is counterproductive to your goals and those of your county. Always thank your legislators for the work that they do; as an elected official you understand the demands of public life and the quickness with which people criticize your decisions.

In addition to working with your legislators, you should also familiarize yourself with the various departments in state government and you should understand, in particular, how state regulatory agencies operate. Since these agencies can create policy, promulgate rules, and take actions that can affect the operations of the county, it is crucial for county commissioners to know and communicate with appropriate state agency personnel.



## FEDERAL GOVERNMENT

In the past 20 years there have been significant reductions in federal program assistance for local governments that negatively impacts the relationship between federal, state, and local governments. In addition, the rise of unfunded mandates and the establishment of devolution as a federal policy have further eroded these relationships.

Unfunded mandates are directives from one level of government, usually federal or state, to another level of governments, usually local. Unfunded mandates have had a negative impact on all local governments in Florida.

Compounding the issue of unfunded mandates, responsibility for public programs that were federally mandated and federally funded has increasingly been returned to state and local governments. This process is known as federal devolution. While in the spirit of state and home rule, devolution has meant passing the responsibility for operating programs and the responsibility to fund those programs to local governments.

Nonetheless, Congress still directs funding to county governments for a wide variety of projects related to veterans' services, housing, development, transportation, and energy and water, among others. Building a relationship with your congressional representatives is critical to taking part in the federal legislative and funding processes. Therefore, you should understand how a congressional office functions and get to know key staff in both the local and Washington, D.C., offices.

Generally, the Washington, D.C., office has legislative staff, and the district and state offices have staff that focuses on constituent services, such as helping with federal benefits and assisting with federal agencies. Staff in the Washington, D.C., office typically includes a chief of staff, legislative director, legislative assistants, legislative correspondence, press secretary, scheduler, and staff assistant. The chief of staff oversees the administrative and political operations of the office. The legislative director monitors the legislative schedule and works to implement the Congress member's overall agenda. Legislative assistants typically focus on a set of specific policy issues. The legislative correspondent responds to constituent enquiries on policy matters. The press secretary oversees communication between the member of the media and public. The scheduler prepares a daily schedule for the member and establishes travel arrangements. As a county commissioner, you should interact with staff if you are pursuing federal appropriations.

Staff members in the district offices communicate regularly with the Washington, D.C., office and are usually very close to their congressional member, typically accompanying him or her on travels within the district. Maintaining contact with the district offices will only help you build relationships.

If you do have the opportunity to meet with your senator, representative or their staff, be sure you have a thorough understanding of the major aspects of the issue that you are presenting to them. If possible, bring materials and a brief white paper outlining your request. Prepare answers to potential questions in advance, particularly if you are seeking financial assistance. Be sure you mentioned the level of support that you have for your issue and any resources your county can contribute. If you meet in Washington, DC, be flexible in your plans. Because of the demands on their time, you may meet with staff and not your senator or representative. But, keep in mind that staff is an integral part of the process, so don't down play your opportunity. Always follow your meetings with a thank you note and the answers to any questions you could not give during your meeting.

## RESOURCES

Know Your Congressional Representative:  
[http://www.house.gov/house/MemberWWW\\_by\\_State.shtml](http://www.house.gov/house/MemberWWW_by_State.shtml)



Know Your U.S. Senator:

[http://www.senate.gov/general/contact\\_information/senators\\_cfm.cfm?State=FL](http://www.senate.gov/general/contact_information/senators_cfm.cfm?State=FL)

Congressional Appropriations Process:

<http://www.senate.gov/reference/resources/pdf/97-684.pdf>

Know Your State Representative: <http://www.myfloridahouse.gov/sections/representatives/representatives.aspx>

Know Your State Senator: <https://www.flsenate.gov/Senators>

State Budget Process:

<http://www.fpi.institute/wp-content/uploads/2016/08/A-Guide-to-the-Florida-Budget-Process-E.pdf>

## REFERENCES

Walker, David B. *The Rebirth of Federalism: Slouching Toward Washington*, 2<sup>nd</sup> Edition. Chatham House Publishers, Chappaqua, N.Y. 2000.

## NOTES

<sup>1</sup> Wright, Deil. *Understanding Intergovernmental Relations*, 3<sup>rd</sup> Edition. Brooks/Cole. Pacific Grove, CA. 1988.

<sup>2</sup> Adapted from Hudson, Betty J. and Paul T. Hardy, Editors. *Handbook for Georgia County Commissioners*, 4<sup>th</sup> Edition. Carl Vinson Institute of Government, University of Georgia, Athens, GA. 2002.







---

## 23. *Sunshine, Public Meetings, and Open Records Law*

---

*Herbert W.A. Thiele*

Under Florida law, the meetings of any agency or authority of a county, municipal corporation or political subdivision (including meetings with or attended by any person elected to such board or commission, but who has not yet taken office) at which official acts are to be taken, or at which public business is to be transacted or discussed, are required to be open and noticed to the public.<sup>1</sup> This law is commonly referred to as the Government in the Sunshine Law, or the Sunshine Law. In fact, resolutions, rules, and formal actions of a public board or commission are considered binding *only* if taken or made at an open, public meeting.<sup>2</sup> Providing reasonable notice to the public of all such meetings is required, and minutes of the meetings must be taken and promptly recorded.<sup>3</sup>

In addition, Florida law has established that all state, county, and municipal records that are made or received in connection with official business are open for inspection and copying by any person.<sup>4</sup> Unless there is a specific statutory or constitutional exemption to the disclosure of a particular record, a person must be allowed to inspect or copy the record at any reasonable time, under reasonable conditions, and under the supervision of the records custodian.<sup>5</sup>

---

### OPEN MEETINGS

---

#### PURPOSE OF THE SUNSHINE LAW

It has been said that the Sunshine Law was enacted to protect the public from “closed door” politics,<sup>6</sup> to prevent the “crystallization of secret decisions to a point just short of ceremonial acceptance.”<sup>7</sup> Governmental meetings should be a “marketplace of ideas,” enabling input from those citizens who will be affected by the board’s actions.<sup>8</sup>

The Sunshine Law covers “any gathering of some of the members of a public board where those members discuss some matters on which foreseeable action may be taken by the board.”<sup>9</sup> Under the Sunshine Law, “a meeting is either fully open or fully closed; there are no intermediate categories.”<sup>10</sup>

#### WHAT CONSTITUTES A “MEETING” FOR PURPOSES OF THE SUNSHINE LAW?

The Sunshine Law applies to any function where two members of the same board are present.<sup>11</sup> It applies to all assemblies or meetings, whether structured or casual, where there are discussions of matters that may foreseeably come before the board.<sup>12</sup> Although board members may attend private forums and express their views, they may not discuss or debate issues amongst themselves.<sup>13</sup>

The Sunshine Law may also apply when there is communication between two or more members of the same board, but no actual meeting. For example, the Attorney General’s Office has opined that a violation of the Sunshine Law occurred when a commissioner circulated a memorandum



to other commissioners for concurrence or disapproval, with the measure becoming formally approved when all concurred.<sup>14</sup>

The Sunshine Law also applies to certain communications that may not necessarily involve two members of the same board. For example, a Sunshine Law violation would occur when a person acts as a liaison between two members of same board or takes an official poll.<sup>15</sup> In addition, if a single board member has been delegated decision making authority to act on behalf of his or her board, then the Sunshine Law would apply to the pertinent meetings attended by that member.<sup>16</sup>

## **BOARDS AND COMMITTEES SUBJECT TO THE SUNSHINE LAW**

The Sunshine Law applies to all legislative boards and decision-making committees of the county and to the members and members-elect of such boards and committees.<sup>17</sup> The Sunshine Law equally binds all members of governmental bodies, whether they are elected officials or members of an advisory committee.<sup>18</sup> This includes boards or commissions created by Florida law or by the public agency.<sup>19</sup>

This could also include some committees that consist only of staff members. For example, in one case, the court held that since the authority for the final approval of a development project was delegated by county ordinance to a developmental review committee, the staff members who served on said committee functioned as public officials.<sup>20</sup> Thus, their committee meetings were subject to the Sunshine Law.

On the other hand, when a committee has been established strictly in an advisory capacity and conducts only fact-finding activities such as information gathering and reporting, then those activities are not subject to the Sunshine Law. For example, there was a court decision that held that the informal, informational meetings of a pre-technical review committee attended only by staff members were not subject to the Sunshine Law.<sup>21</sup>

Certain private entities may also be subject to the Sunshine Law. The test to determine whether the Sunshine Law applies to a private entity is whether the entity is merely providing services to the county, or “is standing in the shoes” of the county.<sup>22</sup> For example, if a county commission dissolves its cultural affairs council and designates a nonprofit organization to fulfill that role for the county, then the nonprofit organization would be subject to the Sunshine Law.<sup>23</sup> In another scenario, the activities of a non-profit golf and country club were determined to be subject to the Sunshine Law, because the club was specifically created to contract with the county for the operation of a public golf course on county property acquired by public funds.<sup>24</sup> However, a private corporation that performs services for a public agency and receives compensation for its services under a contract or otherwise, is not necessarily subject to the Sunshine Law unless the public agency’s governmental or legislative functions have been delegated to the private entity.<sup>25</sup>

## **NOTICE OF MEETINGS**

“Due public notice” of regular and special meetings of the governing board of a county is required by statute.<sup>26</sup> Notice of some meetings, such as public hearings on the adoption of county ordinances, must be advertised in the local newspaper.<sup>27</sup> Also, pursuant to Section 286.0105, Florida Statutes, the notice must contain a sentence advising a person that a verbatim record of the proceedings will need to be made should the person wish to appeal the board’s decision.

Otherwise, the specific type of due or reasonable notice will vary depending on the facts of the situation and the board involved. As has been suggested by the Florida Attorney General’s Office, “[i]f the purpose for notice is kept in mind, together with the character of the event about which notice is to be given and the nature of the rights to be affected, the essential requirements for notice in that situation will suggest themselves.”<sup>28</sup> For example, the courts have found that three days’ advance notice of a meeting was reasonable, but that notice of approximately one hour and thirty minutes in advance of a special meeting was not sufficient.<sup>29</sup>



While there is a need to provide notice of a public meeting, it is not necessary to post the agenda or to notice each agenda item that will be considered at the public meeting.<sup>30</sup> In addition, the Sunshine Law does not prohibit a board or commission from taking action on a matter which has not been placed on the agenda.<sup>31</sup> However, the Attorney General's Office has strongly recommended that a board postpone taking formal action on an added matter that is controversial, if the public has not been given prior notice.<sup>32</sup>

## **ACCESS TO PUBLIC MEETINGS**

Public meetings must be accessible to physically handicapped persons.<sup>33</sup> Florida law also prohibits holding public meetings at any facility or location that discriminates on the basis of sex, age, race, creed, color, origin or economic status, or that operates in such a manner as to unreasonably restrict public access.<sup>34</sup>

Furthermore, public meetings must be held at facilities within the jurisdiction of the public body. For example, the courts have held that a violation of the Sunshine Law occurred when a board workshop was held more than 100 miles from the board's headquarters.<sup>35</sup> However, for municipalities with a population of 500 residents or less, the governing board of the municipality may hold meetings within five miles of the jurisdictional boundary of the municipality.<sup>36</sup> Also joint meetings of the governing bodies of counties and municipalities to discuss matters of mutual interest may be held at any appropriate public place within the jurisdiction of any of the participating counties or municipalities.<sup>37</sup>

## **PUBLIC'S RIGHT TO SPEAK**

Pursuant to Section 286.0114, Florida Statutes, a "board or commission" (defined to include a board or commission of any agency or authority of a county, municipal corporation or political subdivision) is required to give the public a "reasonable opportunity to be heard on a proposition" that is before the commission. The opportunity to be heard need not occur at the same meeting when the commission takes official action, just at some meeting "during the decision making process" and "within reasonable proximity in time" before the actual meeting when the commission does take official action.<sup>38</sup>

However, Section 286.0114 does not prohibit a board or commission from maintaining orderly conduct and proper decorum at a meeting. In addition, there are exceptions to the opportunity to be heard requirement, including emergency situations, the performance of ministerial acts (such as approving minutes and ceremonial proclamations), and quasi-judicial hearings. Finally, the board or commission may adopt rules or policies that govern the opportunity to be heard, including: (a) limiting the amount of time an individual has to speak; (b) prescribing procedures for a representative of a group to speak, rather than all members of the group; (c) requiring speakers to fill out speaker forms; and (d) designating a specific period of time during a meeting for public comment.<sup>39</sup>

## **PARTICIPATING IN ABSENTIA**

Does it constitute a violation of the Sunshine Law for an elected official to "appear" at a board or commission meeting by electronic means when that elected official is not physically able to attend the meeting? Provided that there is a quorum of members physically present at the actual meeting site without counting the absent official, there is probably no violation.<sup>40</sup> For example, the Florida Attorney General has opined that an ill county commissioner could participate and vote in a commission meeting through the use of an interactive video and telephone system because the system permitted the absent commissioner, the other members of the board, and the audience to see and hear each other.<sup>41</sup> However, this type of participation in a public meeting should only be permitted in extraordinary circumstances.<sup>42</sup>



## **INTERNET MEETINGS**

The Florida Attorney General's Office has opined that informal discussions over the Internet between members of a board are allowable if proper notice is given and interactive access afforded to the public.<sup>43</sup> However, access to the discussions must be available not only to persons possessing a computer with Internet access, but also to persons who may not have Internet access. To effectuate access to the discussions, computers with Internet access must be made available to the public, and notice indicating the location of these computers must be provided to the public.<sup>44</sup> Furthermore, in case interested persons are not comfortable with or familiar with computers, computer assistance should also be provided.<sup>45</sup>

## **E-MAILS AND MESSAGE BOARDS**

The Attorney General's Office has found that private discussions via e-mail between board members about board business are prohibited under the Sunshine Law.<sup>46</sup> Similarly, the use of a website blog or message board to solicit comments from other members of the board by their responses on issues that would come before the board triggers the requirements of the Florida Sunshine Law.<sup>47</sup>

## **WHAT ABOUT FACEBOOK AND TWITTER?**

Facebook is a social networking website under which users create profiles, interact with one another in real-time, and build networks of "friends." Twitter is a "short message" social networking service that allows brief posts by persons to be sent to subscribers or "followers." The Florida Attorney General has determined that, while there is nothing prohibiting a board or commission member from posting comments on the local government's Facebook page, members must not engage in any discussions of matters that could foreseeably come before the board or commission for official action.<sup>48</sup> Thus, engaging in an exchange of ideas or discussions on a Facebook page or Twitter site could become a violation of the Florida Sunshine Laws.

## **MINUTES**

Although tape recordings and Internet recordings may be made of board meetings, written minutes of board and committee meetings and workshops must nevertheless be prepared and promptly recorded.<sup>49</sup>

## **EXEMPTIONS FROM THE SUNSHINE LAW**

The Florida Constitution states that the Legislature may enact laws by two-thirds vote of each house to provide for exemptions from the Sunshine Law.<sup>50</sup> However, the laws must "state with specificity the public necessity justifying the exemption and shall be no broader than necessary to accomplish the statutory purposes of the law."<sup>51</sup>

Some examples of county meetings that are exempt from the Sunshine Law are as follows: collective bargaining discussions;<sup>52</sup> meetings conducted for a risk management program administered by the county;<sup>53</sup> portions of any public meeting which would reveal a security system plan;<sup>54</sup> and attorney-client meetings to discuss pending litigation.<sup>55</sup> In addition, there is an exemption for portions of county meetings at which a negotiation with a vendor is conducted pursuant to a competitive solicitation. That portion of the meeting when a vendor makes an oral presentation or answers questions as part of the competitive solicitation process is exempt from the Sunshine Law.<sup>56</sup>

In the early 1990's the Florida Legislature enacted legislation which specifically authorizes government boards, commissions, and agencies to meet privately with their attorneys to discuss pending litigation.<sup>57</sup> To hold an attorney-client meeting, the following conditions have to be met:



- 1) The attorney shall advise the governmental entity at a public meeting that advice concerning ongoing litigation is desired.
- 2) The subject matter of the meeting must be confined to settlement negotiations or strategy.
- 3) The meeting must be recorded by a certified court reporter, who must fully transcribe the notes and file the transcript with the entity's clerk within a reasonable time after the meeting.
- 4) The entity shall give reasonable public notice of the date and time of the meeting and the names of persons who will be attending.
- 5) When the litigation has been concluded the transcript will then become a public record.<sup>58</sup>

This exemption from the Sunshine Law is strictly construed by the courts. For example, in one case, the government entity failed to state the actual names of the lawyers who were attending the meeting, and the court found that this violated the Sunshine Law.<sup>59</sup> In another case, the court held that only those people identified in the statute may attend the closed attorney-client meeting. Therefore, while attorneys (including special counsel) could attend the closed meeting, staff and consultants could not.<sup>60</sup> In addition, the clerk of court is not entitled to attend closed attorney-client meetings of the board of county commissioners.<sup>61</sup>

The topic of discussion at a closed attorney-client meeting must be confined to the pending litigation and may not address other political or policy issues that are not connected to the litigation.<sup>62</sup>

#### **VALIDITY OF ACTIONS TAKEN IN VIOLATION OF THE SUNSHINE LAW**

The Sunshine Law provides that no resolution, rule or formal action shall be considered binding except as taken or made at an open meeting.<sup>63</sup> For example, in one case a zoning ordinance was declared invalid because of Sunshine Law violations by the citizens planning committee.<sup>64</sup> The citizens committee held meetings outside of the "sunshine," and made recommendations to the planning commission, which then held public hearings and made recommendations to the town council. The town council subsequently held public hearings and adopted an ordinance based upon the recommendations. Despite the subsequent public hearings, the court invalidated the zoning ordinance, finding that actions taken in violation of the Sunshine Law were void *ab initio* (void from the beginning).<sup>65</sup>

#### **"CURES" FOR A VIOLATION OF THE SUNSHINE LAW**

An initial violation of the Sunshine Law may only be cured by full, open, and independent final action taken at a public meeting.<sup>66</sup> Curing a violation requires a full and sufficient reexamination and re-discussion of the matter in an open, public meeting.<sup>67</sup> Sunshine Law violations will not be cured by the "perfunctory ratification" in a public meeting of actions and decisions that were made in a closed meeting.<sup>68</sup>

#### **SANCTIONS FOR VIOLATING THE SUNSHINE LAW**

Any public officer who violates any provision of the Sunshine Law is guilty of a non-criminal infraction punishable by a fine not exceeding \$500.<sup>69</sup> However, if a member of a public body *knowingly* violates the Sunshine Law, then the infraction is considered a misdemeanor of the second



degree, which is punishable by a \$500 fine and/or imprisonment for up to 60 days.<sup>70</sup> Criminal prosecution for a Sunshine Law violation requires proof of knowledge and intent.<sup>71</sup>

Former Florida Senate president W. D. Childers was the first public official in Florida to serve actual jail time for violating the Sunshine Law. In 2003, Childers, who was serving as Chairman of the Escambia County Commission, was convicted of Sunshine Law violations for discussing public business in private with other commissioners. He was sentenced to 60 days in jail and ordered to pay a fine, court costs, and investigation and prosecution expenses.

The burden of proof in Sunshine Law cases is on the individual claiming there was a violation. The claimant has the burden of proof to establish by the greater weight of the evidence that a meeting which should have been held in the sunshine had taken place outside of the sunshine.<sup>72</sup>

Whenever a Sunshine Law action has been filed in court against a board or commission or its members, the court may assess a reasonable attorney's fee against the agency if the agency is found to have violated the Sunshine Law.<sup>73</sup> However, the court may also assess a reasonable attorney's fee against the individual filing such an action if the court finds the action was filed in bad faith or was frivolous.<sup>74</sup>

## **REMEDIES**

The remedies for a Sunshine Law violation are: (1) a declaration that the wrongful act is void; and (2) reasonable attorney's fees.<sup>75</sup> Monetary damages are not an available remedy.<sup>76</sup>

## **OPEN RECORDS**

---

### **STATE LAW**

Under the public records law, all state, county, and municipal records made or received in connection with official business are open for inspection and copying by any person, except those records which are specifically exempt from disclosure by law.<sup>77</sup> The public records law also applies to private entities acting on behalf of the government agency.<sup>78</sup>

The public records law requires each governmental agency that has custody of a public record to permit inspection and copying of the record by any person desiring to do so, at any reasonable time, under reasonable conditions, and under supervision of the custodian of the public record.<sup>79</sup> Custody of a public record has been described as having "supervision and control over the document or having legal responsibility for its care, keeping or guardianship."<sup>80</sup>

### **DEFINITION OF A PUBLIC RECORD**

State law defines "public records" to mean "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."<sup>81</sup> The courts have construed the statutory definition of a "public record" to be "any material prepared in connection with official agency business which is intended to perpetuate, communicate, or formalize knowledge of some type."<sup>82</sup> This would, of course, include electronic communications, such as emails, text messages, and Facebook posts. For example, the Attorney General's Office has opined that material placed on the local government Facebook page that is made or received in connection with the official business of the agency would be subject to Chapter 119.<sup>83</sup>

However, it should be noted that the Florida Supreme Court "has repeatedly rejected the notion that 'almost everything generated or received by a public agency' is a public record."<sup>84</sup> Rather, the determining factor is the nature of the record, whether the materials have been prepared



with the intent of perpetuating or formalizing knowledge in connection with the transaction of official agency business, and not the physical location of the materials.<sup>85</sup> Further, what constitutes a public record is a question of law and is determined on a case-by-case basis.<sup>86</sup>

## ITEMS THAT DO NOT MEET THE DEFINITION OF PUBLIC RECORDS

In some instances, handwritten notes are not considered to be public records. In a Florida Supreme Court case, one of the specific findings was that a consultant's handwritten notes were not public records.<sup>87</sup> The court contrasted the definition of public records with those materials that were prepared as drafts or notes, mere precursors of governmental records, and which were not intended as final evidence of the knowledge to be recorded.<sup>88</sup>

Personal e-mails of government officials and employees are not considered to be public records. The Florida Supreme Court has determined that, because personal e-mails were not created or received in connection with the official business of a governmental agency, such e-mails are not public records subject to disclosure.<sup>89</sup> Furthermore, the Court held that just because the personal e-mails were sent or received on a government-owned computer system, the personal e-mails still did not fall within the definition of public records.<sup>90</sup> As another example, a District Court held that an email sent by an elected official from a personal account using a personal computer and copied to friends and supporters, was not a public record, because the email was not made in connection with official agency business.<sup>91</sup>

In most cases, private or personal telephone records are not considered public records subject to disclosure. For example, in one court case, it was held that private or personal cellular telephone calls of governmental employees, who were provided with cellular telephones as part of their employment, were not public records subject to disclosure, and therefore could be redacted.<sup>92</sup> However, records of cellular telephone calls that are related to the agency's business would be subject to disclosure.<sup>93</sup> Also, the Attorney General's Office has opined that telephone records made on an agency's telephones were public records, even if the calls were personal and the employee reimbursed the agency for the calls.<sup>94</sup>

Also, private or personal text messages would not be considered public records subject to disclosure. For example, in an informal opinion dated June 2, 2009, the Florida Attorney General's Office opined that *private* text messages made or received by a commissioner during a city commission meeting would not appear to be public records subject to disclosure.<sup>95</sup>

## PUBLIC RECORDS: EXAMPLES AND EXEMPTIONS

In general, all public records are open for public inspection and copying, unless the Legislature has specifically exempted them from disclosure or the records have been made confidential by law. Section 119.07(1)(d), Florida Statutes provides that the records custodian shall redact only that portion of the record for which an exemption has been asserted and validly applies and shall produce the remainder of the record. Further, the records custodian shall state the basis for the exemption, including the statutory citation, and if requested, shall provide in writing and with particularity the reasons for concluding that the record is exempt.<sup>96</sup>

The exemptions listed below are illustrative and not exhaustive.

- **Personnel information.** Unless specifically exempted, the Florida courts have consistently held that information contained in government employee personnel files are public records subject to disclosure.<sup>97</sup> However, social security numbers of current and former employees are exempt.<sup>98</sup> Furthermore, employee medical records, medical claims records, medical reports, medical information, and employee assistance program information are exempt from disclosure.<sup>99</sup>



In addition, certain personal information (home addresses, telephone numbers, social security numbers, photographs, dates of birth, etc.) of judges, firefighters, paramedics, active or former law enforcement personnel, correctional officers, code enforcement officers, animal control officers, human resource managers, state attorneys, statewide prosecutors, guardians ad litem, and public defenders, are exempt from disclosure.<sup>100</sup>

- All ***social security numbers*** held by a public agency are confidential and exempt from disclosure.<sup>101</sup>
- ***Bank account numbers and debit, charge, and credit card numbers*** are also exempt.<sup>102</sup>
- ***Attorney work-product.*** A public record prepared by an agency attorney (or prepared at the attorney's express direction) that reflects a mental impression, conclusion, litigation strategy, or legal theory of the attorney or agency, and that was prepared exclusively for civil or criminal litigation or for adversarial administrative proceedings, or that was prepared in anticipation of same, is exempt until the conclusion of the litigation or adversarial administrative proceedings.<sup>103</sup> An agency asserting the work product exemption must identify the parties, or potential parties, to the litigation or administrative proceedings.<sup>104</sup>
- ***Data processing software.*** There is an exemption for certain data processing software, including sensitive agency-produced software, as well as software obtained under a licensing agreement which prohibits disclosure and which is a trade secret.<sup>105</sup>
- ***Building plans.*** Building plans, blueprints, schematic drawings, and diagrams, including draft, preliminary, and final formats, that depict the internal layout and structural elements of a building, arena, stadium, water treatment facility, or other structure owned or operated by an agency are exempt from disclosure.<sup>106</sup> In addition, the building plans, blueprints, schematic drawings, and diagrams, including draft, preliminary, and final formats, that depict the internal layout or structural elements of a recreation facility, entertainment complex, industrial complex, or retail/office/hotel/motel developments are exempt.<sup>107</sup>
- ***Security system plans*** held by an agency are confidential and exempt from disclosure.<sup>108</sup>
- ***Acquisition of property.*** When a county seeks to acquire real property for a public purpose, the appraisals, offers, and counteroffers are exempt for a limited time.<sup>109</sup>
- ***Bids.*** Sealed bids, proposals, or replies received by a government agency in connection with competitive solicitations are exempt from disclosure for a limited period of time.<sup>110</sup> In addition, financial statements which an agency requires a prospective bidder to submit in order to prequalify to bid, or respond to a proposal, for a road or other public works project, are exempt from disclosure.<sup>111</sup>



- **Public library registration and circulation records**, with the exception of statistical reports, are exempt.<sup>112</sup>
- **Children participating in recreation programs or camps.** Certain identifying information of children who participate in government-sponsored recreation programs or camps is exempt from public records disclosure. This includes any information that would identify or locate the child or the child's parent or guardian.<sup>113</sup>
- Certain **criminal intelligence information and criminal investigative information** are exempt from disclosure, such as the identity, address, telephone numbers and personal assets of crime victims.<sup>114</sup>
- **Records of emergency calls** which contain patient examination or treatment information are confidential and exempt and may not be disclosed without the consent of the person to whom the records pertain. However, limited disclosure may be made to the parent of a minor, guardian, next of kin (if the patient is deceased), hospital personnel (for use in treating the patient), or via subpoena.<sup>115</sup>

#### **DUTIES AND PROCEDURES FOR RESPONDING TO PUBLIC RECORDS REQUESTS**

A common misconception is that public records requests must be in writing. Although a written request may be more helpful for narrowing the request, there is no statutory requirement that the public records request must be in writing.<sup>116</sup> Rather, the request may be made either in writing or verbally. In addition, there is no requirement that the requestor must reveal his or her name, or the identity of any other person on whose behalf the requestor is acting, unless the records custodian is required by law to obtain this information.<sup>117</sup>

Public records requests must be responded to in a timely fashion. An unjustified delay in complying with a public records request, whether by intentional wrongdoing or by ineptitude, will be considered by the court as an "unlawful refusal" to produce the records.<sup>118</sup>

In addition, the public agency having custody of a public record must provide a copy of the record in the medium (such as electronic) requested by a person, provided the agency actually maintains the record in the requested medium.<sup>119</sup> However, as a general rule, the agency is not required to reformat its records to meet a requestor's particular preference.<sup>120</sup>

Moreover, an agency is not required to create records that do not presently exist. Also, there is no requirement that an agency must respond to so-called "standing" requests for records the agency may receive in the future.<sup>121</sup> Further, the agency is not required to answer questions about the records or provide information from the records.<sup>122</sup>

The records custodian is required by law to withhold from disclosure any information that is designated by law as confidential and exempt from public records disclosure. This means that the records custodian should redact or conceal *only* that portion of the record for which an exemption has been asserted and validly applies. The remainder of the record must be disclosed. Further, the records custodian must state the basis for the exemption, including the statutory citation, and if requested, should provide this in writing.<sup>123</sup>

If copies of records are requested, the provision of same can be conditioned upon the payment of the copying fee permitted by law.<sup>124</sup> The statutes also provide that a reasonable "special service charge" may be assessed, if the nature or volume of the public records requested requires extensive use of information technology resources, extensive clerical or supervisory assistance, or both.<sup>125</sup> An "extensive" public records request could be any request which requires agency personnel more than 15 minutes to locate, review for confidential information, copy, and refile the requested



records.<sup>126</sup> In addition, the “labor cost” assessed as the basis for the “special service charge” may include both the salary and benefits of the employee processing the request.<sup>127</sup>

An agency is allowed to require an advance deposit before beginning work on an extensive public records request.<sup>128</sup> Furthermore, an agency may require a citizen to pay for the first batch of requested public records before the agency compiles a second batch of requested records.<sup>129</sup>

## RETENTION OF RECORDS

All state, county, and municipal agencies are required by law to comply with the public records retention schedules established by the Department of State, Division of Library and Information Services.<sup>130</sup> Public records should be kept in the buildings in which they are ordinarily used<sup>131</sup> and must not be destroyed until the required retention periods have been met.<sup>132</sup>

Pursuant to the State’s General Records Schedule GS1-SL for State and Local Government Agencies, records created or maintained in electronic format must also be retained in accordance with the minimum records retention requirements.<sup>133</sup> This includes e-mail, instant messaging, text messaging, multimedia messaging, chat messaging, social networking, or any other current or future electronic messaging technology or device.<sup>134</sup> Printouts of these electronic communications can be retained in place of the actual electronic files, provided that the printed record contains all date/time stamps and routing information. However, if litigation is anticipated to ensue on a particular issue, the agency must maintain any legally discoverable electronic files in native format.<sup>135</sup>

## CIVIL ACTIONS RELATING TO PUBLIC RECORDS

State law provides for an accelerated court hearing process if litigation ensues over the refusal to provide public records, thus giving the case priority over other pending cases on the court’s docket.<sup>136</sup> If the court determines that an agency unlawfully refused to permit a public record to be inspected or copied, then the court *shall* assess and award reasonable costs of enforcement, including reasonable attorneys’ fees.<sup>137</sup> Even if the agency denies access to records based on a good faith, but mistaken, belief that the documents are exempt, the intent of this statute is to reimburse the legal expenses of the party that sought permission to view the wrongfully withheld records.<sup>138</sup> Furthermore, once litigation has commenced to enforce compliance with the public records law, subsequently providing the records sought will not avoid the assessment of costs and fees.<sup>139</sup>

## CONSEQUENCES OF FAILING TO PRODUCE PUBLIC RECORDS

Any *person* who *willfully* and *knowingly* violates any of the provisions of Chapter 119, Florida Statutes, is guilty of a misdemeanor of the first degree, which is punishable by up to one year in jail and a \$1,000 fine.<sup>140</sup> Any *public officer* who violates *any* provision of Chapter 119 is guilty of a noncriminal infraction, punishable by a fine not exceeding \$500.<sup>141</sup> However, any *public officer* who *knowingly* violates the public records law is subject to suspension and removal or impeachment and is guilty of a misdemeanor of the first degree.<sup>142</sup>

## SHAM REQUESTS

During the 2017 Legislative Session, Section 119.12, Florida Statutes was amended to address problems with sham public records requests. This was in response to public records lawsuits against governmental entities that were apparently motivated solely to generate attorney’s fees. Section 119.12(3), Florida Statutes now provides the following protections:

1. To be entitled to an award of attorney’s fees, the complainant (person requesting the records) must provide written notice of the public records request to the records custodian;



2. The complainant must not have requested to inspect or copy public records or participated in the civil action for an “improper purpose”; and
3. If there is an “improper purpose” (as determined by the court), the complainant may not recover any costs or attorney’s fees or costs and is responsible for paying the government entity’s attorney’s fees and costs.

“Improper purpose” is defined as “a request to inspect or copy a public record or to participate in the civil action primarily to cause a violation of [Chapter 119] or for a frivolous purpose.”<sup>143</sup>

## NOTES

<sup>1</sup> Art. I, § 24(b), Fla. Const.; § 286.011(1), Fla. Stat. (2017).

<sup>2</sup> § 286.011(1), Fla. Stat.

<sup>3</sup> §§ 286.011(1)-(2), Fla. Stat.

<sup>4</sup> Art. I, § 24(a), Fla. Const.; § 119.01(1), Fla. Stat.

<sup>5</sup> § 119.07(1)(a), Fla. Stat.

<sup>6</sup> *Deerfield Beach Publishing, Inc. v. Robb*, 530 So. 2d 510, 511 (Fla. 4th DCA 1988).

<sup>7</sup> *Town of Palm Beach v. Gradison*, 296 So. 2d 473, 477 (Fla. 1974).

<sup>8</sup> *Id.* at 476.

<sup>9</sup> *Hough v. Steinbridge*, 278 So. 2d 288, 289 (Fla. 3d DCA 1973).

<sup>10</sup> *Zorc v. City of Vero Beach*, 722 So. 2d 891, 901 (Fla. 4th DCA 1998), *rev. den.* 735 So.2d 1284 (Fla. 1999).

<sup>11</sup> See Fla. Atty. Gen. Op. 86-23 (1986) (election campaign function attended by two or more members of the city council was subject to Sunshine Law); *Rowe v. Pinellas Sports Authority*, 461 So. 2d 72 (Fla. 1984) (since no two individuals who were members of the same governing body were present at meeting, no Sunshine Law violation occurred).

<sup>12</sup> See *Board of Public Instruction of Broward County v. Doran*, 224 So. 2d 693, 698 (Fla. 1969). See also Fla. Atty. Gen. Op. 00-08 (2000) (forum at which two or more members of the same district board were present and discussed matters that might foreseeably come before the board for official action, was subject to the Sunshine Law).

<sup>13</sup> Fla. Atty. Gen. Op. 98-79 (1998). See also Fla. Atty. Gen. Op. 00-68 (2000) (commissioners could attend other board meetings and comment on agenda items that may subsequently come before the commission for final action, but may not engage in discussions or debate on the issues amongst themselves).

<sup>14</sup> See Fla. Atty. Gen. Op. 90-3 (1990) (citing Inf. Op. to John Blair, June 29, 1973).

<sup>15</sup> See *Blackford v. School Bd. of Orange County*, 375 So. 2d 578, 580 (Fla. 5th DCA 1978). See also Fla. Atty. Gen. Op. 75-59 (1979).

<sup>16</sup> See Fla. Atty. Gen. Op. 84-16 (1984).

<sup>17</sup> *Hough vs. Stembridge*, 278 So. 2d 288.

<sup>18</sup> *Monroe County v. Pigeon Key Historical Park, Inc.*, 647 So. 2d 857, 869 (Fla. 3d DCA 1994).

<sup>19</sup> *Lyon v. Lake County*, 765 So. 2d 785 (Fla. 5th DCA 2000), *rev. den.* 790 So. 2d 1105 (Fla. 2001).

<sup>20</sup> *Evergreen the Tree Treasurers of Charlotte County, Inc. v. Charlotte County Board of County Commissioners*, 810 So.2d 526 (Fla. 2d DCA 2002).

<sup>21</sup> *Lyon v. Lake County*, 765 So. 2d 785.

<sup>22</sup> Fla. Atty. Gen. Op. 98-21 (1998).

<sup>23</sup> Fla. Atty. Gen. Op. 98-49 (1998).

<sup>24</sup> Fla. Atty. Gen. Op. 02-53 (2002).

<sup>25</sup> See *McCoy Restaurants, Inc. v. City of Orlando*, 392 So. 2d 252 (Fla. 1980) (airlines were not, by virtue of a lease, public representatives subject to the Sunshine Law).

<sup>26</sup> § 125.001, Fla. Stat.

<sup>27</sup> § 125.66, Fla. Stat.

<sup>28</sup> Fla. Atty. Gen. Op. 73-170 (1973).

<sup>29</sup> *Yarbrough v. Young*, 462 So. 2d 515; *Rhea v. City of Gainesville*, 574 So. 2d 221.

<sup>30</sup> *Yarbrough v. Young*, 462 So. 2d 515.



- <sup>31</sup> See *Hough vs. Stemberge*, 278 So. 2d 288. See also *Law and Information Services, Inc. v. City of Riviera Beach*, 670 So. 2d 1014, 1016 (Fla. 4<sup>th</sup> DCA 1996) (whether to restrict a commission from considering a matter not on the agenda is a policy decision to be made by the legislature).
- <sup>32</sup> See Fla. Atty. Gen. Op. 03-53 (2003) (in the spirit of the Sunshine Law a commission should be sensitive to the community's concerns for advance notice and meaningful participation on controversial issues).
- <sup>33</sup> § 286.26, Fla. Stat.
- <sup>34</sup> § 286.011(6), Fla. Stat.
- <sup>35</sup> *Rhea v. School Bd. of Alachua County*, 636 So. 2d 1383. See also *Bigelow v. Howze*, 291 So. 2d 645 (Fla. 2d DCA 1974). See also Fla. Atty. Gen. Op. 03-03 (2003) (pending passage of a special law, commission meetings should be held at a place accessible to the public and within the commission's jurisdiction). See also Fla. Atty. Gen. Op. 2008-01 (2008) (council may not temporarily relocate the site of public meetings to an adjacent municipality).
- <sup>36</sup> §166.0213, Fla. Stat.
- <sup>37</sup> See §§ 125.001(2) and 166.0213(2), Fla. Stat.
- <sup>38</sup> Fla. Stat. § 286.0114(2).
- <sup>39</sup> Fla. Stat. § 286.0114(4).
- <sup>40</sup> See Fla. Atty. Gen. Ops. 92-44 (1992) and 2002-82 (2002); See also Fla. Atty. Gen. Op. 2009-56 (2009) (participation by electronic means does not constitute physical presence at a meeting for purposes of establishing a quorum).
- <sup>41</sup> Fla. Atty. Gen. Op. 92-44 (1992).
- <sup>42</sup> Fla. Atty. Gen. Op. 03-41 (2003).
- <sup>43</sup> Fla. Atty. Gen. Op. 02-66 (2002); Fla. Atty. Gen. Op. 2009-56 (2009).
- <sup>44</sup> *Id.*
- <sup>45</sup> Fla. Atty. Gen. Op. 2008-65 (2008).
- <sup>46</sup> Fla. Atty. Gen. Op. 89-39 (1989).
- <sup>47</sup> Fla. Atty. Gen. Op. 08-07 (2008).
- <sup>48</sup> Fla. Atty. Gen. Op. 2009-19 (2009).
- <sup>49</sup> Fla. Atty. Gen. Op. 2008-65 (2008).
- <sup>50</sup> Art. I, § 24(c), Fla. Const.
- <sup>51</sup> Art. I, § 24(c), Fla. Const.
- <sup>52</sup> § 447.605(1), Fla. Stat.
- <sup>53</sup> § 768.28(16)(c), Fla. Stat.
- <sup>54</sup> § 281.301(1), Fla. Stat.
- <sup>55</sup> § 286.011(8), Fla. Stat.
- <sup>56</sup> §286.0113(2), Fla. Stat.
- <sup>57</sup> *Id.*
- <sup>58</sup> *Id.*
- <sup>59</sup> *City of Dunnellon v. Aran*, 662 So. 2d 1026 (Fla. 5th DCA 1995).
- <sup>60</sup> *School Bd. of Duval County v. Florida Publishing Co.*, 670 So. 2d 99 (Fla. 1st DCA 1996).
- <sup>61</sup> Atty. Gen. Op. 01-10 (2001). See also *Zorc v. City of Vero Beach*, 722 So. 2d 891 (attendance of city clerk and deputy city clerk at closed attorney-client meetings was improper and violated Sunshine Law).
- <sup>62</sup> *Anderson v. City of St. Pete Beach*, 161 So. 3d 548 (Fla. 2d DCA 2014).
- <sup>63</sup> § 286.01(1), Fla. Stat.
- <sup>64</sup> *Town of Palm Beach v. Gradison*, 296 So. 2d 473.
- <sup>65</sup> *Id.*
- <sup>66</sup> *Zorc v. City of Vero Beach*, 722 So. 2d 891.
- <sup>67</sup> *Blackford v. School Board of Orange County*, 375 So. 2d 578; *Tolar v. School Board of Liberty County*, 398 So. 2d 427 (Fla. 1981).
- <sup>68</sup> *Zorc v. City of Vero Beach*, 722 So.2d 891.
- <sup>69</sup> § 286.011(3)(a), Fla. Stat.
- <sup>70</sup> § 286.011(3)(b), Fla. Stat. See also §§ 775.082(4)(b), 775.083(1)(e), Fla. Stat.
- <sup>71</sup> See *Board of Public Instruction of Broward County v. Doran*, 224 So. 2d at 699 (construing the statute to impliedly require a charge and proof of scienter).
- <sup>72</sup> *Lyon v. Lake County*, 765 So.2d 785.
- <sup>73</sup> § 286.011(4), Fla. Stat.



<sup>74</sup> *Id.*

<sup>75</sup> §§ 286.011(4)-(5), Fla. Stat. *See also, Dascott v. Palm Beach County*, 988 So.2d 47 (Fla. 4th DCA 2008), *rev. den.*, 6 So. 3d 51 (Fla. 2009).

<sup>76</sup> *See id.*

<sup>77</sup> § 119.01(1), Fla. Stat. (2011); Art. I, § 24(a), Fla. Const.

<sup>78</sup> § 119.011(2), Fla. Stat. (2011); Art. I, § 24(a), Fla. Const.

<sup>79</sup> § 119.07(1)(a), Fla. Stat.

<sup>80</sup> Fla. Atty. Gen. Op. 08-07 (2008).

<sup>81</sup> § 119.011(12), Fla. Stat.

<sup>82</sup> *Shevin v. Byron, Harless, Schaffer, Reid & Associates, Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

<sup>83</sup> Fla. Atty. Gen. Op. 2009-19 (2009).

<sup>84</sup> *See Bent v. State*, 46 So. 3d 1047 (Fla. 4th DCA 2010), citing *State v. City of Clearwater*, 863 So. 2d 149, 154 (Fla. 2003).

<sup>85</sup> *State v. City of Clearwater*, 863 So. 2d at 154.

<sup>86</sup> *Id.* at 151.

<sup>87</sup> *Shevin v. Byron, Harless, Schaffer, Reid & Associates, Inc.*, 379 So.2d 633.

<sup>88</sup> *Id.* at 640.

<sup>89</sup> *State v. City of Clearwater*, 863 So. 2d 149.

<sup>90</sup> *Id.*

<sup>91</sup> *Butler v. City of Hallandale Beach*, 68 So. 2d 278 (Fla. 4th DCA 2011).

<sup>92</sup> *Media General Operation, Inc. v. Feeney*, 849 So. 2d 3 (Fla. 1st DCA 2003), *rev. den.* 857 So. 2d 196 (Fla. 2003).

<sup>93</sup> *Id.*

<sup>94</sup> Fla. Atty. Gen. Op. 99-74 (1999).

<sup>95</sup> Inf. Op. to Trovato, June 2, 2009.

<sup>96</sup> §§ 119.07(1)(e), 119.07(1)(f), Fla. Stat..

<sup>97</sup> *Tribune Co. v. Cannella*, 458 So. 2d 1075 (Fla. 1984).

<sup>98</sup> § 119.071(4)(a), Fla. Stat. (2009).

<sup>99</sup> *See* §§ 119.071(4)(b), 112.08(7), 125.585, 440.125, 760.50(5), Fla. Stat.

<sup>100</sup> *See* § 119.071(4)(d), Fla. Stat.

<sup>101</sup> §§ 119.071(4)(a); 119.071(5)(a), Fla. Stat.

<sup>102</sup> § 119.071(5)(b), Fla. Stat.

<sup>103</sup> § 119.071(1)(d), Fla. Stat.

<sup>104</sup> § 119.071(1)(d)2, Fla. Stat.

<sup>105</sup> § 119.071(1)(f), Fla. Stat.

<sup>106</sup> § 119.071(3)(b), Fla. Stat.

<sup>107</sup> § 119.071(3)(c), Fla. Stat.

<sup>108</sup> § 119.071(3)(a), Fla. Stat.

<sup>109</sup> § 125.355, Fla. Stat.

<sup>110</sup> § 119.071(1)(b), Fla. Stat.

<sup>111</sup> § 119.071(1)(c), Fla. Stat.

<sup>112</sup> § 257.261(1), Fla. Stat.

<sup>113</sup> § 119.071(5)(c), Fla. Stat..

<sup>114</sup> § 119.071(2)(h)-(j), Fla. Stat.

<sup>115</sup> § 401.30(4), Fla. Stat.

<sup>116</sup> *Dade Aviation Consultants v. Knight Ridder, Inc.*, 800 So. 2d 302, 305 n.1 (Fla. 3d DCA 2001).

<sup>117</sup> *See* Fla. Atty. Gen. Op. 92-38 (1992).

<sup>118</sup> *See Barfield v. Town of Eatonville*, 675 So. 2d 223, 225 (Fla. 5th DCA 1996).

<sup>119</sup> § 119.01(2)(f), Fla. Stat.

<sup>120</sup> *See Seigle v. Barry*, 422 So. 2d 63, 66 (Fla. 4<sup>th</sup> DCA 1982), *rev. den.* 431 So. 2d 988 (Fla. 1982) (stating that the intent of the public records law is to make records available in a meaningful form, but not necessarily the form which the requestor prefers); Fla. Att. Gen. Op. 97-39 (1997) (concluding that the agency was not required to furnish electronic public records in an electronic format other than the standard format routinely maintained by the agency).



- <sup>121</sup> See Inf. Op. to Worch, June 15, 1995.
- <sup>122</sup> See Fla. Atty. Gen. Op. 80-57 (1980); Fla. Atty. Gen. Op. 92-38 (1992).
- <sup>123</sup> §§ 119.07(1)(b), 119.07(1)(c); 119.07(1)(d), Fla. Stat.
- <sup>124</sup> § 119.07(4), Fla. Stat.
- <sup>125</sup> § 119.07(4)(d) Fla. Stat.
- <sup>126</sup> *Florida Institutional Legal Services, Inc. v. Florida Dept. of Corrections*, 579 So. 2d 267 (Fla. 1st DCA 1991), rev. den. 592 So. 2d 680 (Fla. 1991).
- <sup>127</sup> *Board of County Commissioners of Highlands County v. Colby*, 976 So. 2d 31 (Fla. 2d DCA 2008).
- <sup>128</sup> *Id.*
- <sup>129</sup> *Lozman v. City of Riviera Beach*, 995 So. 2d 1027 (Fla. 4<sup>th</sup> DCA 2008).
- <sup>130</sup> § 119.021(2)(b), Fla. Stat.
- <sup>131</sup> § 119.021(1)(a), Fla. Stat.
- <sup>132</sup> § 257.36(6), Fla. Stat.
- <sup>133</sup> State of Florida General Records Schedule GS1-SL for State and Local Government Agencies viii (2017 ed.).
- <sup>134</sup> *Id.*
- <sup>135</sup> See *id.*
- <sup>136</sup> § 119.11(1), Fla. Stat.
- <sup>137</sup> § 119.12, Fla. Stat.
- <sup>138</sup> *Times Publishing Co., Inc. v. St. Petersburg*, 558 So. 2d 487, 495 (Fla. 2d DCA 1990). See also *News and Sun-Sentinel Co. v. Palm Beach County*, 517 So. 2d 743 (Fla. 4th Dist. App. 1987).
- <sup>139</sup> *Wisner v. City of Tampa Police Department*, 601 So. 2d 296 (Fla. 2d DCA. 1992).
- <sup>140</sup> § 119.10(2)(a), Fla. Stat.
- <sup>141</sup> § 119.10(1)(a), Fla. Stat.
- <sup>142</sup> § 119.10(1)(b), Fla. Stat.
- <sup>143</sup> § 119.12(3), Fla. Stat.



---

## ***24. Meetings Procedure, Organization, and Public Participation***

---

*Dena Hurst and Robert E. Lee*

During meetings of the board of county commissioners, decisions are made to formally set county programs in motion and authorize expenditure of funds. The legislative and executive powers and duties of the board of county commissioners are joint powers and duties and maybe exercised only as a group in meetings of the board so coordination and cooperation in public meetings are necessary. Properly organized and conducted meetings provide the structure through which the board or an individual commissioner may debate an issue and come to a decision.

### **WHAT ARE THE VARIOUS TYPES OF MEETINGS?**

---

As a county commissioner, you will participate in regular meetings, pre-meeting work sessions, executive sessions, special meetings, committee meetings, and public hearings.

#### **REGULAR MEETINGS**

Regular meetings are official meetings held periodically to consider such business as policy decisions, approval of contracts, approval of budgets, and taxes and fees, among other things. The time and frequency of meetings are usually specified in a county's enabling act, or in county resolution to ordinances.

#### **PRE-MEETING WORK SESSIONS**

Pre-meeting work sessions can facilitate decision-making by providing commissioners the opportunity to discuss issues in advance of regular meetings, finalize agendas, or create consent agendas. Work sessions are subject to the same notice requirements as regular meetings addressing county business.

#### **EXECUTIVE SESSIONS**

County commission meetings that are closed to the public often are often referred to as executive sessions. Such meetings may only be held for very limited purposes; remember the intent of Sunshine Laws is to keep government processes visible to the public. For example, the board of county commissioners may go into executive session to discuss the acquisition of real estate or hold a collective bargaining strategy session, discuss county litigation, or, in rare cases, discuss important security issues (e.g., security system design for a water plant). Only persons necessary to the discussion may attend executive sessions and may include the members of the board of county commissioners, a clerk, manager or administrator, and the county attorney.

#### **SPECIAL MEETINGS**



These meetings are usually convened to discuss and vote on one or a few issues. Often these are matters that directly affect certain citizens, many of whom will attend the meeting to argue for or against the proposed action. Holding a special meeting on a controversial subject is a good way to avoid a prolonged regular meeting and to focus the staff's and elected officials' attention on the matter at hand.

## **COMMITTEE MEETINGS**

Much of the work of the board of county commissioners may be done through committees. In essence, county commissioners have the power to provide for a division of labor by creating committees to research or gather information, make reports on pending or contemplated actions, and for other purposes relating to their legislative function.

It is important to keep in mind that committees are instruments of the board of county commissioners. Commissioners may accept or reject the advice and recommendations given by committee, but the commission may not delegate its powers to the committee: the commission has to make its own decision with input from the committee. If the board adopts or ratifies the recommendations of the committee, those recommendations become the act of the board of county commissioners. Committee meetings are subject to the requirements of open meetings laws in the same manner as regular meetings.

## **PUBLIC HEARINGS**

Public hearings allow citizens to express opinions on matters of importance. Some hearings may be held immediately prior to, during, or following a regular meeting or at other places and times that the commission determines. Generally, no official action is taken during a public hearing. Some hearings, such as those for zoning decisions, adoption of the budget, or setting property tax millage are required by law. Hearings, whether required or voluntary, are called by the county commission in order to gather facts related to proposed action, gauge public opinion, or allow citizens to voice concerns.

## **WHO PARTICIPATES IN MEETINGS?**

---

In addition to the commissioners, several other officials perform tasks vital to the conduct of meetings. These include the clerk, the county administrator or manager, and the county attorney.

## **PRESIDING OFFICER**

The chair of the board of county commissioners is generally the presiding officer of the county commission meetings. The performance of the presiding officer is the key to effective, businesslike meetings. He or she ensures that meetings are orderly, conducted in conformity with the rules of procedure, and progress appropriately. At the same time, the presiding officer is responsible for ensuring that county commission members and citizens have ample opportunity to express their views. To be an effective presiding officer, the chair must:

- have a sense of fair play;
- use good manners;
- maintained decorum, even under tense situations;
- act quickly to restore order if a disturbance occurs;



- preserve each participant's right to speak without interruption;
- limit discussion to questions on the floor;
- disallow attacks on members or their motives;
- insist that all remarks be addressed to the chair;
- exercise self-control and not be drawn into verbal battles; and
- maintain dignity and composure.

## **COMMISSIONERS**

All commissioners share with the presiding officer the responsibility for properly conducted meetings. This responsibility includes having a respect for one another's views and willingness to compromise, whenever possible, for the good of the county.

Commissioners must use their best judgment on how much time to spend examining a problem before reaching a decision. Actions of the county commission should be deliberate, and the possible consequences should be carefully weighed. Members will probably never know as much as they would like to about the consequences of various actions, but failure to make a decision or take action can create as many problems as a decision made too quickly. Moreover, commissioners should not allow a vocal minority that chooses to attend a particular meeting to unduly determine the outcome of the decision. Commissioners must exercise discretion and act for the good of the majority of the citizens.

## **CLERK OF THE BOARD OF COUNTY COMMISSIONERS**

The duties of the clerk of the county commission differ significantly from county to county. They may include recording the county commission's official actions, preparing and distributing the agenda, bookkeeping and maintaining other records, preparing and processing correspondents and reports, and managing the county commission office, and in some counties, preparing the budget.

## **COUNTY ADMINISTRATOR OR MANAGER**

Whether referred to as a county administrator or county manager, this individual plays a significant role in preparing for business to be considered at county commission meetings. He or she is called upon to obtain facts and develop alternatives, sometimes to make recommendations to the county commission, and to carryout policy decisions. The county administrator's role in meetings is determined largely by the county commission. A good relationship between the county commissioners and the administrator can result in a smooth connection between policymaking and policy execution. Such a relationship can also improve the effectiveness of the county commission and reduce the amount of time commissioners and on county matters.

## **COUNTY ATTORNEY**

The county attorney advises the governing authority on its powers and duties and law. The county attorney is usually required to attend meetings to provide immediate legal advice and to keep current on county programs and problems. Upon request, the county attorney prepares resolutions or ordinances, contracts, and other legal documents. The county attorney also advises other county officers on official legal matters and represents the county in court and may serve as parliamentarian to the board of county commissioners. The county attorney may also provide legal advice pertaining to litigation or other judicial actions in executive session.



Every county should have an attorney that is available to county officials at all times and to be present to advise the commissioners regarding their deliberations and decisions.

## THE PUBLIC

Virtually all meetings of the board of county commissioners as well as all meetings of committees, boards, and commissions of the county are, by law, open to the public. This means that the public must be given access to such meetings.

Although access is guaranteed by state law, citizens do not have a right to participate in all deliberations of the board of county commissioners as they conduct their meetings, unless the meeting is a public hearing. Counties are required, however, in the spirit of democratic government, to provide for some form of citizen input at meetings. Potential problems related to accommodating citizen input and keeping order can best be avoided by having a set of clearly defined written rules and procedures that cover citizen participation, including decorum. These rules and procedures should be readily available for distribution to residents and the media.

**Encourage public attendance.** Meetings of the board of county commissioners offer an excellent opportunity for residents to hear from and speak to their elected representatives. To encourage greater public participation, consider the following steps:

- **Provide adequate notice of the meeting.** If you want greater turnout, in addition to publishing the time and location in the legal notice section of the local newspaper, publish the agenda in other sections of the newspaper. Use radio and television public service announcement times. Reach out through “new media” (e.g., social networking sites) or ask local businesses to post announcements.
- **Schedule meetings for maximum attendance.** Weekday evenings are usually most convenient.
- **Make the meeting setting inviting.** The meeting room should be clean, adequately lighted, at a comfortable temperature, and large enough to accommodate the public. Ample parking should also be available. There should be good acoustics or public address system and adequate seating provided for residents. Commission members should be arranged so that they face the audience and one another.
- **Schedule business for maximum participation.** Schedule subjects of greater public interest early in the meeting so those who want to come do not have to sit through parts of the meeting that are not of interest.
- **Provide handouts.** As citizens enter the meeting room, they should be given a copy of the agenda. Other helpful items might include a seating chart of commission members and the district’s they represent if applicable, a simple organization chart of the county, and a list of the names of the department heads.
- **Use visual aids for presentations.** Topics often can be presented visually for greater clarity. Assist the media. Members of the media should be seated where they can easily see and hear the proceedings. Upon entering the meeting room, they should also be given a copy of the agenda. Data, reports, and memorandum sent with the agenda to members of the county commission prior to the meeting should also be available for them.

**Decorum.** Citizens should be held to the same standards of decorum that apply to the commissioners. Inappropriate or offensive remarks and personal attacks should not be permitted. If a



citizen becomes abusive or disrupts the meeting, the presiding officer may recess the meeting or have a deputy or other law enforcement officer remove the destructive person on the meeting, if necessary, to restore order.

## **PREPARING FOR MEETINGS**

---

A commissioner who comes to meetings unprepared may prolong the meeting and create an unfavorable impression on the media and public. Prior to each meeting, a commissioner should:

- Study the data, reports, and memoranda that accompanied the agenda;
- Review pertinent county resolutions or ordinances;
- Review alternative solutions to each problem;
- Know his or her position on various solutions; and
- Be ready to state effectively his or her position.

## **CONDUCTING A MEETING**

---

A board of county commissioners can ensure that meetings are carried out in an orderly and dignified fashion. Certain organizational matters may be addressed in the county's enabling act. If they are not, a county can adopt an ordinance addressing a variety of organizational issues such as preparation of agendas, use of consent agendas, order of business, amending agendas, decorum, abstentions, public hearings, and related matters.

### **OPEN MEETINGS**

Chapter 286 0.11, Florida Statutes, provides for a right of access for the public to government proceedings, and is equally applicable to elected and appointed boards. Under this law, there are three basic requirements:

First, meetings of public boards for commissions must be open to the public. However, just because the public has a right to access does not mean that the county governing authority must provide enough space to accommodate all members of the public. The county does have to ensure, though, that meetings are accessible to persons with disabilities as required by federal law.

Second, reasonable notice of such meetings must be given. The type of notice that is considered reasonable varies depending on type of meeting. The bottom line is that notice must be provided so as to allow members of the public reasonable opportunity to participate if they desire.

Minutes of the meeting must be taken and maintained as public record. At a minimum, the minutes must include names of commissioners present at the meeting, a description of each proposal or motion made, and a record of all votes. The minutes are intended to be a non-biased account of the business accomplished at the meeting. As such, the minute should not show any members' individual bias, nor should the record state verbatim what each member said. The minutes should never be used as a forum to comment on something said or done at the meeting. Effective minutes succinctly summarize what happened at the meeting in a straightforward narrative style. Although the specific format and content of the minutes may vary, the minutes should follow the arrangement of items on the agenda of the meeting.



## THE AGENDA

Well-run meetings require planning, especially those meetings that are likely to be controversial. Members of the board and other officers should submit agenda items for upcoming meetings well in advance of the meeting in order to allow staff sufficient time to gather necessary information for the board's consideration. The clerk may be directed to contact members of the board or other officers to solicit agenda items.

A formal, written agenda must be prepared in advance of each meeting. An agenda provides an outline of items to be considered. The agenda must include all issues that are expected to be considered at its meeting. As a courtesy, and to ensure responsible consideration of the issues coming before the commissioners, the agenda—together with appropriate data, reports, and memoranda—should be provided to each commission member at least five to seven days before the meeting. A copy of the agenda and accompanying materials should also be sent to local media in time for publication before each meeting.

Though permitted, last-minute additions to the agenda should be avoided. As a rule, the county should establish a deadline for submitting requests communications for inclusion in the agenda. Any item received after the deadline should be held over for the next meeting unless a majority of board members present at the meeting vote to add it to the agenda.

## CONSENT AGENDAS

Consent agendas can be useful when commissioners have a great deal of business to consider. Items on the consent agenda are considered as a group, without debate or amendment. Individual items, however, can be removed from the consent agenda at a meeting and put back of the regular agenda for consideration whenever a commissioner objects to a specific item on the consent agenda.

## ORDER OF BUSINESS

Meetings should follow an order of business, which should be outlined in its rules of procedure. An order of business makes it easier to prepare the agenda and minutes. A suggested order of business for regular meetings follows:

- 1) **Call to order.** The presiding officer announces the beginning of the meeting. The name of each member is called, and his or her absence for presence is recorded by the clerk. The presiding officer then determines if a quorum is present. (It is very important that you arrive on time and be prepared to start on time. Being late is rude as it shows a lack of respect for those who arrived on time.)
- 2) **Minutes.** The minutes of the previous meeting are read, followed by suggestions from members for corrections. The minutes are approved with corrections, if any.
- 3) **Reports.** Reports from committees, department heads, or the administrator manager are given.
- 4) **Old business.** Old business is items of business that must be continued from a previous meeting. For example, proposed resolutions or ordinances that must be read two or more times before enactment are read this time.
- 5) **New business.** Subjects and proposed resolutions or ordinances not previously presented to the governing authority are discussed.
- 6) **Appearances/public comments.** Individual citizens and representatives of groups, associations, and businesses appear to make statements, raise issues, present petitions, or otherwise address the commissioners.



- 7) **Adjournment.** When there is no further business, the presiding officer adjourns the meeting. (End meetings on time. This shows the respect for the time people have dedicated to the meeting.)

## **QUORUM**

A specific number of commissioners, a *quorum*, must be present at a meeting for it to be considered valid. Requiring a quorum to conduct business and make decisions helps guarantee that all commission members are included in the decision making, and by extension, that all residents are represented in the process. A quorum usually consists of the majority of the positions on the board, unless otherwise stated.

## **VOTING**

The underlying principle of any deliberative body, including boards of county commissioners, is the concept of majority vote. That is, more than half the members in attendance must agree on an issue before becomes effective. Note, however, the county procedures may specify otherwise so be sure you understand your county's voting protocols.

## **ABSTENTIONS**

Although a member of the board of county commissioners may refrain from voting, commissioners are under a strong obligation to vote on all motions because decision-making is the primary responsibility of the office. A commissioner should disclose any potential conflict of interest before voting and he or she may need to abstain from voting due to the conflict. Such a scenario should always be clarified with the county attorney prior to voting.

## **RULES OF PROCEDURE**

---

In 1876 Henry Martyn Robert published *Robert's Rules of Order*, which has remained the standard parliamentary procedure guidebook for variety of organizations, including governmental bodies at the Federal, state, and local levels. The new variation, *Robert's Rules of Order Newly Revised*, is either followed by most counties or heavily influences a county's own meeting protocols.

### **PURPOSE OF RULES OF PROCEDURE**

There are several important principles that are typically represented in any adopted rules of procedure. The most important are the following:

- The purpose of parliamentary procedure is to facilitate the resolution of meeting business.
- All members of the deliberative body have equal rights, privileges, and obligations.
- Majority vote decides.
- All members of the body have a right to free discussion of every proposition presented for a decision.
- All members have the right to know the meaning of the question before the board and what its effect will be.

It is highly recommended that all counties follow some form of parliamentary procedure and that they have clear and written rules, policies and procedures that describe how meetings are to be run. It is



critical that the county attorney be directly involved in the adoption of any meeting procedures or rules of order because poorly written procedures could negatively impact the decisions made by the commission.

## GENERAL POINTS OF PROCEDURE

Based loosely on *Robert's Rules of Order*, there are a widely practiced series of steps to getting a proposal heard by the board of county commissioners. The first is to obtain the floor, which can be done in a variety of ways depending on the formality of the meeting. Usually, whoever wishes to speak addresses the chair, receives recognition from the chair, and then speaks or makes a motion.

To make a motion, the speaker states the proposal for the group to take a specific action or stance. Note that the maker of the motion should agree with the motion—meaning they should not speak against it (indeed, they are not permitted to speak against it under *Robert's Rules of Order*)—but they can vote against it.

Usually there is a second to the motion by in other member who deems the motion worthy of consideration. The purpose of the second is to make sure that at least two members think the issue is important enough to bring before the whole group. It is important to keep in mind that a person who seconds the motion does not necessarily agree with it, only that he or she feels it should be discussed. In fact, the person may disagree with the proposal but second the motion so that the group will be on record as having opposed it. If the motion does not receive a formal second, but members of the body begin to discuss the merits of the motion, the motion has been seconded.

Once the motion has been made and seconded, the chair restates the motion. Usually the restatement follows this form, “It has been moved and seconded that...” By restating the motion, the chair formally places the motion before the group and ensures that everyone heard the same proposal. Once the motion has been restated by the chair and belongs to the group and any modifications to the motion, including withdrawal, must have the consent of the group.

The next step in the process is the debate. It is at this time that the members discuss the merits of the proposal, possibly change the wording of the motion, delay action on the proposal, or refer the motion to a committee. The maker of the motion has the right to be the first to speak to the group, and generally the person who seconded the motion is given the opportunity to speak next. Thereafter, members obtain the floor by being recognized by the chair. Members can be given a time limit for speaking. Members can also be limited to speaking no more than twice on the same motion in the same day. It is good protocol to not allow members to speak a second time if a member who has not yet spoken desires the floor. During debate, members should address comments to the chair, refrain from speculating on the motives of other members, avoid side conversations, and limit comments to the issue under discussion.

If a meeting participant believes that the meeting is progressing outside the rules of order, that person can raise a “point of order.” When raising a “point of order,” the person states what rule of order has been violated or not enforced by the chairperson. A point of order cannot be used to interrupt the speaker. The chairperson has the responsibility of determining if the point is valid or not.

A point of privilege can be used to interrupt the speaker. Any meeting participant who feels that his or her rights have been infringed upon or violated may bring this point by simply stating the problem. Privilege involves the comfort or axis ability of the meeting participant and can include such things as not being able to hear, too much noise, unclear copies, etc., or more personal actions such as misquotes, misinterpretations, or insults. The chair has the responsibility of determining if the point is valid.

If a meeting participant feels that his or her point of order or point of privilege was ruled on unfairly by the chairperson, the challenge can be made to the chairperson. The chairperson can ask for a motion to uphold the chairs decision and a vote is taken. The vote by all meeting participants will decide whether the chairperson's action on the point was valid or not.

Once debate has ended, the motion is put to a vote. The chair does not have unilateral authority to end debate; however, the chair should pay close attention to the debate and ask, when



appropriate, whether the group is ready for voting. Having clear written procedures and rules that govern the debate can help prevent endless and circular discussions.

When it is time to vote, the chair puts the question forward. At this time the chair should restate the exact wording of the motion that the body will be deciding upon. It is also sound practice for the chair to state the effect of a “yes” or a “no” vote so that members are clear on their position. The chair first asks for affirmative votes, and then the negative votes. It is also good procedure for the chair to always call for the negative vote no matter how overwhelming the result may seem. The chair should then announce the results of the vote, and announce the effect—for example, that the contract has been approved or the equipment will be purchased.

## **CONCLUSION**

---

In your role as a county commissioner, you will be expected to set policies and procedures to bring about the greatest good for your county and the residents within. Most of your work will occur in front of the public in various types of meetings. Your ability to participate in those meetings, to run them efficiently and effectively, and to honor the voices of your fellow commissioners, county staff, and the public will largely determine your success in carrying out the duties and responsibilities entrusted to you by your constituents. Written and clear meeting rules and procedures will help you keep meetings on time and on task. Showing up on time to meetings, having done your homework, will ensure that you can contribute meaningfully to commission deliberations. Working closely with the public and the media will keep you attuned to the needs of your county.







---

## 25. *Community and Media Relations*

---

*Cragin Mosteller*

Over the last decade, technology has dramatically changed the way we communicate. The old model for communicating as an elected official consisted of earned media and direct mail. Earned media is responding less to press releases and looking more to Facebook, Twitter, and other online resources for story ideas. With the overtaking of e-mail and the emergence of social media, local elected officials now have an opportunity to be in control of their message more than ever.

As an elected official the key to a successful image and communications plan is accessibility and transparency. Between Sunshine Laws and the dramatic emergence of social media, people expect their elected officials to be as accessible. Candidates must go where the people are and more and more audiences are turning away from mainstream media and looking to the Internet and social media to get information and news.

Effectively communicating with constituents is about utilizing the many different tools available and not focusing on any single method of delivery as a solution. In many respects communicating effectively has become more challenging because it is difficult to find one place to reach the majority of the people. With the constant growth of the Internet the attention of constituents is spread out with no single source as the ‘go to’ place for information; therefore, you must go to them using resources such as blogs, Facebook and Twitter, mass e-mails and texts, and the mainstream media.

With more direct access to your constituents through e-mail and social networking, local officials are empowered to be in control of their message and to use these tools to advance their initiatives and respond immediately to news stories by providing more detail or correcting the record. This type of direct access not only allows elected officials to advance their message but is a direct means of engaging in conversation with constituents and understanding the type of community and civil servant they support.

This chapter will walk you through three primary tools for communications: e-mails, social media and mainstream media. By being accessible and transparent it will be possible to not only use the aforementioned tools, but they will allow elected officials to more quickly respond to other opportunities that may arise.

---

### **CLEAR, CONCISE, AND CONSISTENT**

---

Regardless of how you deliver your message having a clearly defined message is important. Before you write an e-mail, send a tweet or do an interview prepare by answering the following:

- Who is the audience you are trying to reach?
- What do you want them to know?
- Develop your key messages (no more than three messages should be conveyed at a time, and they should be short and to the point)

As an elected official you will have to make many decisions and voice opinions throughout the course of a term. Having ‘guiding principles,’ three main themes or core values, can help guide



the decision-making process and ensure consistency in those decisions. By having a clear, concise and consistent process, every decision can be brought back to those ‘guiding principles.’

For example, Commissioner A determines that he stands for family values, lower taxes and home rule. A decision to lower impact fees is before the board and Commissioner A decides to vote against the lowering of the fees. Critics could argue this goes against his guiding principle of lowering taxes, but Commissioner A explains to his community that his family values helped him make this decision knowing that safe roads, clean water, and good schools were important to all families.

By establishing a clear, concise, and consistent message every decision elected officials can bridge back to that message and build and establish their “brand.”

## HANDLING A DEBATE

---

As stated in the opening words of this chapter, technology has changed the way we communicate. Conversations are not just one-on-one; they are online where hundreds can watch and hear your point of view and many of them are looking for you to make a mistake. Interviewers will try to put you on the defensive as you express your decision-making process.

The old adage that there is no such thing as bad news is not entirely wrong. Controversy is not necessarily mean negative as it can do wonders for your community and those looking for a strong leader. But controversy can have negative impacts if handled incorrectly. Here are some key things to remember when engaging in an online conversation, debate, or interview:

- **Never let them see you sweat:** This may be your passion but if you lose your cool, everyone stops listening to your message and starts watching the show (and not in a good way).
- **Tell the truth:** Nothing is private—everything is public—and if you lie you will get caught.
- **Be respectful:** You may not agree with the person you are talking to but they took time to reach out and talk with you and to get engaged. Honor that.
- **Do not get defensive:** It may be hard, but state your opinion, explain what led you to that decision, and be proud.
- **Stay positive:** A great debate can be fun, so do not let it get too intense. Focus on why your plan works, and not just on the pitfalls of their plan.
- **NEVER get personal:** Debate the issue not the person.
- **Know when to walk away:** It may be hard to end a debate, but if both sides have said their peace then end the conversation with a phrase like, “Thank you for such a lively discussion. I’ve had a great time, but it looks like on this issue we’ll have to agree to disagree. Hopefully in the future we can team up because you’d be a great person to have on my team.”

## KEEPING IN TOUCH WITH YOUR CONSTITUENTS

---

With the change in communications over the last decade, direct communications with individuals has become more important than ever. During your campaign you likely built up lists of supporters and ways to contact them. It is important that this list does not die with the end of your campaign, but that you incorporate it as a part of your role as a county commissioner.



A key to being accessible and transparent is sharing with your constituents what you are doing as a county commissioner, what policies are important to you, and what are you considering as you make important decisions. It is important to invite your citizens into the process to hear their viewpoints and explain your own.

By having the power to e-mail your community directly, it frees you from being dependent on the mainstream media to adequately express your message. Through regular communications with your constituents you can provide them with the information and use this tool as a chance to add additional information to a news story or correct the record if necessary.

Here are some key ways to use constituent contact lists:

- E-mail a periodic newsletter for regular updates
- Use e-mail or text to encourage participation in a county commissioner meeting
- Ask for their feedback on a big issue
- E-mail your thoughts on a particularly tough vote

You will be amazed that as you e-mail more frequently, more constituents will ask to be included in the e-mail chain. This is a great opportunity to have more of citizens engaged in county government. E-mail is a significant tool that can help you be more accessible and transparent.

At public forums and speaking events encourage listeners to join your e-mail list or follow you on social media. If your list becomes too large to manage there are inexpensive programs that can be used to help you manage your contacts and e-mails. In addition, you can divide your list to target specific groups with specific interests. Perhaps, you have a core group of supporters that will always come out to cheer you on; you may want to e-mail them invitations to events. Or there might be a group interested in mainly environmental issues so you may e-mail them with specific environmental questions.

## **HOW TO HANDLE CRITICISM**

Whether through e-mail, social networking or mainstream media, when you put yourself out there it means you are more open to praise and criticism. Understanding how to handle criticism is important in communications. You should be proud of your policy stances while understanding of other arguments.

When responding to criticism:

- Be forthright in your opinion
- Do not belittle the critic
- Regardless of the complaint, a citizen took the time to write – acknowledge and thank them for “caring enough to complain”
- Do not try to be all things to all people—disagreements happen
- Do not be defensive—sometimes you have to agree to disagree
- Thank them for taking the time
- Acknowledge their opinion and that you’ve heard them
- Express the reasons that lead you to your opinion
- Encourage them to continue to contact you.

While not pleasant, criticism is a part of public service, and it is important to learn how to handle it early on by using constructive criticism to become a better commissioner and acknowledging that certain criticism is venting that should not be internalized or taken personally.



## **SOCIAL MEDIA**

Are you on Facebook? Twitter? Well you should be. A recent article from *Information Week* showed that users spend the majority of their time online doing three things: social media, e-mail and playing games. Did you notice? Social media exceeds the time spent e-mailing.

There are more than 500 million users on Facebook and more than 106 million users on Twitter. If Facebook were a country it would be the 3<sup>rd</sup> most populous country in the world.

A fundamental key to strong communications is being able to respond to statements or criticism to your ‘brand’ – as an elected official, you are the brand. If you are not on social media, how can you respond?

### **Listen. Listen. Listen. LISTEN.**

More than any other social media tip, the most important thing a social media user can do is listen. There are conversations going on online from Facebook and Twitter and being a part of those conversations will ensure you are connected to your constituencies and the pulse of your community; not being a part of them can create unpleasant surprises for you.

Below are some key things to keep in mind as you enter the world of social media and begin to incorporate it as tool to communicate with your community.

### **Be Authentic**

It is important on these sites to be yourself. People want to know that you are like them—that you do your own laundry, you are raising your children, having fun, and facing challenges.

### **What to Say?**

If you spend time listening, you will get a sense of the conversation and when to join in and what you want to say. It is important on any social site to have a mix of conversations that are personal and professional.

These sites are ‘social’ media so be social. Talk about things that interest you personally — your family, a hobby, sports, etc. and take the time to talk about your policy as well.

### **Have a Conversation!**

Above all these sites are not developed to be one-way streets. They were developed as another tool to build relationships and have conversations. No, this is not the way it was done when we were kids, but it is the way kids are doing it today. Well, actually not just kids...the average age on Facebook is 37. Your communities are online so it is important to be with them where they are and be willing to have a dialogue.

### **7 Deadly Sins of Social Media**

*This section is adopted from a blog by an online consultant Jordan Raynor.*

- 1) Using Twitter only for the ‘ask’: build a relationship with your followers before asking them for dollars or anything else.
- 2) Using Twitter as another press release distribution service: Adapt your communications to fit Twitter, do not try to make Twitter fit into your release language.



- 3) Not listening: Social media is about a conversation, not just message delivery.
- 4) Forgetting that you are human: use a mix of policy and personal messages.
- 5) Sending followers on a ‘hunt’: Make sure if you link to information that it links directly to the content you want your followers to see and that they do not have to find it. Also, do not just post a link...provide a ‘teaser’ to encourage your followers to click the link.
- 6) Lying (or hiding) who is tweeting for you: As an elected official social media can be overwhelming, and it may be tempting to have staff tweet for you. Social media is about personal relationships and having staff tweet does not allow your followers to get to know you. That being said, if staff does tweet or maintain Facebook for you, make sure it is known. For example, they end every post with “-staff”. Do not have staff pretend to be you in any post.
- 7) Tweeting quotes from historical figures because you do not know what to say: Quotes are fine but should be relevant and used rarely, not often. While a quote can be inspiring people would rather hear what you think.

### **Tools**

There are great tools available to help you keep track of your many social networking accounts. Free software such as Tweetdeck allows you to keep view all of your online account feeds in one simple place. It is highly recommended that this type of software be incorporated into helping you and your staff manage online communications.

### **Other Online Sites**

Facebook and Twitter are by no means the only social media sites available to you. Take the time to explore other options that may be big in your community such as YouTube, Flickr, LinkedIn and many others.

### **Risk versus Reward**

As with anything there are risks and rewards. The positives of becoming engaged in with the online community are the opportunity to introduce more people to county government, you, and your message.

However, it is important to keep in mind that anything posted online is available for the world. Use common sense before posting and make sure you are familiar with the privacy settings for any social media site.

### **Public Records**

It is important that with any communication, especially social media, that you abide by the Sunshine Law. Take the time to learn any rules on records retention, etc., by speaking with your county attorney before engaging in social media.



## MEDIA

---

### GENERAL GUIDELINES

Working with the media can be positive or negative and often it is what we make it. There are a few pointers to keep in mind when working with the press, and this section will provide you with press and interview tips

#### The Press

- Build relationships: Get to know the reporters that cover your county. Have regular meetings with either the publisher or editorial editor of the local paper. By building a relationship they are more likely to come to you for a quote when appropriate and give you an opportunity to weigh in on county issues.
- Be honest: Honesty is the key to any successful relationship. There may be times when you have to keep things confidential, but this does not excuse lying. If you have to, learn to bridge or evade, but do not lie.
- Be positive: Do not insult other people or ideas. Focus on why your idea or position is the right one and what advantages it will provide your community.
- Manage your expectations: Do not forget that reporters have to print two sides in every article and every article may not be favorable to you or your position. That is not is a reason to burn the relationship – they are doing their job.
- Information can flow two ways: Do not be afraid to ask a reporter who they are talking to and what information they are hearing around town. They have a lot of sources and can be of help to you as well.
- Never Ever Say “No Comment”: You can always say something! And “no comment” just looks evasive. For example, if the question is on a pending vote and you are not ready to say yet how you will vote, you could say: “You know, Jane, I’m still considering my choice but what I can tell you is that I am committed to this community and will make the decision I think will be best for our county.” Or you could say, “I can’t comment on an open legal case, but what I can tell you is that I we are committed to ensuring the safety of our citizens.”
- It is acceptable to say “I don’t know”: Just make sure you follow up with, “I’ll find out.” Then get the answer and get back to the reporter.
- If you make a mistake, tell the truth, confess, apologize: It is important that if a mistake is made, you get in front of the speculation as quickly as possible, confess the mistake, and then apologize. If information from other sources dribbles out, then it turns into a multi-day story instead of what could have been a one-day story.
- Do not speculate: If you do not know, then do not give an answer. It is acceptable to say, “I don’t want to speculate.”
- Stick to what you know: As an elected official you are the master of your opinion and the policy positions you hold. Be careful not to present yourself as something you are not such as an environmental engineer, doctor, lawyer. etc.



- Do not speak for someone else: A reporter may be inclined to ask what your opponent thinks. Do not fall for this. You can respond: “I’ll let them tell you what they think, but I believe that ....”
- Do not repeat the negative: If a reporter asks you a negative question or makes an accusation, do not repeat that negative in your response. For example, a reporter asks: “Commissioner, didn’t you violate the sunshine law when you spoke with Commissioner B.” Your response should be: “I spoke with Commissioner B about her dog that has been very sick lately, a human conversation that any one of us could have.” You do NOT say: “Commissioner B and I were not violating the sunshine law.”
- Respect deadlines: Reporters are on deadlines so respect their time constraints. Get back to them before the deadline and if you cannot, let them know. Do not leave them hanging or they will not call you for a quote anymore.

## **The Interview**

There are a few tips to keep in mind for any interview that you may do with a reporter:

- **Be prepared**: Before any interview make sure to ask the reporter what they plan to ask? How long their piece is? And who else they are talking to? All of these questions will help you develop your response.
- **Think it through**: Take the time to think where the interview may be going. Where might the questions lead and what will your answers be? What tough questions might get asked? And be prepared to answer them.
- **Be honest**: Nothing is private anymore and eventually a lie will catch up to you and ruin your credibility.
- **Do not make promises you cannot deliver**: Much of what happens in government is out of our control. Do not create expectations you cannot meet.
- **Don’t fill the silence**: A key trick reporters use to keep you talking is to allow a silence after you finish each answer. Do not rush to fill it; if you have delivered your message, stop talking.
- **Respect deadlines**: Make sure to always ask when a reporter calls what their deadline is and meet it.

There is no such thing as “off the record” (sort of). “Off the record” is typically an agreement between you and the reporter that they will not quote you in the story or as source when gathering additional information. They will continue to use the information you provide to advance their story, just without your name attached. The difference between “off the record” and “on background” is how the information will be used. Typically, “on background” is used to provide the reporter with more in depth information on a subject before you go back on the record for a quote. A reporter can use your background information in the story (just not attributed to the source) or refer to it when speaking with another source.

As a rule, do not ask to go “off the record” or “on background.” Reporters prefer that you be willing to be quoted, and you will appear more transparent. It is presumed at the beginning of any interview that the conversation is on the record; if you wish it to be otherwise, make sure the reporter agrees at the BEGINNING of the conversation. You cannot say something, regret it, and ask it to be “off the record.”



## **Print**

Print reporters have more time than any other report (except perhaps an Internet reporter) to understand an issue and write about it in an in-depth manner. For a print interview all the above rules apply plus:

- Understand the topic and questions before going into the interview.
- Be prepared—know the questions and answers and practice answers to tough questions.
- Set a time limit so that you keep to your message and limit the opportunities of the interview going in a direction off message.
- Avoid jargon or acronyms.
- If they ask the same question in a different way, give the same response in a slightly different way.
- Use analogies—analogies make complicated topics simpler and can be highly quotable if short enough.

## **Radio**

For a radio interview all the above rules apply and:

- Try to be in studio but at a minimum call from a landline: You do not want to risk a dropped call or bad connection when conducting an interview. So always call from a landline or, if you can, be in studio as this will give you a chance to read the body language of the interviewee.
- Keep your answers short. No answer should exceed 20 seconds. By keeping the dialogue flowing you will allow a good exchange and easy breaks for commercials.

## **Television**

Most television interviews are for a “package” the reporter is preparing for the evening news. Each package runs between one and two minutes and of that your quote will likely only be 12 seconds. Think of the one thing you want to get across and repeat it over and over. They will edit out and down so you want to make sure that you give them less filler and stick to your message. Television reporters often walk into an interview knowing the “quote” they are looking for so if the interview lasts only 30 seconds you know they got their sound bite right away, but if it drags on it is because you are not saying what they are looking for. Stay strong. An interview is about the opportunity to express your message, not about the reporter, so even if the interview drags out stick to your message.

For a television interview the rules above apply plus:

- Look at the reporter asking the questions (unless otherwise directed).
- Smile and be yourself.
- Use your regular voice.
- Sit far back in the chair and sit up while leaning forward to appear more engaged.



- Wear non-flashy clothes and, if a woman, natural makeup. You do not want what you are wearing to distract from your message.
- Keep your answers short.
- Repeat your message; regardless of the question bridge back to the message you want to give.

### **Because “No Comment” Is Unacceptable**

A fundamental rule in speaking with the press is to never, ever say “no comment.” So below is a list of key phrases that can be said without getting into specifics:

“I fully expected it.”

“I remain hopeful.”

“I am cautiously optimistic.”

“We are reviewing our options.”

“We are not ruling anything out.”

“We look forward to reviewing.”

“We are disappointed in the outcome.”

“We are keeping an open dialogue with all interests and remain hopeful that we will reach consensus.”

“I am committed to protecting our community and serving our county”

“I remain fully engaged and am working diligently towards a positive outcome.”

### **How to Get Your ‘News’ Covered**

First you need to judge if it is news or not. Is it:

- |               |                     |                                     |
|---------------|---------------------|-------------------------------------|
| • Unusual     | • New               | • Surprising                        |
| • Interesting | • Controversial     | • Relevant                          |
| • Timely      | • Include criticism | • A local angle on a national story |

There are several tools that can be used to help announce your news and draw attention:

- Press release: This should be short and to the point and include quotes that papers can include when writing their own story.
- Press conference: A press conference should be held only for major announcements and when there is no question to the news value of what is being announced.
- Media Advisory: A media advisory is used to announce an event, i.e., a press conference, appearance, town hall meeting.
- Correspondence: Sending major letters to the press is a great way to get attention on issues the county may be facing. Writing an “official” letter to state official or



major leader lets your constituents know you are not afraid to raise questions and releasing it to the press can be a way to generate a story.

- Town Hall meetings: These are great ways to gain attention while addressing the issues of your community. However, if the meeting is on a highly controversial topic, there are many suggestions to the layout and exact timing that should be explored.
- Twitter/Text/Facebook: Announcing news in these areas can generate buzz and the attention of the news media.

## CONCLUSION

---

The rules of communication are constantly changing and keeping up is more necessary and difficult than ever. With the onset of social media there is no longer a barrier between elected official and constituents. Developing an online network is now a part of any strong communications plan.

The key to communications in today's age is diversity. You must be diverse in who you communicate with and how you communicate with them. Through effective communications you are building advocates within the community who can share with others your position, message, and core beliefs.

Public servants today must be accessible and transparent. By using e-mail, online networking, and the mainstream media you can ensure that your constituents feel connected to you and your goals as a county commissioner, even if they have never met you.

E-mail is a great way to stay in contact with your supporters and allow them to become ambassadors for you within the community and their network of friends. Social media and online networking are a great way to expand your ability to reach new people within your community. Mainstream media are still a major part of any communications strategy, but more and more their information is coming from online sources.

Effective communications can be complicated and sometimes controversial but by being accessible, transparent, and, above all, by using common sense, most of the time navigating the public relations world can be a positive and fun experience. And should it ever get too hot to handle, you can turn to your local public information officer or the Florida Association of Counties' communication director for any additional assistance or advice.



---

## 26. *The Florida Association of Counties*

---

*Ginger Delegal and Eric Poole*

---

### MISSION

---

The mission of the Florida Association of Counties is to help counties effectively serve and represent Floridians by strengthening and preserving county home rule through advocacy, education, and collaboration.

---

### BACKGROUND

---

The State Association of County Commissioners (SACC) was founded in 1929 to represent the concerns of Florida's county governments. In the early years, the SACC was managed by only two people: the president of the Association and a Tallahassee attorney. Over a span of three decades, the SACC worked with a succession of presidents on the major county issues of the time, while expanding the counties' financial base and acquiring home rule authority.

In 1968, a new state Constitution authorized home rule authority for counties. In addition, the state transferred the seventh cent of gas tax back to the counties for road maintenance and provided some revenue to counties from the state cigarette and pari-mutuel taxes. As county authority grew, so did the SACC. In 1986, the SACC changed its name to the Florida Association of Counties (FAC) and the Florida Association of Counties Trust (FACT) was launched.

With the onset of the 1990's, a full-scale communications effort began, and new investment and insurance programs were initiated that are still maximizing service delivery in Florida's counties. The Florida Counties Foundation (FCF) was established in 1990 as a private, non-profit corporation providing education, training, and technical assistance to appointed and elected county officials.

The Association's history has yielded a more visible and proactive county presence in the state legislature and state agencies, substantive education and technical assistance programs, and direct communication and publicity to county officials. FAC stands proud on the solid foundation of its past, prepared to serve its future: Florida's counties.

---

### STRUCTURE AND GOVERNANCE

---

FAC is the only association representing Florida's counties – bringing together the collective experience and knowledge of 377 county commissioners and supported by thousands of county professional staff. FAC provides the cohesive platform that enables county officials and staff to speak with a unified voice on behalf of all Floridians. Through FAC, counties are better able to serve not only their communities, but also the entire state of Florida.

The FAC is governed by a Board of Directors made-up of one county commissioner from each state Senate district (40); five executive officers; six county commissioners appointed at-large, with no more than three of the six from counties with a population of 75,000 or more; and FAC's past presidents. In addition, the chairpersons or designees of the FCF, FACT, FLGIT, FLGFC, if county



commissioners, shall be full voting members of the Board of Directors. The FAC's affiliate presidents can serve as ex-officio members of the Board of Directors. The board sets policy for the Association and approves an annual budget.

The FAC Executive Committee includes the FAC President, President-Elect, First Vice President, Second Vice President and Immediate Past President. The Executive Committee conducts the business of the Association between board meetings.

## **ADVOCACY**

---

FAC staff represents Florida's counties throughout the year before the Governor, Cabinet, Florida Legislature and various state agencies. Each year, the Florida Association of Counties, through the guidance of the membership, develops a legislative platform to present before state leaders and lawmakers. During the legislative session, FAC monitors those bills affecting county government, which is about one out of every three bills, and updates its members regularly. FAC is also active at the federal level and works with members of Congress on issues affecting Florida counties. Once a year, FAC hosts a federal fly-in for its members.

## **COMMUNICATIONS**

---

FAC is strategic in its communications efforts resulting in high visibility for Florida's counties and the association. Ongoing media relations efforts help to ensure fair and informed coverage of pertinent county issues. FAC also strives to enhance public awareness about the role and function of county government through strategic outreach initiatives. Members also benefit from a variety of printed and electronic communications produced by FAC, including the annual Membership Directory, weekly and biweekly electronic newsletters, and the FAC website, to name a few.

## **EDUCATION**

---

FAC recognizes that as Florida grows and changes, county commissioners must be aware and informed about how these changes will impact their communities. For two decades, the FCF has offered outstanding education programs designed to help county commissioners be great leaders in their communities. Educational opportunities are provided for members throughout the year on topics such as county government structure and authority, finance and budget, growth management, ethics and Sunshine Law, and Florida's legislative process, to name a few. Completion of the core curriculum of classes, which typically takes 18 months to complete, leads to the designation of Certified County Commissioner (CCC). This program is now open to county government employees under the title County Government Education Program (CGE). Commissioners who are interested strengthening their leadership skills may also participate in the Advanced County Commissioner Program (ACC), which is open to commissioners who have completed the CCC program.

In addition to these successful programs, the FCF continues to expand its educational offerings and has recently launched the following:

- Political Candidates Institute (for those interested in seeking higher office)
- Chairpersons Training Academy (for first time commission chairs)



- The FCF New Leadership Program (for those who have graduated from the ACC program)

In addition to these programs, FAC offers four conferences each year:

- *Legislative Day*: Every year during the legislative session, county officials meet with their state lawmakers, attend a briefing on legislation important to counties followed by meetings with their respective state lawmakers at the Capitol.
- *Annual Conference*: Every June, for more than 80 years, elected and appointed officials attend FAC's Annual Conference. Activities at this conference include educational workshops, general sessions, an exposition, special events and more.
- *Innovation and Policy Conference*: Members spend the first day of the conference learning about emerging technologies impacting counties through hands-on demonstrations and field trips. The second half of the conference is where members formulate the Association's legislative program for the upcoming session. New issues must be introduced at the Policy Conference for final voting by the members at Legislative Conference.
- *Legislative Conference*: Each fall, local government officials and staff meet to examine and adopt the Association's agenda for the next legislative session.

Periodically, issues arise that are of such importance to member counties that FAC will host a stand-alone summit. In the past few years, FAC has held a Medical Marijuana Summit and Hurricane Response and Recovery Summit.

## **ENTERPRISE PROGRAMS**

---

FAC has several enterprise efforts that provide goods and services to county governments. Most of these programs are designed by counties, for counties, and have been so successful that they have been made available to other local governments. These programs use the collective purchasing power of counties to reduce the cost of products and services, providing significant savings and superior quality to Florida counties.

## **OFFICE OF THE GENERAL COUNSEL**

---

The Office of the General Counsel provides legal advice and assistance to the Florida Association of Counties as it conducts the business of the Association and as it pursues the adopted goals and mission of the Association. The Office of the General Counsel provides support services to the Florida Association of County Attorneys, Inc., a separate corporation formed by the county attorneys in Florida.

The General Counsel also advocates county issues at the state and federal levels through direct participation in litigation and through the researching, drafting and filing of amicus curiae ("friend of the court") briefs in the appellate courts. The Association's Amicus Brief Policy was adopted in June of 2005. The General Counsel also provides constitutional, statutory and case law analysis on a wide variety of legislative issues throughout the year. Furthermore, the General Counsel



actively lobbies many county legislative issues at the state level. In addition, the Office of the General Counsel works with the executive branch of the state and federal government in advocating the counties' position on a variety of issues. Finally, the General Counsel participates in the education and training of county commissioners and their staffs throughout the state.

## **CONTACT INFORMATION**

---

Office Location: 100 South Monroe Street, Tallahassee, Florida 32301  
Telephone: (850) 922-4300  
FAX: (850) 488-7501

For more information about FAC including the latest legislative updates, dates for our upcoming events, and contact information for the entire FAC staff, visit the website at: [www.fl-counties.com](http://www.fl-counties.com).



---

# *Publication Sponsors*

---

## **Florida Counties Foundation**

In 1990, FAC created the Florida Counties Foundation (FCF), a private, non-profit 501(c)(3), which provides training and technical assistance. It is governed by a Board of Directors made up of elected and appointed county officials.

The mission of FCF is to enhance the leadership skills of county officials, to facilitate innovative thinking and action by those leaders, and, ultimately to enable counties to prosper as communities in the 21st century.

The Foundation oversees the five education programs: the Certified County Commissioner (CCC) Program, the Advanced County Commissioner (ACC) Program, the Torchbearer Program, the County Government Education Program (CGE) and the Florida County Government Guide.

*The Florida Association of Counties helps counties effectively serve and represent Floridians by strengthening and preserving county home rule through advocacy, education and collaboration.*







*A*

**Absolute Immunity:** Protects individuals engaged in activities that are considered sufficiently important, from a policy perspective, that society is better off protecting those engaged in such activities from lawsuits, even if it means that, occasionally, individuals will commit wrongful acts during those activities without consequence.

**Accrual Basis of Accounting:** A method of accounting in which revenues from the sale of products are recognized when they are both earned and measurable, and expenses for raw materials and labor are recorded when they are used in the production process.

**Age Discrimination in Employment Act:** Prohibits failing or refusing to hire, discharging, or otherwise discriminating against any individual because of the person's age. The prohibition applies to different treatment of two persons within the protected age group of 40 and above.

**Agency Fund:** Used to account for funds paid into an account where the government services as the custodian of resources on behalf of other governments.

**Americans with Disabilities Act:** Prohibits discrimination against covered employees based upon that individual's actual disability, perceived disability, or record of a disability.

**Assigned Fund Balance:** Amounts intended to be used by the government for specific purposes. Intent can be expressed by the government body or by an official or body to which the government body delegates the authority.

**At-Large, District Residency:** the county is divided into equally populated, geographically defined districts. A candidate runs to represent the district he or she lives in, but all voters in the county get to vote on who shall represent that district.

**At-Will Employment:** In the absence of a legal expectation of continued employment, employees have no legal entitlement to their employment.

*B*

**Bid Splitting:** Intentionally dividing a contract or purchase into two or more smaller contracts or purchases so that the cost does not exceed the amount triggering the requirement to obtain formal bids.

**Bond Anticipation Notes:** Notes issued in anticipation of the issuance of general obligation or revenue bonds.



**Capital Improvements Element (CIE):** An element of the comprehensive plan that addresses concurrency, financial feasibility and included the five-year schedule of capital improvements.

**Capital Improvements Plan (CIP):** The five-year schedule of capital improvements that is adopted as part of the Capital Improvements Element.

**Capital Projects Fund:** Used to account for the financial resources needed to pay for capital projects within the county.

**Cash Basis of Accounting:** A method of accounting that only recognizes a transaction when actual cash is exchanged, whether it is a receipt or expenditure.

**Certificate of Occupancy (CO):** The final development order that allows habitation of the structure.

**Chapter 163, Part II, Florida Statutes, The Local Government Comprehensive Planning and Land Development Regulation Act:** Florida's Growth Management Act.

**Chapter 9J-5, Florida Administrative Code:** The minimum criteria rule for local government comprehensive plans.

**Civil Rights:** Commonly refers to the rights of individuals to be free from discrimination or the deprivation of rights guaranteed by federal or statute constitutions or statutes to individuals. Both the United States Congress and the Florida legislature have enacted laws that protect the civil rights of citizens.

**Coastal High Hazard Area (CHHA):** The area below the elevation of the category 1 storm surge line as established by a Sea, Lake and Overland Surges for Hurricanes (SLOSH) model and reflected in the Regional Planning Council Regional Evacuation Study

**Code of Ethics:** Contains standards of conduct and disclosures applicable to public officers, employees, candidates, lobbyists, and others in state and local government, with the exception of judges.

**Commission-Administrator or Manager Form of Government:** A form of government in which the legislative and executive functions are divided. The board of commissioners passes ordinances but hires an administrator or manager to execute the policy and oversee the various departments under the board's control.

**Commission-Executive Form of Government:** A form of government in which there are separate roles for making policy and implementing policy. The person responsible for the executive role is elected by the county voters rather than appointed by the board of commissioners is expected to help formulate policy.

**Committed Fund Balance:** Amounts that can be used only for the specific purposes determined by a formal action of the government's highest level of decision-making authority.

**Comprehensive Annual Financial Report (CAFR):** Shows the actual results from the transactions made throughout the year and provides a comparison to the budget as amended.

**Comprehensive Plan:** A document that is prepared and adopted pursuant to Chapter 163, Florida Statutes that, once approved, is the public policy decision making guide for all decisions regarding development actions within the county.



**Concurrency:** Means that the public facilities and services needed to support development are available concurrent with the impacts of such development.

**Concurrency Management System (CMS):** The mechanism that ensures that public facilities and services needed to support development are available concurrent with the impacts of such development.

**Conflict or Conflict of Interest:** Defined in Florida Statutes as a “situation in which regard for a private interest tends to lead to disregard of a public duty or interest.”

**Consultant’s Competitive Negotiation Act:** A consultant selection process applicable to counties seeking the professional services of an architect, professional engineer, landscape architect, registered entities performing land surveying or mapping, or design-builders.

**County Manager/Administrator:** Responsible for administration of all departments within county government that are responsible to the board of county commissioners and for the proper administration of all affairs under the jurisdiction of the board.

**County Charter:** A state grant of authority that sets forth governmental boundaries, powers and functions, structure and organization, methods of finance, and means of electing or appointing local officials.

**County Seat:** Location where the principal offices and permanent records of all the county officers must be located.

*D*

**Debt Service Fund:** Used to account for the financial resources to pay the principle and interest on debt.

**Declaratory Judgment:** A declaration of the claimant’s rights made in a lawsuit by a judge.

**Department of Community Affairs (DCA):** The state of Florida’s planning agency.

**Department of Environmental Protection (DEP):** The state agency responsible for protection of natural resources.

**Department of Education (DOE):** The state agency responsible for the state education system.

**Department of Transportation (DOT):** The state agency responsible for the state transportation system.

**Development Order (DO):** A permit for development that allows at least some phase of development to commence.

**Development of Regional Impact (DRI):** Developments of Regional Impact are developments which based upon their size, scale, location and/or magnitude have a substantial effect on the citizens of more than one county.

**Dillon’s Rule:** Dillon’s Rule stated that a local government possesses only those powers that are expressly delegated to it from the sovereign state, those necessarily implied from the express grant, or those implied from the municipality’s very existence. Dillon’s rule prevailed in Florida, with limited and notable exception, until Article VIII of the 1968 Constitution dramatically reallocated constitutional power by expressly vesting in municipalities and charter counties full power of self-determination in local affairs. Since 1968, counties, in addition to municipalities in Florida have *home rule* powers.



**Drunkenness:** As grounds for suspension or removal from office, has reference to such use of spirituous, vinous, or malt liquors as impairs or incapacitates, whether slight, temporary, or permanent, an officer in the efficient discharge of his or her official duties

*E*

**Eminent Domain:** The fundamental power of the sovereign to take private property for a public use without the property owner's consent.

**Enterprise Florida:** A public-private partnership that acts as the state's leading statewide economic development agency.

**Enterprise Fund:** Used to account for services that are supported by fees on customers (e.g., water, waste water, electricity, docks, golf courses, etc.).

**Entrepreneurial Budgeting:** Adds a community value perspective to the budgeting process. For example, how do spending proposals achieve the strategic priorities of the county to the satisfaction of the customers of government services? Two different approaches to entrepreneurial budgeting have gained attention in recent years: balanced score card and budgeting for outcomes.

**Equal Pay Act:** Provides for equal pay for equal work performed by both sexes working in the same position at the same establishment.

**Evaluation and Appraisal Report (EAR):** A five- to seven-year report that is used to assess and evaluate the success and failure of the local comprehensive plan. The report is also required to address changes in local conditions, changes in state and regional policies on planning and growth management and, through adoption of related amendments, to update the local comprehensive plan to address the issues raised in the EAR.

**Ex Parte Communications:** "Off the record" information provided by one party to a decision-making board member.

**Executive Sessions:** County commission meetings that are closed to the public.

**Extraordinary Vote:** Though not defined, this term appears to mean a majority plus one member of the governing board.

*F*

**Family and Medical Leave Act (FMLA):** Allows "eligible employees" of a "covered employer" to take job protected, unpaid leave, or to substitute appropriate paid leave if the employee has earned or accrued it, for up to a total of 12 work weeks in any 12 months because of: the birth of a child; the placement of a child with the employee for adoption or foster care; because the employee is needed to care for a family member (child, spouse, or parent) with a serious health condition; to care for the employee's spouse, son daughter, parent, or next of kin who is a covered service member recovering from a serious illness or injury sustained in the line of duty or active duty; any qualifying exigency" arising out of the



military service of the spouse, son, daughter, or parent of the employee; or because the employee's own serious health condition makes the employee unable to perform the functions of his or her job.

**Federal Fair Labor Standards Act:** Sets minimum wage, overtime compensation, equal pay, record keeping, and child labor standards for employers covered by the Act.

**Financial Feasibility:** The five-year schedule of capital improvements must demonstrate that the listed projects are funded by existing revenues.

**Florida Administrative Code (F.A.C.):** A special set of the state laws that are adopted pursuant to Chapter 120, Florida Statutes, The Administrative Procedures Act.

**Florida Civil Rights Act (FCRA):** Anti-discrimination law providing "freedom from discrimination because of race, color, religion, sex, national origin, age, handicap, or marital status."

**Florida Commission on Ethics:** An independent agency that was formed in 1974 to protect standards of conduct for officers and employees of state and local governments. The Commission reviews complaints made against public officers and employees for violations of the State's Code of Ethics, issues advisory opinions in response to questions from public officials about potential conflicts of interest, and maintains the financial disclosure system.

**Florida Interlocal Cooperation Act of 1969:** Seeks to allow local governmental units to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage and provide services and facilities in a manner designed to best serve local communities.

**Florida Statutes (F.S.):** General laws of Florida.

**Florida's Domestic Violence Leave Act:** Specifically requires employers with 50 or more employees to provide individuals who have been employed with the organization for at least three months with three days of leave in connection with activities related to domestic violence.

**Future Land Use Map (FLUM):** The future conditions map adopted as part of the Future Land Use Element.

*G*

**General Fund:** Usually the largest and most important in terms of the operating budget, it is defined as general because it contains all transactions not provided for in any other fund.

**General Obligation Bonds:** Obligations secured by the full faith and credit of a government unit or payable from the proceeds of ad valorem taxes of a governmental unit.

**Generally Accepted Accounting Principles (GAAP):** A set of minimum standards and guidelines for local government financial reporting and accounting established by the Government Accounting Standards Board (GASB).

**Government Accounting Standards Board (GASB):** Establishes and updates a set of minimum standards and guidelines for local government financial reporting and accounting. These policies are referred to as Generally Accepted Accounting Principles (GAAP).



## *H*

**Home Rule:** A broad empowerment of local authorities to make and enforce rules in matters of genuine local concern.

**Honest Services:** Derived from the federal statutes prohibiting schemes to defraud by mail, wire, radio or television, Congress defined the phrase as a “scheme or artifice to defraud,” as “a scheme or artifice to deprive another of the intangible right of *honest services*.”

## *I*

**Immigration and Nationality Act:** Prohibit certain types of employment discrimination regarding legal immigrants to the United States. Under the Immigration and Nationality Act, employers with more than three employees are prohibited from discriminating against any person (other than an unauthorized alien) in hiring, discharging, or recruiting or referring for a fee because of a person’s national origin or in the case of a citizen or protected individual, because of the person’s citizenship status.

**Incompetency:** As grounds for removal or suspension from office, refers to any physical, moral, or intellectual quality, the lack of which incapacitates one to perform the duties of his or her office. Examples include gross ignorance or carelessness, lack of judgment or discretion or serious physical or mental defect not present at the time of election.

**Injunctive Relief:** An order made by a judge during a lawsuit compelling or restraining a particular action.

**Intergovernmental Coordination Element (ICE):** An element of the comprehensive which addresses coordination between the county and other local governments and regional and state governments.

**Interlocal Agreement:** A written, adopted agreement between two or more local governments.

**Internal Service Fund:** Similar to enterprise funds except they account for services provided within the government (i.e., to other departments or funds) rather than to the public.

**Investment Trust Fund:** Used to commingle funds (can include funds from other jurisdictions in the county) and held in trust and invested.

## *L*

**Land Development Code (LDC):** A unit set of local ordination regulations which implement the comprehensive plan.



**Land Development Regulations (LDRs):** Local ordination regulations that implement the comprehensive plan.

**Limited Revenue Bonds:** Obligations issued to pay the cost of one or more projects or improvement thereof, which are payable from funds of a governmental unit, exclusive of ad valorem taxes, special assessments, or earnings from such projects or improvements.

**Line-Item Budget:** Emphasizes the objects of expenditures allowed for each department, and it lists goods and services to be purchased (e.g., labor, supplies, utilities, capital items, etc.). The detailed line-item information can then be collected and made readily available. The line items correspond to the accounts in the accounting system and make it easy for budget overseers to compare budget amounts with actual expenditures.

**Local Government Comprehensive Planning Act (LGCPA):** Passed in 1975, the state's first planning legislation that required that all local governments have comprehensive land use plans. Updated in 1985 by the Local Government Comprehensive Planning and Land Development Regulation Act.

**Local Government Comprehensive Planning and Land Development Regulation Act:** Passed in 1985, establishes the right for citizens and adjacent local governments to have legal standing to challenge plans and amendments. It requires that all plans be financially feasible and that the plans include a concurrency management system, which ensures that the infrastructure needed to support development is available when the impacts of the development occur. This act also requires that all plans include an adopted Future Land Use Map (FLUM) and that all local governments adopt implementing land development regulations (LDRs).

**Local Preference Policies:** Purchasing and contracting policies usually provided by ordinances with the goal of providing employment opportunities for local contractors and to ensure continuous work for local businesses in an effort to provide local economic benefits.

**Level of Service Standards (LOS Standards):** A unit of capacity per demand for a public facility, used in a concurrency management system.

*M*

**Malfeasance:** As grounds for removal from office, refers to evil conduct or an illegal deed; doing that which one ought not to do; or performance of an act in an official capacity that is wholly illegal and wrongful.

**Misfeasance:** As grounds for removal or suspension from office, refers to performance by an officer in his or her official capacity of a legal act in an improper or illegal manner—literally a misdeed or trespass.

**Mutual Aid Agreements:** Based on a reciprocal relationship in which parties exchange services, usually emergency management or safety-related services: police, fire, emergency management, and related crises.



## *N*

**Neglect of duty:** As grounds for removal or suspension from office, refers to neglect or failure of an officer to do and performance of some duty imposed by virtue of his or her office or required by law.

**Negligence:** Refers to the failure to exercise the standard of care that a reasonably prudent person would have exercised in a similar situation or any conduct that falls below the legal standard established to protect others against unreasonable risk of harm.

**Nonfeasance:** as grounds for removal or suspension from office, refers to neglect or refusal without sufficient excuse, to do that which is in the officer's duty to do.

**Nonspendable Fund Balance:** Amounts that are not in a spendable form (inventory, for example) or are required to be maintained intact (the principle of an endowment fund, for example).

## *O*

**Objections, Recommendations and Comments Report (ORC Report):** A report that is issues by the Department of Community Affairs detailing the state review of a proposed comprehensive plan amendment.

**Office of Tourism, Trade and Economic Development:** oversees the state's public private economic development and tourism partnerships and also manages the state's incentive programs, advocacy programs, community and rural development programs, and Scripps Florida.

**Ordinance:** An ordinance is the mode of expressing the legislative acts of a local government.

## *P*

**Pass-Through Provider:** A company that puts a communications facility in the right-of-way but does not pay the Communications Service Tax (CST) to that municipality or county.

**Pension Trust Fund:** Used to hold funds in trust to pay for employee retirement benefits. There is usually a Board of Trustees that oversees the fund investments and expenditures.

**Performance Budgeting:** A financial management tool that not only reports information on a line-item level but also includes information on performance and outcomes (actual results achieved).

**Permanent Fund:** Used to provide for provide a permanent source of revenue for a specific purpose.

**Planning, Programming, Budgeting Systems (PPBS), or Program Budgeting:** A method of budgeting that adds to line-item and performance budgeting a process for evaluating fundamental policy questions



such as whether a program is necessary at all or how best to allocate limited resources among competing programs.

**Pre-Meeting Work Sessions:** Help facilitate decision-making by providing commissioners the opportunity to discuss issues in advance of regular meetings, finalize agendas, or create consent agendas.

**Private-Purpose Trust Fund:** Similar to investment funds except the funds are held in trust for individuals or private organizations.

**Public Employees Relations Commission:** Has jurisdiction to review a variety of employment and labor actions. Its core purpose is to serve as a labor relations board to administer the Public Employees Relations Act and resolve labor disputes in Florida's public sector. It also has the authority to define the employee unit that is appropriate for the purposes of collective bargaining.

**Public-Sector Whistleblower's Act:** Protects both employees and other persons who disclose information under the act regarding (1) any violation or suspected violation of any federal, state, or local law, rule, or regulation committed by an employee or agent of an agency or independent contractor that creates and presents a substantial and specific danger to the public's health, safety, or welfare; or (2) any act or suspected act of gross mismanagement, malfeasance, misfeasance, nonfeasance, gross waste of funds, or neglect of duty committed by an employee or agent of an agency or independent contractor.

## Q

**Qualified Immunity:** Immunity that attaches to the actions of a public official or employee when the act at issue is a discretionary act within the scope of duties of the official or employee and the act does not violate any clearly established statutory or constitutional right.

## R

**Recall:** County commissioners in charter counties, except Miami-Dade County, by operation of law, may be removed from office by elector recall.

**Regional Planning Council (RPC):** There are eleven regional planning agencies responsible for planning for regional land use issues and for addressing inter-jurisdictional impacts of developments and are the primary coordination agency for Development of Regional Impact (DRI) reviews.

**Religious Freedom Restoration Act:** State law protecting religious actors from being substantially burdened in the exercise of their faith.

**Request for Proposal (RFP):** A request for proposals for goods or services from contractors. RFPs are generally used when the public entity is incapable of completely defining the scope of work required, when the service may be provided in several different ways, when the qualifications and quality of service are considered the primary factors instead of price, or when responses contain varying levels of service which may require subsequent negotiation and specificity.

**Resolution:** A resolution is an order of a temporary character and of a ministerial nature.



**Restricted Fund Balance:** Amounts that can be spent only for the specific purposes stipulated by external resource providers (for example grant providers), constitutionally, or through enabling legislation (that is, legislation that creates a new revenue source and restricts its use).

**Retaliation Claims:** Allegations by employees that they suffered some form of adverse employment action in response to their voicing their opposition to the violation of one of the various anti-discrimination laws.

**Revenue Bonds:** Obligations issued to pay the cost of one or more self-liquidating projects, which are payable from the earnings of such projects and any special funds pledged as additional security.

**Regular Commission Meetings:** Official meetings held periodically to consider such business as policy decisions, approval of contracts, approval of budgets, and taxes and fees, among other things.

**Right to Work:** Grants employees the right to work regardless of membership or non-membership in any labor union or labor organization. Also gives employees the right, by and through a labor organization, to bargain collectively. Denies public employees the right to strike.

**Rural Areas of Critical Economic Concern (RACEC):** Regions comprised of rural communities that have been adversely affected by extraordinary economic events or natural disasters.

S

**School District:** Each county in Florida constitutes a school district. A district school system includes all public schools, classes and course of instruction, and all services and activities directly related to education in that district.

**Single-Member District:** Each commissioner is nominated and elected only by the qualified electors who reside in the same county commission district as the commissioner.

**Small Business Enterprise (SBE):** any business that (1) employs no more than 200 full-time employees and has a net worth or no more than \$5 million; or (2) has a federal Small Business Administration 8(a) certification.

**Special Assessment Bonds:** Bonds that provide for capital improvements and are paid in whole or part by levying and collecting special assessments on the abutting, contiguous, or other special benefited property.

**Special Revenue Fund:** Typically used to account for a special revenue that has specific restriction on its use. For example, a special revenue fund may be established to account for the use of a federal grant because the use of the proceeds is limited.

**Sovereign Immunity:** Comes from the ancient English law concept that “the king can do no wrong,” and generally provides that sovereign entities cannot be sued without their consent. As political subdivisions of the State of Florida, counties are considered sovereign entities subject only to those lawsuits to which the Florida legislature has consented through the creation of civil remedies against the State and its subdivisions.



**Sunshine Law:** Under Florida law, all meetings of any public board or commission at which official acts are to be taken, or at which public business is to be transacted or discussed, are required to be open and noticed to the public or held “in the Sunshine.” This is to protect the public from “closed door” politics.

*T*

**Title VII, Civil Rights Act of 1964:** Applies to employers in industries affecting commerce with 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, and any agents of such employers. Title VII prohibits employers from failing or refusing to hire or to discharge or to otherwise discriminate against any individual regarding that individual’s compensation, terms, conditions, or privileges of employment because of the individual’s race, color, religion, sex, or national origin. Title VII also prohibits employers from limiting, segregating, or classifying employees and applicants in any way that deprives or tends to deprive them of employment opportunities or adversely affect their status as employees because of their race, color, religion, sex, or national origin.

**Traditional County Commission Form of Government:** This form has been in existence nationally since the late 19<sup>th</sup> century. It is characterized by two major features: (1) the existence of a plural executive (county constitutional officers plus the board of county commissioners), and (2) a legislative body (the board of county commissioners) that performs both legislative and executive functions.

**Truth-in-Bonding Statement:** Provides the name of the county, the amount of debt, repayment period, interest rate, total interest over the life of the debt, source of payment, financial impact on the county fund affected, and the length of time it will be affected.

*U*

**Unassigned Fund Balance:** The residual classification for the general fund and includes all amounts not contained in the other classifications.

**Unfunded Mandates:** Directives from one level of government, usually federal or state, to another level of governments, usually local that require a provision of new services or expansion of existing services with no additional revenue from the directing entity.

**Urban Sprawl:** Urban development or uses that are located in predominantly rural areas, or rural areas interspersed with generally low-intensity or low-density urban uses, and that are characterized by one or more of the following conditions: (a) the premature or poorly planned conversion of rural land to other uses; (b) the creation of areas of urban development or uses which are not functionally related to land uses which predominate the adjacent area; or (c) the creation of areas of urban development or uses which fail to maximize the use of existing public facilities or the use of areas within which public services are currently provided. Urban sprawl is typically manifested in one or more of the following land use or development patterns: Leapfrog or scattered development; ribbon or strip commercial or other development; or large expanses of predominantly low-intensity, low-density, or single-use development.



*V*

**Value Adjustment Board (VAB):** Independent governmental entities created by Chapter 194 of the Florida Statutes to accept and process taxpayers' petitions contesting the value of and exemptions for real estate and personal property as assessed by the Property Appraiser's Office.

*W*

**Water Management District (WMD):** There are five regional agencies responsible for surface and groundwater issues in the state.

**Whistleblower's Act:** A state law that protects employees from retaliation for having reported violations of the law that jeopardize public health, safety, or welfare.

**Women or Minority Business Enterprise (WMBE):** A business is an MBE if it is (1) a "small business" organized to engage in commercial transactions, (2) domiciled in Florida, (3) at least 51-percent-owned by minority persons who are members of an insular group that is of a particular racial, ethnic, or gender makeup or national origin that has been subjected historically to disparate treatment due to identification in and with that group resulting in an underrepresentation of commercial enterprises under the group's control, and (4) whose management and daily operations are controlled by such persons.



---

# Index

---

- 911/Enhanced 911, 175, 182, 183
- Abstentions, 279
- Ad valorem property taxes, 217
- Age Discrimination in Employment Act of 1967, 45
- Air pollution, 145
- and Appraisal Report, 138, 139
- Andrew Jackson, 1
- animal control, 175, 184
- Animal control, 175, 184, 266
- At-will employment, 73
- Bidder's oath, 98
- Bonds, 8, 98, 100, 249, 250
- Brownfield Areas Loan Guarantee Program, 121
- Budgeting, 8, 16, 31, 35, 37, 73, 150, 152, 177, 201, 202, 203, 204, 205, 209, 210, 211, 212, 213, 214, 215, 231, 245, 246, 247, 255, 274, 275
- Capital Access Program (CAP), 121
- Capital improvement plan, 245
- Charter counties, 2, 3, 16, 18, 20, 21, 25, 26, 31, 32, 33, 35, 36, 41, 67, 91, 94, 98, 103, 104, 209, 217, 228, 230, 239
- Charter County Transit System Surtax, 229
- Children's Services Councils, 39
- Citizen's Right to Know Act, 180
- [Civil Defense](#), 163, 164
- Civil Rights Act of 1964, 44, 75, 77
- Civil Rights Violations, 43
- Clean Water Act, 143, 147, 153
- Clean Water State Revolving Fund, 148
- Clerk of the circuit court, 2, 3, 36, 41, 94, 209, 210
- Clerk of the Circuit Court, 3, 36
- Code of ethics, 92
- Code of Ethics, 57, 58, 68, 69, 72
- Collective bargaining, 73, 74, 86, 87
- Commission meetings, 14
- Commissioner compensation, 32
- Commissioner recall, 33
- Commissioner vacancies, 32
- Communications Services Tax, 239
- Community Contribution Tax Credit Program, 122
- Community Planning Act, 125, 128
- Competitive Negotiation Act, 99, 101
- Comprehensive plans, 27, 40, 125, 128, 129, 130, 131, 132, 133, 135, 138, 146, 228, 238, 246, 247
- Conflict of interest, 60, 61, 74, 86, 279
- Constitutional Gas Tax, 231, 237
- Constitutional Officers, 2
- Consultant's Competitive Negotiation Act, 93, 152
- Consultant's Competitive Negotiations Act, 93
- County administrator/manager, 275
- County Attorney, 36, 275
- County courts, 40, 177
- County Fuel Tax, 237
- County health services, 184, 185
- County Hospital Surtax, 230
- County jail, 178
- County Manager/Administrator, 35
- County seat, 31, 34
- Court Funding, 242
- Criminal Justice Standards and Training Commission, 176
- Criticism, How to handle, 285
- Debt instruments, 249
- Declaratory Judgment Act, 43
- Department of Community Affairs, 128, 135, 139, 141, 142
- Department of Corrections, 54, 176
- Department of Management Services, 183
- Dillon's Rule, 25
- disaster recovery process, 166
- Discrimination in the workplace, 43, 44, 45, 47, 73, 74, 75, 76, 77, 78, 81, 82, 83, 87, 93
- Drunkenness, 33
- Dual office-holding, 63
- Emergency management, 40, 149, 158, 175, 176, 181, 183, 254
- [Emergency Management](#), 158, 163, 164, 166, 167, 170, 171, 172, 173, 174
- Emergency Management Plan, 158
- Emergency Management Preparedness and Assistance Trust Fund, 164
- Emergency medical services, 175, 181, 241
- Eminent domain, 27
- Employ Florida Marketplace, 117
- Enterprise Florida, 107, 108, 118, 302
- Equal Pay Act, 75, 78
- Ex parte communications, 67
- Facebook, 262, 283, 286, 287, 292
- Fair Labor Standards Act, 45, 75, 78, 79
- Family Medical Leave Act, 45
- Feasibility Studies, 120
- Fees, 27, 36, 37, 44, 45, 47, 48, 49, 51, 52, 53, 67, 68, 71, 75, 76, 77, 81, 84, 88, 94, 101, 102, 177, 180, 185, 203, 205, 217, 239, 241, 242, 250, 254, 268, 273, 284
- Financial policies, 206
- Fire protection, 181

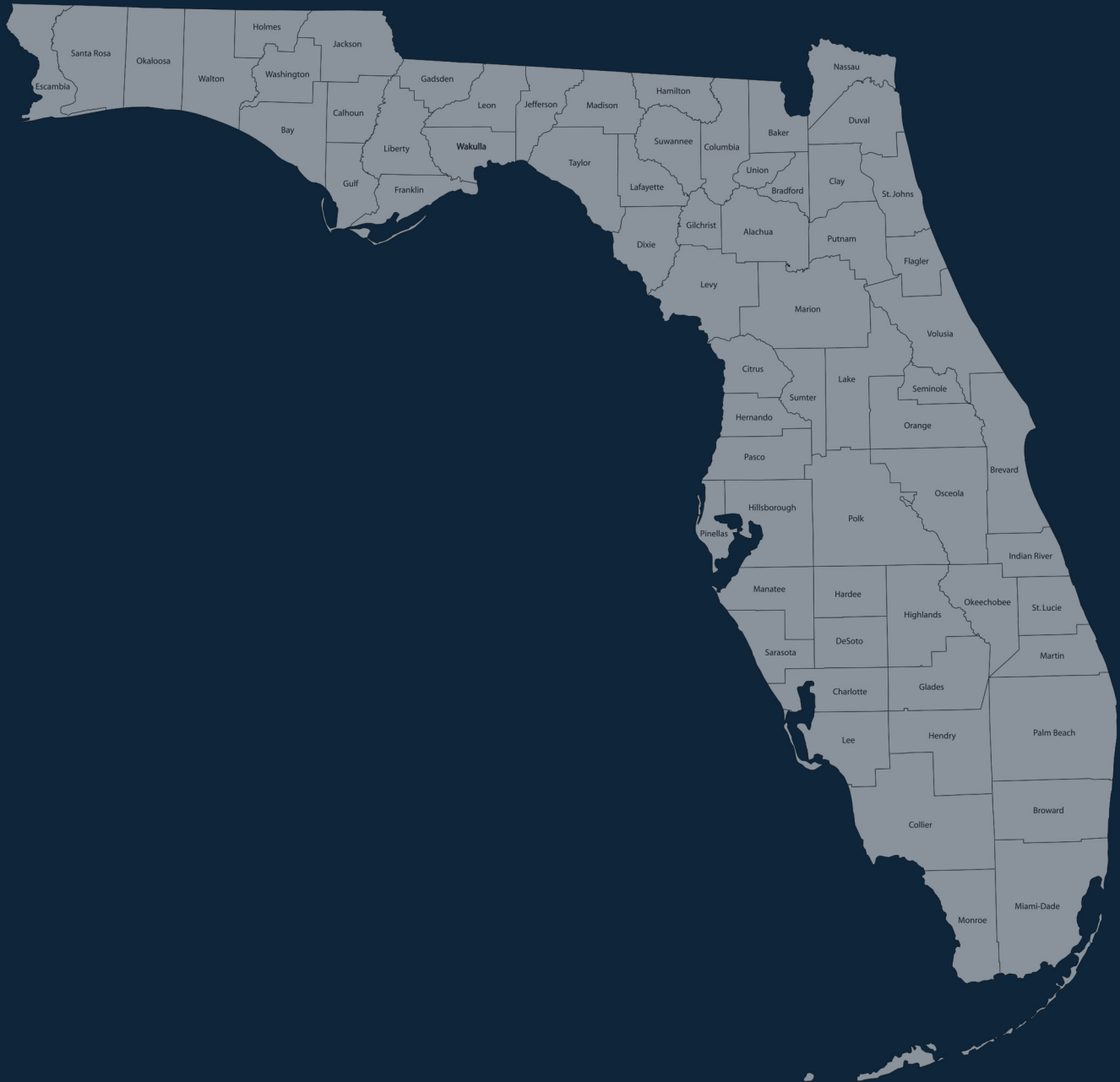


Florida Civil Rights Act, 45, 81  
 Florida Commission on Ethics, 58, 70, 71  
 Florida Constitution, 2, 3, 20, 25, 37, 84, 85, 91, 94, 176, 177, 217, 226, 231, 238, 262; 1885, 1; 1968, 1  
 Florida Department of Environmental Protection, 135, 141, 143, 144, 145, 146, 148, 153, 155, 228  
 Florida Department of Health, 184  
 Florida Department of Juvenile Justice, 179  
 Florida Department of Law Enforcement, 37, 176  
 Florida Department of Transportation, 133, 135, 152, 155  
 Florida Domestic Violence Leave Act, 82  
 Florida Impact Fee Act, 242  
 Florida Interlocal Cooperation Act of 1969, 94  
 Florida Model Jail Standards, 180  
 Florida Public Whistle-Blowers Act, 82  
 Florida Resource Directory, 120  
 Florida Whistle-Blower's Act, 83  
 Florida's Workers' Compensation Law, 82  
 Fund, Agency, 206  
 Fund, Debt Service, 205  
 Fund, Enterprise, 205  
 Fund, General, 205  
 Fund, Internal Service, 205  
 Fund, Investment Trust, 206  
 Fund, Pension Trust, 206  
 Fund, Permanent, 205  
 Fund, Special Revenue, 205  
 Future Land Use Map, 126, 127, 130, 131, 133  
 General Fund, 205  
 Generally Accepted Accounting Principles, 201  
 Government Accounting Standards Board, 158, 201  
 Governor, 1, 2, 39, 69, 84, 85, 107, 114, 115, 116, 119, 120, 142, 294  
 Growth Management Act, 125, 127, 128, 139, 228  
 Half-cent sales tax program, 240  
 Harassment in the workplace, 44, 73, 74, 75, 76  
 Hazard Mitigation Grant Program, 166, 167, 170, 173  
 Hobbs Act, 69  
 Home rule, 25, 26, 27, 28, 43, 92, 94, 125, 217, 241, 256, 284  
 Homeland Security, 163, 164, 167, 170, 171, 173  
 Immigration and Nationality Act, 77  
 Immunity, 45, 46, 47, 48, 49, 50, 51, 54, 102  
 In Absentia, 261  
 Incompetency, 33  
 Indigent Care Surtax, 229, 230  
 Individual Assistance Program, 166, 167  
 Infrastructure Surtax, 228, 229, 230  
 Intergovernmental relations, 253  
 Invitation to Bid, 95  
 Joint service agreement, 254  
 Juvenile justice, 179  
 Land development regulations, 138  
 Law enforcement, 25, 37, 86, 128, 155, 158, 175, 176, 178, 179, 180, 181, 277  
 Liability, 43, 44, 45, 47, 48, 49, 50, 51, 52, 74, 102, 240  
 Loan Guarantee Program, 121  
 Local Government Comprehensive Planning Act, 126, 139  
 Local Government Comprehensive Planning and Land Development Regulation Act, 27, 125, 139  
 Malfeasance, 33, 69  
 Medicaid, 103, 192  
 Metropolitan Planning Organizations, 40  
 Minority business enterprise, 92  
 Misfeasance, 33  
 Mixed districts, 21  
 Mutual aid agreement, 254  
 Mutual aid agreements, 184, 254  
 National Association of Counties, 70, 72  
 Neglect of duty, 33  
 Negligence, 49  
 Non-ad valorem special assessments, 37, 241  
 Nonfeasance, 33  
 Notice of Meetings, 260  
 Occupational license tax, 239  
 Offer of Judgment Act, 52, 53  
 Ordinance, 26  
 Pari-mutuel, 240, 241  
 Preclearance Review, 120  
 Pregnancy Discrimination Act, 44, 75  
 Property appraiser, 37, 38, 41, 210  
 Property Appraiser, 36, 37, 38  
 Public Assistance Program, 166, 167  
 Public Employees Relations Act, 85  
 Public Employees Relations Commission, 85, 86, 87, 88  
 Public Hospital Surtax, 229, 230  
 Public meeting agenda, 278  
 Public meeting minutes, 277  
 Public Meeting Types, 273  
 Public records, 32, 43, 52, 101, 264, 265, 267, 268  
 Public safety, 40, 50, 52, 85, 130, 146, 175, 179, 180, 213  
 Public school concurrency, 134  
 Public Service Tax, 239  
 Purchasing card, 92, 93  
 Quorum, 38, 261, 270, 278, 279  
 Regional Planning Councils, 40, 126  
 Regional Rural Development Grants Program, 120  
 Regional Workforce Board, 115, 118, 122  
 Religious Land Use and Institutionalized Persons Act, 45  
 Requests for Proposals, 95  
 Resolution, 26

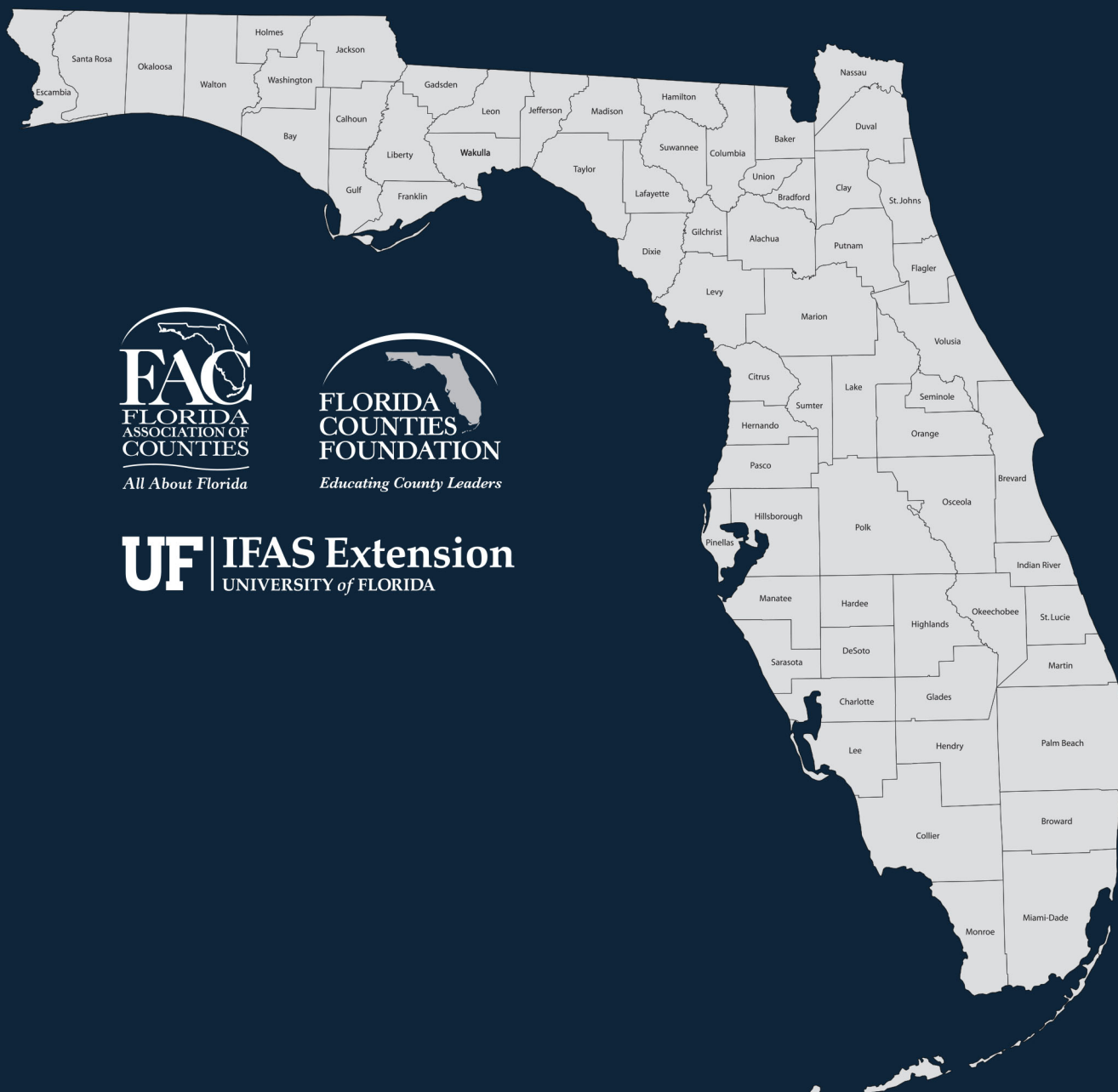


Retention of public records, 268  
 Revenue Sharing Trust Fund, 240  
 Risk management, 51  
 Robert T. Stafford Disaster Relief and Emergency Assistance Act, 167, 170  
*Robert's Rules of Order*, 279, 280  
*Rural Areas of Critical Economic Concern (RACEC)*, 308  
 Rural Community Development Revolving Loan Fund Program, 120  
 Rural Economic Development Initiative (REDI), 119  
 Rural Infrastructure Fund (RIF), 120  
 Rural Job Tax Credit Program, 121  
 Rural Regional Staffing Initiative, 120  
 Safe Drinking Water Act of 1996, 147  
 Sale of property, 32  
 School Districts, 38  
 Scope of Work, 95  
 Service contract, 254  
 Sheriff, 2, 3, 36, 37, 41, 49, 176, 178, 179, 180, 204, 205, 210  
 SHIP Act, 241  
 Single-member districts, 21  
 Small Business Administration, 92, 166, 167, 171, 308  
 Small County Surtax, 227, 229, 230  
 Social media, 283, 285, 286, 287, 292  
 Soil and Water Conservation District, 38  
 Solid waste, 131, 133, 144, 145, 147, 154, 156, 158, 184, 228, 241, 242  
 Solid Waste Management Act of 1988, 144  
 Space Florida, 107  
 State Board of Administration, 231, 250  
 State Emergency Management Act, 183  
 State of emergency, 183  
 Stewardship, 141, 146, 147, 150, 151  
 Stormwater, 39, 138, 143, 144, 147, 148, 150, 152, 153, 241, 242  
 Sunshine Law, 97, 101, 259, 260, 261, 262, 263, 264, 269, 270, 287  
 Supervisor of elections, 3, 41, 210  
 Supervisor of Elections, 8, 36  
 Suspension from Office, 32  
 Sustainability, 151, 154  
 Tax collector, 3, 34, 37, 41, 104  
 Tax Collector, 3, 36, 37  
 Temporary Assistance for Needy Families (TANF), 114  
 The Florida Civil Defense Act of 1951, 163  
 Title 42 §1983, United States Code, 44  
 Total Participation Grants, 120  
 Truth-in-bonding statement, 251  
 Twitter, 262, 283, 286, 287, 292  
 Unfunded mandates, 256  
 United States Constitution, 25, 27, 44, 47, 82, 180  
 Urban “High-Crime” Job Tax Credit Program, 121  
 Value Adjustment Boards, 38  
 Venture Capital Program, 121  
 Voting conflicts, 61  
 Wagner-Peyser, 114  
 Wastewater, 25, 28, 143, 144, 147, 148, 150, 151, 155, 156, 158  
 Water management districts, 39, 142, 146, 253  
 Water Management Districts, 39  
 Water quality, 141, 142, 143, 144, 145, 146, 147, 148, 151, 153, 156  
 Water Quality Act of 1987, 153  
 Water supply, 127, 142, 143, 144, 151, 184, 254  
 Workforce Florida Inc., 113  
 Workforce Investment Act of 1998, 113, 114









**UF** | **IFAS Extension**  
UNIVERSITY of FLORIDA

FLORIDA ASSOCIATION *of* COUNTIES

100 South Monroe Street, Tallahassee, FL 32301 • (850) 922-4300 • [www.fl-counties.com](http://www.fl-counties.com)



## Availability of Local Tax, License, and Fee Information

December 16, 2013

### Scope

As directed by the Legislature, OPPAGA reviewed the alternatives and costs for collecting local tax, license, and fee information and making such information available to the public. The review included evaluating the following issues.

- Local tax and fee information currently published and available to the public through state entities
- Examples of Florida statewide initiatives to collect and make available similar or other types of business-related information and examples of similar efforts in other states
- Alternatives for collecting additional local tax and fee information and making it available to the public via a state entity
- Issues related to requiring local government compliance with requests for additional tax and fee information

### Background

Currently, there is no consolidated state-level resource that provides businesses information about the local taxes, licenses, and fees that they will incur when launching or expanding operations in Florida. To address this issue, House Bill 121 was filed during the 2013 legislative session. The bill would have required the Department of Economic Opportunity (DEO) to create a publically accessible webpage to provide comprehensive information relevant to new or expanding businesses in Florida. The department would collect all readily available local business information and would request local governments to voluntarily provide other relevant information. As shown in Exhibit 1, the bill would have required DEO to gather a variety of data related to local taxes, fees, licenses, and other information of interest to businesses.

### Exhibit 1

#### 2013 Legislation Would Have Required DEO to Gather Local Government Tax, License, and Fee Data

| Information Required            |  |
|---------------------------------|--|
| Tax Rates                       | <ul style="list-style-type: none"> <li>▪ Current millage rates for all relevant taxing authorities, including school districts and special districts</li> <li>▪ Rate of any local discretionary sales surtax</li> <li>▪ Rate of any local option food and beverage tax</li> <li>▪ Rate of any local option fuel tax</li> <li>▪ Rate of any local public service tax</li> </ul>                                 |
| Tax and Fee Application Process | <ul style="list-style-type: none"> <li>▪ Complete schedule of local business taxes and the average time to process an application</li> <li>▪ Complete schedule and explanation of other fees or taxes that the local government may impose that would impact business</li> <li>▪ Whether application and fee information for a particular fee or tax can be found on the local government's website</li> </ul> |
| Special Regional Designation    | <ul style="list-style-type: none"> <li>▪ Whether a part or all of a local government is located in a rural area of critical economic concern, foreign trade zone, or an enterprise zone</li> </ul>   |

Source: Staff analysis for House Bill 121.



## Findings

### ***Several State-Level Sources Provide Local Tax and Fee Information; Data at the Local Level is Fragmented and Difficult to Find***

State data sources are available, but vary widely in format and geographic unit. To examine the availability of state-level local tax, license, and fee information, OPPAGA conducted a review of agency electronic data sources. We determined that at least five state entities provide information that may be useful to new or expanding businesses—the Department of Revenue (DOR), the Department of Financial Services (DFS), the Department of Economic Opportunity (DEO), Enterprise Florida, Inc., and the Legislature’s Office of Economic and Demographic Research (EDR). However, several data challenges may make it difficult for businesses to use this information to accurately calculate all the government taxes and fees associated with starting or expanding a business in Florida.

As shown in Exhibit 2, the format and level of information provided by the five state entities varies widely. Some information is provided via searchable databases, while other data must be extracted from individual reports. Moreover, the geographical level of available data ranges from a street address to a countywide level. For example, DOR’s Tax and Address Lookup System allows businesses to gather information about several taxes (e.g., discretionary sales surtax, local-option tourist development tax) via a searchable database that provides tax rates based on street address. Conversely, EDR provides similar information in two reports that capture the data at the countywide level.

In addition, reports obtainable from state-level databases do not provide a “complete picture” of the costs of all local government taxes, licenses, and fees. Available information is primarily related to taxes, not licenses or other fees, and unless a state agency collects the tax, most data sources do not capture individual tax rates or fee levels. For example, businesses directly remit sales taxes to DOR, so the department’s county-level sales tax reports contain information on the total taxes collected and associated tax rates as well as assessments and amounts for discretionary sales taxes. On the other hand, local tax collectors collect taxes related to fire control, road improvements, and solid waste and forward related information to DOR. While DOR annually reports each county’s total collections for such taxes, the department’s data does not include information on rates associated with these taxes. Similarly, using DFS’s Local Government Electronic Reporting System, businesses can generate county and municipal level reports that include total taxes and permit, license, and impact fees collected in a designated year. However, the system does not provide tax rates or fee amounts for specific taxes or fees.



## Exhibit 2

### Several State Entities Provide State and Local Tax and Fee Information Using Various Formats

| State Entity                       | Data Source (hyperlinked)  | Data Level       | Description   |
|------------------------------------|--|------------------|---|
| Department of Revenue              | <a href="#">Non-Ad Valorem Assessments by Function Type</a>                              | County           | <ul style="list-style-type: none"> <li>Community development or redevelopment</li> <li>Drainage and water control/management</li> <li>Fire control and emergency medical services</li> <li>Lighting</li> <li>Mosquito control</li> <li>Water, sewer, and solid waste</li> <li>Road improvements</li> </ul>  |
|                                    |  | Municipality     |   |
|                                    |  | Special district |   |
|                                    |  |                  |   |
|                                    |  |                  |   |
|                                    |  |                  |   |
|                                    |  |                  |   |
|                                    |  |                  |   |
|                                    |  |                  |   |
|                                    |  |                  |   |
|                                    | <a href="#">Comparison of Property Taxes Levied</a>                                      | County           | <ul style="list-style-type: none"> <li>Millage rate</li> <li>Taxes levied</li> </ul>  |
|                                    | <a href="#">Public Service Tax Rates</a><br>Searchable database                          | County           | <ul style="list-style-type: none"> <li>Broad based telecommunications</li> <li>Electric</li> <li>Fuel oil/kerosene</li> <li>Gas: Liquefied petroleum, manufactured, natural</li> <li>Local telephone service</li> <li>Water, bottled water</li> </ul>   |
|                                    |  | Municipality     |   |
|                                    | <a href="#">History of Local Sales Tax and Current Rates</a>                             | County           | <ul style="list-style-type: none"> <li>Details the history of local sales taxes imposed (by county)</li> <li>Includes the beginning, ending, and/or changes to the base tax rate</li> </ul>   |
|                                    | <a href="#">Local Government Tax Receipts by County</a>                                  | County           | <ul style="list-style-type: none"> <li>Local option sales tax</li> <li>Tourist development tax</li> <li>Convention and tourist impact tax</li> <li>Voted 1-cent, non-voted, and additional local option fuel tax</li> </ul>   |
|                                    | <a href="#">Discretionary Sales Surtax Information</a>                                   | County           | <ul style="list-style-type: none"> <li>Total surtax rate</li> <li>Effective date, expiration date</li> </ul>  |
|                                    | <a href="#">Florida Fuel Tax, Collection Allowance, Refund, and Pollutants Tax Rates</a> | County           | <ul style="list-style-type: none"> <li>State taxes</li> <li>Local option and additional local option fuel taxes</li> <li>State comprehensive enhanced transportation system motor fuel taxes</li> <li>Local option tax entitled and not entitled to collection allowance</li> <li>Licensed mass transit system provider credit/refund rate</li> </ul> |
|                                    |  |                  |   |
|                                    | <a href="#">Statewide Ad Valorem Tax Data</a>  | County           | <ul style="list-style-type: none"> <li>Millage rate</li> <li>Taxes levied (county, school, municipal, other)</li> <li>Level of assessment</li> </ul>  |
|                                    | <a href="#">Documentary Tax Collections</a>  | County           | <ul style="list-style-type: none"> <li>\$0.70 per \$100 on recordation of deeds</li> <li>\$0.35 per \$100 on notes, written obligations to pay, mortgages, and bond issuances</li> </ul>  |
|                                    | <a href="#">Tax Rate Address Lookup</a><br>Searchable database                           | Street address   | Contains taxing jurisdiction data and current tax rates for several taxes, including <ul style="list-style-type: none"> <li>State sales tax (general rate)</li> <li>Discretionary sales surtax</li> <li>Local-option tourist development tax</li> <li>Communications services tax</li> </ul>  |
|                                    |  |                  |   |
| Department of Financial Services   | <a href="#">Local Government Electronic Reporting System</a><br>Searchable database      | County           | Creates reports by county that include revenues by category, including <ul style="list-style-type: none"> <li>Impact fees</li> <li>Permit fees</li> <li>Local business taxes</li> </ul>   |
|                                    |  | Municipality     |   |
| Department of Economic Opportunity | <a href="#">Rural Areas of Critical Economic Concern Designation</a>                     | State            | State map that shows rural areas of critical concern (designations by county)   |
|                                    | <a href="#">Enterprise Zone Designation</a>  | County           | State map that shows enterprise zones by county   |
| Enterprise Florida, Inc.           | <a href="#">Foreign Trade Zone Designation</a>   | State            | State map that shows trade zone designations by county  |
|                                    |  | County           |   |



| State Entity                                | Data Source (hyperlinked)                                       | Data Level  | Description  |
|---|---|---|--|
| Office of Economic and Demographic Research | <a href="#">Florida Tax Handbook</a>                            | State<br>County<br>Municipality<br>Special district | <ul style="list-style-type: none"> <li>Provides statutory and administering authority for all specific revenue sources, and a review of tax collections and disposition, in conjunction with tax base and rate information and a brief history of sources</li> <li>Includes major local government revenue sources</li> </ul>                                      |
|   | <a href="#">Local Government Financial Information Handbook</a> | County<br>Municipality<br>Special district          | Descriptions of revenue sources, estimated revenue distributions, and adjusted population estimates used for revenue-sharing calculations, including <ul style="list-style-type: none"> <li>Revenue sources authorized by the Constitution</li> <li>Revenue sources based on home rule authority</li> <li>Revenue sources authorized by the Legislature</li> </ul> |
|   | <a href="#">Revenue Estimates</a>                               | County<br>Municipality                              | Includes estimates for <ul style="list-style-type: none"> <li>Communications services tax</li> <li>Constitutional, county, and local option fuel tax</li> <li>Local discretionary sales surtaxes</li> <li>Local government half-cent sales tax</li> </ul>  |
|   | <a href="#">Impact Fee Revenues</a>                             | County<br>Municipality                              | Total impact fee revenues  |
|   | <a href="#">Summary of Reported Local Business Tax Revenues</a> | County<br>Municipality                              | Local business tax (formerly the occupational license tax) revenues  |
|   | <a href="#">Local Discretionary Sales Surtaxes</a>              | County  | <ul style="list-style-type: none"> <li>Charter county and regional transportation system surtax</li> <li>Local government infrastructure surtax</li> <li>Small county surtax</li> <li>County public hospital surtax</li> <li>Emergency fire rescue services and facilities surtax</li> <li>School capital outlay surtax</li> </ul>                                 |
|   | <a href="#">Local Option Motor and Diesel Fuel Taxes</a>        | County  | <ul style="list-style-type: none"> <li>Motor fuel tax rates</li> <li>Unutilized county-imposed motor fuel taxes</li> <li>Diesel fuel tax rates</li> </ul>  |
|   | <a href="#">Local Option Tourist/Food and Beverage Taxes</a>    | County  | <ul style="list-style-type: none"> <li>Tourist development taxes</li> <li>Convention development taxes</li> <li>Local option food and beverage taxes</li> </ul>  |

Source: Department of Revenue, Department of Financial Services, Department of Economic Opportunity, Enterprise Florida, Inc., and the Legislature's Office of Economic and Demographic Research.

Information at the local level is fragmented and often difficult to find. To evaluate the availability of tax, license, and fee information at the local level, we examined the electronic resources of several counties and cities. Our sample included large, medium, and fiscally constrained counties; we sorted counties by population size and considered counties designated as Rural Areas of Critical Economic Concern. Our sample also considered geographic dispersion and the number of municipalities in a county.<sup>1</sup> The six counties and 17 municipalities were Hendry (Clewiston and LaBelle); Orange (Apopka, Ocoee, and Orlando); Polk (Auburndale, Bartow, Lakeland, and Winter Haven); Santa Rosa (Gulf Breeze, Jay, and Milton); Sumter (Bushnell, Center Hill, and Wildwood); and Suwanee (Branford and Live Oak).

For the counties and cities included in our review, we examined available local government information for several taxes and fees.

- Impact fees involving transportation, schools, law enforcement, parks, fire, and sewer
- Local business licenses
- Local business taxes
- Water and sewer connection rates
- Water and wastewater fees

<sup>1</sup> Using the 2010 Census, we selected several of the largest incorporated cities in each county; two of the counties had only two incorporated cities.



- Stormwater permits and fees
- Building and demolition permits and fees
- Sign ordinance permits and fees
- Tree ordinance permits and fees

Our review found significant variation in the assessment of taxes and fees as well as the availability of information about those taxes and fees.

**Impact fees.** Not all counties and cities levy impact fees, and none of the local governments levy all six of the impact fees included in our review. Specifically, of the six counties examined, the two smallest counties (Hendry and Suwannee) did not assess any impact fees. Similarly, 5 of the 17 municipalities examined did not assess any impact fees; these 5 cities were also among the smallest in our sample, with populations ranging from 533 to 5,763. For counties, the most commonly charged impact fees were fire and transportation; the converse was true for cities, with very few charging such fees. (See Exhibit 3.)

It was often difficult to determine what impact fees local governments assess and at what fee level; the availability of online information varied by county and city. Some counties, such as Orange, Polk, and Sumter, make it easy to find impact fees by listing fee types and amounts in a brochure available on the county's website. However, in other counties, such as Santa Rosa, a business would have to look at separate webpages to determine if the county assessed specific fees (e.g., the transportation impact fee is listed on one site, while the fire fee is listed on another site). Similarly, while some cities (e.g., Lakeland and Ocoee) list all of their impact fees on a single city webpage, others place their impact fee information on their county's municipal code website.<sup>2</sup> (See Appendix A for impact fee information for each county and municipality in our sample.)

### Exhibit 3

#### Counties and Cities Vary Significantly in the Impact Fees They Levy and Information They Make Available Online

|  | Transportation | Schools | Law Enforcement | Parks | Fire | Sewer |
|--|----------------|---------|-----------------|-------|------|-------|
| <b>COUNTY IMPACT FEE SUMMARY</b>   |                |         |                 |       |      |       |
| Number of counties that assess impact fee <sup>1</sup>   | 2              | 2       | 1               | 1     | 3    | 1     |
| Number of counties that list impact fee online   | 4              | 2       | 2               | 2     | 3    | 0     |
| Number of counties where impact fee listing is located on county website   | 4              | 2       | 2               | 2     | 4    | 0     |
| Number of counties where impact fee listing is not on county website, but is part of municipal code (usually Municode) or another website, like the county tax collector | 0              | 0       | 0               | 0     | 0    | 0     |
| <b>CITY IMPACT FEE SUMMARY</b>   |                |         |                 |       |      |       |
| Number of cities that assess impact fee  | 6              | 4       | 5               | 7     | 5    | 10    |
| Number of cities that list impact fee online   | 6              | 4       | 5               | 6     | 4    | 10    |
| Number of cities where impact fee listing is located on city website   | 5              | 4       | 4               | 6     | 4    | 8     |
| Number of cities where impact fee listing is not on city website, but is part of municipal code (usually Municode) or another website, like the county tax collector     | 1              | 0       | 1               | 0     | 0    | 2     |

<sup>1</sup> This number does not include counties that are authorized to assess the fee but are not doing so because they have implemented a fee moratorium. For example, Polk County has a moratorium on all impact fees with the exception of school impact fees until January 31, 2014, and Santa Rosa County suspended collection of transportation impact fees through December 2014.

Source: OPPAGA analysis of information on county, city, and municipal code websites.

<sup>2</sup> Most are hosted by Municode, an online resource that provides access to over 2,900 local government codes for counties and cities throughout the United States.



**Other local government fees.** None of the counties assessed all eight of the other fees examined, but all counties assessed building and demolition permit fees and required local licenses to perform construction or specialty trades (e.g., drywall installation, painting). The most common areas of regulation for counties were building construction and demolition, local construction licensing, tree ordinance, and signage permitting. Two of the cities assessed all eight of the other fees examined. Fifteen of the 17 cities assessed building and demolition permit fees, and 14 assessed a business tax. (See Exhibit 4.)

The availability of online information varied significantly among local governments. Counties generally listed regulations and, to a lesser degree, accompanying fees, on county websites. Websites containing municipal codes were also a source for regulations, but less so for fee information. Information on city regulations and fees was often not available on a single website. Thus, to determine if a city regulated an area and the associated fee, it was often necessary to obtain information from city websites and non-government websites containing municipal codes. In contrast, the City of Orlando provides businesses with consolidated fee and tax information through an online revenue manual that describes the revenue source (e.g., fees for sewer connection), legal authority for charging the fee, fee schedule, method and frequency of assessment, and revenue collection history. Similarly, Orange County created a fee directory that references fees and user charges levied by the various entities under the jurisdiction of the board of county commissioners. (See Appendix B for fee information for each county and municipality in our sample.)

#### Exhibit 4

##### Counties and Cities Assess a Variety of Other Fees, but Online Access to Information is Limited

|  | Local Licenses<br>for Performing<br>Construction or<br>Specialty Trades | Local<br>Business<br>Tax | Water and<br>Sewer<br>Connection<br>Fees | Water and<br>Wastewater<br>Fees | Stormwater<br>Fees and<br>Permits | Building or<br>Demolition<br>Permits<br>and Fees | Sign<br>Ordinance<br>Permits<br>and Fees | Tree<br>Ordinance<br>Permits<br>and Fees |
|--|---|--------------------------|--|---------------------------------|-----------------------------------|--|--|--|
| <b>COUNTY OTHER FEE SUMMARY</b>  |   |                          |  |                                 |                                   |  |  |  |
| Number of counties that assess other fees  | 6   | 4                        | 3  | 3                               | 2                                 | 6  | 5  | 3  |
| Number of counties that list other fees online   | 4   | 2                        | 2  | 3                               | 1                                 | 4  | 3  | 3  |
| Number of counties where other fee listing<br>is located on county website   | 2   | 1                        | 2  | 3                               | 1                                 | 4  | 3  | 3  |
| Number of counties where other fee listing<br>is not on county website, but is part of<br>municipal code (usually Municode) or<br>another website, like the county tax collector | 2   | 1                        | 0  | 0                               | 0                                 | 0  | 0  | 0  |
| <b>CITY OTHER FEE SUMMARY</b>  |   |                          |  |                                 |                                   |  |  |  |
| Number of cities that assess other fees  | 7   | 14                       | 15                                       | 15                              | 11                                | 15   | 13                                       | 9  |
| Number of cities that list other fees online   | 4   | 8                        | 13                                       | 11                              | 7                                 | 10   | 8  | 5  |
| Number of cities where other fee listing is<br>located on city website   | 4   | 6                        | 11                                       | 10                              | 7                                 | 9  | 7  | 4  |
| Number of cities where other fee listing is<br>not on city website, but is part of municipal<br>code (usually Municode) or another website,<br>like the county tax collector     | 0   | 2                        | 2  | 1                               | 0                                 | 1  | 1  | 1  |

Source: OPPAGA analysis of information on county, city, and municipal code webpages.



## ***Florida Public and Private Entities Are Implementing Initiatives to Help Businesses Access Information; Other States Have Made Similar Efforts***

Current state and private initiatives provide online information about local taxes, licenses, and fees. The 2012 Legislature passed a bill to establish an online [One-Stop Business Registration Portal](#). The law directs the Department of Revenue (DOR) to establish the portal, which is intended to provide individuals and businesses a single point of entry for completing and submitting applications for various licenses, registrations, or permits; submitting various documents that must be filed with a state agency in order to transact business in the state; and remitting payment for various required fees, including application, license, registration permit, and filing fees.<sup>3</sup> In addition to providing individuals and businesses access to state agency information, the portal is also intended to eventually provide access to local government licensing, registration, and permitting applications.

In December 2012, the department executed a contract with eGovernment Solutions to build the portal.<sup>4</sup> Phase I of the project was scheduled for completion in December 2013, but during the initial testing phase of the portal's "wizard" functionality, DOR became aware that the application was not functioning as anticipated. Portal implementation has been delayed to allow time to analyze and address these issues. According to a department official, as DOR and participating agencies continue to develop and implement Phase I, they will discuss future development concepts, including how best to integrate local government licensing and registration capabilities.

Similarly, in 2010 the Department of Environmental Protection launched a [Business Portal](#) that allows Florida residents and businesses to obtain a variety of authorizations online. Portal users can apply for commonly issued environmental authorizations, permits, certifications, and renewals; pay fees; and submit annual reports. Permits and registrations include those related to air quality, solid waste, water, and wastewater.

The site also allows users to request compliance assistance, which includes providing residents and businesses site visits and technical support to help them follow state environmental laws and avoid enforcement actions. Compliance assistance is provided at the local level through the department's six district offices, which offer services through 10 locations, and its Small Business Environmental Assistance Program. Program services include free and confidential phone consultations; notification of applicable requirements; and referrals to other environmental programs (air, water, waste).

Finally, since 2006, the Department of Financial Services has hosted a web portal that provides local-level information that may be useful to businesses wishing to establish or expand in Florida. Local governments are required to use the [Local Government Electronic Reporting](#) system (LOGGER) to submit fiscal data required by state law.<sup>5</sup> This information includes, for each local governmental entity, total revenues, total expenditures, and the amount of outstanding long-term debt. Revenue and expenditure data is reported for various account codes, including local taxes; impact fees; permits, fees, and licenses; and special assessments.

In addition to facilitating local government data submission, LOGGER allows the public to generate custom reports for counties, cities, and special districts. Report parameters include year, governmental unit, and account code. This function allows a business to generate a report that includes fiscal data for

---

<sup>3</sup> The law directed six state agencies to cooperate with DOR in developing and implementing the portal: the Department of Business and Professional Regulation; the Department of Economic Opportunity; the Department of Financial Services; the Department of the Lottery; the Department of Management Services; and the Department of State.

<sup>4</sup> The total contract award was \$4,764,181.

<sup>5</sup> According to the Department of Financial Services, developing the LOGGER system using a private vendor and department staff cost approximately \$150,000.



all the taxes and fees assessed by a local government. While this information does not include individual tax rates or fee schedules, it does provide businesses an idea of the types of taxes and fees they could expect to pay if they established operations in a county or city.

The private sector has also taken steps to facilitate access to information that may be helpful to new and expanding businesses. The Florida High Tech Council created the [Florida Virtual Entrepreneur Center](#), a free web portal designed to provide entrepreneurs access to information needed to start a business in 35 counties across the state. The portal targets resources to new, expanding, and relocating businesses and allows users to search for information at the county and municipal level. Information categories related to “starting a business” include

- licenses and permits;
- regulatory laws/issues;
- legal and tax issues;
- registration of business name; and
- small business forms.

For each these categories, users are able to access a list of the local government departments they would need to interact with in order to legally establish a business in the specified county and/or municipality.

Other states have implemented one-stop business portals. As shown in Exhibit 5, since 2000, several states have established online business portals. For example, in 2007, Michigan’s governor sought to improve the state’s business climate by reducing the time it takes businesses to begin operating and to simplify their transactions with state agencies. The online portal became operational in March 2009 and helps applicants determine what business registrations, permits, and licenses they will need; file the needed information online; and obtain tax statements and pay taxes.

However, few states’ sites allow users to access local government tax and fee information and even fewer facilitate completion of online applications for local licenses or permits. For example, Utah provides website users information on obtaining local business licenses, but businesses must complete the application process at the local level. Similarly, Kentucky’s one-stop website includes a “Local Government Wizard,” but business owners that enter their address are simply directed to the websites of local government entities with which they may need to interact. However, several states that recently launched websites have integrated local governments into their business portals. For example, the Nevada Business Portal allows local governments to integrate their business licensing processes with the portal (current participants include the City of Fernley and Churchill and Douglas counties). In Oregon, the state-level website links to some counties and cities (three counties, seven cities) and allows certain local permits and licenses to be obtained online. (See Exhibit 5.)



**Exhibit 5****Several States Implemented One-Stop Portals to Aid Businesses; Some Provide Access to Local Governments**

| State (Launch Date)   | System Name   | Functions   |
|-----------------------|---|---|
| Washington (2000)     | <a href="#">Access Washington</a>                                   | <ul style="list-style-type: none"> <li>Enables applicants to obtain a Unified Business Identifier and apply for over 100 state registrations and licenses, including business and tax registration, industrial insurance coverage, and unemployment insurance</li> <li>Can be used to obtain licenses in some municipalities</li> <li>Provides customized information and forms for specific business licensing requirements and corresponding contacts through a Business Licensing Guide Sheet</li> </ul> |
| Ohio (2002)           | <a href="#">Ohio Business Gateway</a>                               | <ul style="list-style-type: none"> <li>Allows filing of taxes, obtaining permits and licenses, business expansion assistance, and employment services</li> <li>Offers electronic registration and filing tools for commercial activity tax, sales tax, employer withholding, unemployment compensation, workers' compensation, and municipal income taxes (500 municipalities participate in the system)</li> <li>Provides information for use when starting a business</li> </ul>                          |
| Utah (2003)           | <a href="#">OneStop Online Business Registration System</a>         | <ul style="list-style-type: none"> <li>Enables applicants to register business name and type and apply for and obtain tax licenses for income tax withholding and unemployment insurance</li> <li>Provides information on obtaining local business licenses, although businesses must complete this process in the local office</li> <li>Provides link to the IRS to receive a Federal Employer Identification Number</li> <li>Provides customer assistance through e-mail and live chat</li> </ul>         |
| Hawaii (2004)         | <a href="#">Business Express</a>                                    | <ul style="list-style-type: none"> <li>Enables applicants to register a business and obtain taxpayer and employer identification numbers</li> <li>Provides customer assistance through live chat</li> </ul>   |
| South Carolina (2005) | <a href="#">South Carolina Business One Stop</a>                    | <ul style="list-style-type: none"> <li>Enables applicants to establish and register a business entity, make changes to business filings, file and pay business taxes, register as an employer, and obtain and maintain selected other licenses, permits and registrations</li> <li>Provides customer assistance through telephone, live chat, e-mail, and fax via a help center</li> </ul>  |
| Delaware (2006)       | <a href="#">One Stop Business Registration and Licensing System</a> | <ul style="list-style-type: none"> <li>Enables applicants to register and obtain business licenses and register as a withholding agent and for unemployment and workers' compensation</li> <li>Provides a link to the Department of State, Division of Corporations to access incorporation forms and reserve a legal entity name</li> <li>Provides a link to the IRS to receive a Federal Employer Identification Number</li> </ul>  |
| Michigan (2009)       | <a href="#">Michigan Business One Stop</a>                          | <ul style="list-style-type: none"> <li>Enables applicants to determine state requirements, register/start a business, register to pay taxes, pay fees, and update information</li> <li>Provides customer assistance through a call center</li> </ul>  |
| Kentucky (2011)       | <a href="#">Kentucky Business One Stop</a>                          | <ul style="list-style-type: none"> <li>Provides a statewide clearinghouse of information for starting or maintaining a business</li> <li>Allows new businesses to register with the Secretary of State and Department of Revenue using a single online application</li> <li>Includes a Local Government Wizard that allows business owners to enter their address and be directed to the websites of any local government entities with which the business may need to interact</li> </ul>                  |
| Nevada (2012)         | <a href="#">Nevada Business Portal</a>                              | <ul style="list-style-type: none"> <li>Allows businesses to seamlessly transact all their state business without having to visit several different agencies</li> <li>Shares common business registration data between users</li> <li>Allows local governments to integrate business licensing process with the portal (current participants include the City of Fernley and Churchill and Douglas counties)</li> </ul>  |
| New Jersey (2012)     | <a href="#">New Jersey Business Portal</a>                          | <ul style="list-style-type: none"> <li>Allows a business to register online for tax and employer purposes; additionally allows a business entity to cancel, dissolve, or withdrawal itself while online.</li> <li>Permits the online submission of Uniform Commercial Code financing statements</li> </ul>  |
| Oregon (2012)         | <a href="#">Oregon Business Xpress</a>                              | <ul style="list-style-type: none"> <li>Enables applicants to receive and submit registrations online through the State Central Business Registry</li> <li>Allows employers to register for payroll taxes online</li> <li>Includes a Business Wizard to determine business requirements</li> <li>Links to some counties and cities (three counties and seven cities) and allows some local permits and licenses to be obtained online</li> </ul>   |
| Massachusetts (2013)  | <a href="#">Massachusetts Business Portal</a>                       | <ul style="list-style-type: none"> <li>Provides an overview of the state's regulatory system</li> <li>Allows a business to register, pay, and file taxes online</li> <li>Facilitates access to local government municipal codes, bylaws, and ordinances if available online</li> </ul>  |

Source: OPPAGA analysis of information provided by other states.



## ***There Are Options for Providing Florida Businesses Access to Additional Local Tax, License, and Fee Information***

Currently, there is no comprehensive state-level resource that provides businesses information about the taxes and license, permit, and other fees they will incur when launching or expanding operations in Florida. Consequently, businesses often must visit numerous state and local government sites to gather the information necessary to form a corporation, apply for tax certificates, and obtain business and professional licenses.

Exhibit 6 identifies seven options that the Legislature could consider to improve businesses' access to the information necessary to make decisions about establishment and expansion. These options include encouraging various local entities to create websites that provide information relevant to new or expanding businesses (Options 1 and 2); mandating that counties or cities create such websites (Option 3); requiring state entities to expand or develop such websites (Options 4 and 5); requiring modification of an existing state agency data system to gather local tax and fee information (Option 6); and relying on an ongoing initiative to integrate local government licensing and registration capabilities (Option 7).

### **Exhibit 6**

#### **There Are Several Options for Providing Businesses Local Tax, License, and Fee Information**

| Action   | Considerations  |
|--|---|
| <b>Option 1</b><br>Encourage local economic development organizations to create websites that provide businesses relevant tax, license, and fee information                            | <ul style="list-style-type: none"> <li>▪ Likely to have existing website</li> <li>▪ Likely to have established relationships with local government entities responsible for collecting taxes and impact fees and processing licenses and registrations</li> <li>▪ Would likely incur expenses to expand website and gather tax, license, and fee information from local governments</li> <li>▪ Local tax, license, and fee information would not be available on a consolidated state-level website</li> </ul>  |
| <b>Option 2</b><br>Encourage local chambers of commerce to create websites that provide businesses relevant tax, license, and fee information  | <ul style="list-style-type: none"> <li>▪ Likely to have existing website</li> <li>▪ May have established relationships with local government entities responsible for collecting taxes and impact fees and processing licenses and registrations</li> <li>▪ As a private organization, may be hesitant to provide a service to non-member businesses</li> <li>▪ Would likely incur expenses to expand website and gather tax, license, and fee information from local governments</li> <li>▪ Local tax, license, and fee information would not be available on a consolidated state-level website</li> </ul>  |
| <b>Option 3</b><br>Require counties or cities to create websites that provide businesses relevant tax, license, and fee information  | <ul style="list-style-type: none"> <li>▪ Likely to have existing website</li> <li>▪ Have established relationships with local government entities responsible for collecting taxes and impact fees and processing licenses and registrations</li> <li>▪ Would likely incur expenses to expand website and gather tax, license, and fee information, which may be perceived by some local governments as an unfunded mandate</li> <li>▪ Local tax, license, and fee information would not be available on a consolidated state-level website</li> </ul>  |
| <b>Option 4</b><br>Require Enterprise Florida, Inc., to expand its existing "Regional and County Information" webpage to provide businesses relevant tax, license, and fee information | <ul style="list-style-type: none"> <li>▪ Has existing "Regional and County Information" webpage</li> <li>▪ Primary mission is to support, attract, and help create businesses in Florida</li> <li>▪ Has established relationships with local economic development officials and local governments</li> <li>▪ Gathering and updating tax, license, and fee information from local governments could be time consuming</li> <li>▪ Would likely incur expenses to expand website and gather tax, license, and fee information; may require legislative appropriation</li> <li>▪ Providing information to the agency could result in local governments incurring expenses, which may be perceived by some local governments as an unfunded mandate</li> </ul> |



| Action  | Considerations   |
|---|--|
| <b>Option 5</b><br>Require the Department of Economic Opportunity to expand its existing “Business Resources” webpage that provides businesses relevant tax, license, and fee information                   | <ul style="list-style-type: none"> <li>▪ Has existing “Business Resources” webpage</li> <li>▪ Primary mission is to attract, retain and grow businesses in Florida</li> <li>▪ Has established relationships with local economic development officials and local governments</li> <li>▪ Would require amending state law to mandate that local government report tax, license, and fee information (<a href="#">Ch. 288, Florida Statutes</a>)</li> <li>▪ Would likely incur expenses to expand website and gather tax, license, and fee information; may require legislative appropriation</li> <li>▪ Providing information to the department could result in local governments incurring expenses, which may be perceived by some local governments as an unfunded mandate</li> </ul>   |
| <b>Option 6</b><br>Require the Department of Financial Services to modify the LOGER System and mandate that local governments report tax rates, fee schedules, and other information relevant to businesses | <ul style="list-style-type: none"> <li>▪ Has existing data system</li> <li>▪ Has established annual reporting mechanism in place with counties and municipalities</li> <li>▪ Data system changes are already anticipated due to the Uniform Chart of Accounts (UCA) Project (<a href="#">s. 215.89, Florida Statutes</a>)</li> <li>▪ May require amending state law to mandate that local governments report tax rates and fee schedules (<a href="#">s. 218.32, Florida Statutes</a>)</li> <li>▪ Would likely incur expenses to modify data system to include fields for tax rates and fee schedules; may require legislative appropriation</li> <li>▪ Reporting additional information to the department could result in local governments incurring expenses; currently, under the Uniform Chart of Accounts Project, local governments are estimating the cost of implementing the UCA, including the cost of fulfilling reporting requirements</li> </ul> |
| <b>Option 7</b><br>Rely on the Department of Revenue’s One-Stop Business Portal to provide businesses relevant tax, license, and fee information  | <ul style="list-style-type: none"> <li>▪ Data system development in progress</li> <li>▪ System intended to eventually integrate local government licensing and registration capabilities</li> <li>▪ Legislature has already appropriated funds for the project</li> <li>▪ Project schedule has been delayed due to system functionality concerns</li> <li>▪ Integrating with the one-stop portal could result in local governments incurring expenses, which may be perceived by some local governments as an unfunded mandate</li> </ul>  |

Source: OPPAGA analysis.



## Appendix A

### Exhibit A-1 County Impact Fees<sup>1</sup>

|                          | Transportation   | Schools   | Law Enforcement  | Parks  | Fire   | Sewer  |
|--------------------------|--|---|--|--|--|--|
| Orange County            | Assessed: Yes<br>Listed: Yes<br>Located: Brochure on county website              | Assessed: Yes<br>Listed: Yes<br>Located: Brochure on county website               | Assessed: Yes<br>Listed: Yes<br>Located: Brochure on county website              | Assessed: Yes<br>Listed: Yes<br>Located: Brochure on county website              | Assessed: Yes<br>Listed: Yes<br>Located: Brochure on county website              | Assessed: Yes<br>Listed: No<br>Located: Brochure on county website   |
| Polk County <sup>2</sup> | Assessed: No<br>Listed: Yes<br>Located: County building and construction website | Assessed: Yes<br>Listed: Yes<br>Located: County building and construction website | Assessed: No<br>Listed: Yes<br>Located: County building and construction website | Assessed: No<br>Listed: Yes<br>Located: County building and construction website | Assessed: No<br>Listed: Yes<br>Located: County building and construction website | No online evidence of impact fee being assessed                      |
| Santa Rosa County        | Assessed: No <sup>3</sup><br>Listed: Yes<br>Located: County website              | No online evidence of fee being assessed  | No online evidence of fee being assessed   | No online evidence of fee being assessed   | Assessed: Yes<br>Listed: No<br>Located: County's development services website    | Assessed: Yes<br>Listed: No<br>Located: County tax collector website |
| Sumter County            | Assessed: Yes<br>Listed: Yes<br>Located: Page on county website                  | No online evidence of fee being assessed  | No online evidence of fee being assessed   | No online evidence of fee being assessed   | Assessed: Yes <sup>4</sup><br>Listed: Yes<br>Located: Page on county website     | No online evidence of fee being assessed                             |
| Hendry County            | No online evidence of fee being assessed   | No online evidence of fee being assessed  | No online evidence of fee being assessed   | No online evidence of fee being assessed   | No online evidence of fee being assessed   | No online evidence of fee being assessed                             |
| Suwannee County          | No online evidence of fee being assessed   | No online evidence of fee being assessed  | No online evidence of fee being assessed   | No online evidence of fee being assessed   | No online evidence of fee being assessed   | No online evidence of fee being assessed                             |

<sup>1</sup> Counties are listed based on their populations (largest to smallest).

<sup>2</sup> Per Polk County Ordinance No. 12-015 (dated May 15, 2012), the Board of County Commissioners has a moratorium on all impact fees with the exception of school impact fees until January 31, 2014.

<sup>3</sup> The collection of transportation impact fees for Santa Rosa County was suspended through December 2014.

<sup>4</sup> The Sumter County Fire Impact Fee Ordinance was rescinded effective October 1, 2012, with the exception of certain properties contracted for service to the Villages Public Safety Department.

Source: OPPAGA analysis of information on county, city, and municipal code webpages.



**Exhibit A-2**  
**City Impact Fees<sup>1</sup>**

|                      | Transportation   | Schools  | Law Enforcement  | Parks  | Fire   | Sewer  |
|----------------------|--|--|--|--|--|--|
| <b>ORANGE COUNTY</b> |  |  |  |  |  |  |
| Orlando              | Assessed: Yes<br>Listed: Yes<br>Located: City impact fee website | Assessed: Yes<br>Listed: Yes<br>Located: City impact fee website | No online evidence of fee being assessed                         | No online evidence of fee being assessed                         | Assessed: Yes<br>Listed: Yes<br>Located: City website            | Assessed: Yes<br>Listed: Yes<br>Located: City impact fee website |
| Apopka               | Assessed: Yes<br>Listed: Yes<br>Located: City website            | Assessed: Yes<br>Listed: Yes<br>Located: City website            | No online evidence of fee being assessed                         | Assessed: Yes<br>Listed: Yes<br>Located: City website            | No online evidence of fee being assessed                         | Assessed: Yes<br>Listed: Yes<br>Located: City website            |
| Ocoee                | Assessed: Yes<br>Listed: Yes<br>Located: City impact fee website | Assessed: Yes<br>Listed: Yes<br>Located: City impact fee website | Assessed: Yes<br>Listed: Yes<br>Located: City impact fee website | Assessed: Yes<br>Listed: Yes<br>Located: City impact fee website | Assessed: Yes<br>Listed: Yes<br>Located: City impact fee website | Assessed: Yes<br>Listed: Yes<br>Located: City impact fee website |
| <b>POLK COUNTY</b>   |  |  |  |  |  |  |
| Lakeland             | Assessed: Yes<br>Listed: Yes<br>Located: City impact fee website | Assessed: Yes<br>Listed: Yes<br>Located: City impact fee website | Assessed: Yes<br>Listed: Yes<br>Located: City impact fee website | Assessed: Yes<br>Listed: Yes<br>Located: City impact fee website | Assessed: Yes<br>Listed: Yes<br>Located: City impact fee website | Assessed: Yes<br>Listed: Yes<br>Located: City impact fee website |
| Winter Haven         | Assessed: Yes<br>Listed: Yes<br>Located: City municipal code     | No online evidence of fee being assessed                         | Assessed: Yes<br>Listed: Yes<br>Located: City municipal code     | Assessed: Yes<br>Listed: No<br>Located: City municipal code      | Assessed: Yes<br>Listed: No<br>Located: City municipal code      | Assessed: Yes<br>Listed: Yes<br>Located: City website            |
| Bartow               | Assessed: Yes<br>Listed: Yes<br>Located: City website            | No online evidence of fee being assessed                         | No online evidence of fee being assessed                         | Assessed: Yes<br>Listed: Yes<br>Located: City website            | No online evidence of fee being assessed                         | No online evidence of fee being assessed                         |
| Auburndale           | No online evidence of fee being assessed                         | No online evidence of fee being assessed                         | Assessed: Yes<br>Listed: Yes<br>Located: City impact fee website | Assessed: Yes<br>Listed: Yes<br>Located: City impact fee website | Assessed: Yes<br>Listed: Yes<br>Located: City impact fee website | Assessed: Yes<br>Listed: Yes<br>Located: City impact fee website |



| Transportation           |  | Schools                                  | Law Enforcement                                       | Parks   | Fire                                     | Sewer  |
|--------------------------|--|--|---|---|--|--|
| <b>SANTA ROSA COUNTY</b> |  |  |   |   |  |  |
| Milton                   | No online evidence of fee being assessed | No online evidence of fee being assessed | No online evidence of fee being assessed              | No online evidence of fee being assessed              | No online evidence of fee being assessed | Assessed: Yes<br>Listed: No<br>Located: Municipal code website for the city      |
| Gulf Breeze              | No online evidence of fee being assessed | No online evidence of fee being assessed | No online evidence of fee being assessed              | No online evidence of fee being assessed              | No online evidence of fee being assessed | No online evidence of fee being assessed   |
| Jay                      | No online evidence of fee being assessed | No online evidence of fee being assessed | No online evidence of fee being assessed              | No online evidence of fee being assessed              | No online evidence of fee being assessed | No online evidence of fee being assessed   |
| <b>SUMTER COUNTY</b>     |  |  |   |   |  |  |
| Wildwood                 | No online evidence of fee being assessed | No online evidence of fee being assessed | Assessed: Yes<br>Listed: Yes<br>Located: City website | Assessed: Yes<br>Listed: Yes<br>Located: City website | No online evidence of fee being assessed | Assessed: Yes<br>Listed: Yes<br>Located: City website                            |
| Bushnell                 | No online evidence of fee being assessed | No online evidence of fee being assessed | No online evidence of fee being assessed              | No online evidence of fee being assessed              | No online evidence of fee being assessed | No online evidence of fee being assessed   |
| Center Hill              | No online evidence of fee being assessed | No online evidence of fee being assessed | No online evidence of fee being assessed              | No online evidence of fee being assessed              | No online evidence of fee being assessed | No online evidence of fee being assessed   |
| <b>HENDRY COUNTY</b>     |  |  |   |   |  |  |
| Clewiston                | No online evidence of fee being assessed | No online evidence of fee being assessed | No online evidence of fee being assessed              | No online evidence of fee being assessed              | No online evidence of fee being assessed | Assessed: Yes<br>Listed: Yes<br>Located: Municipal code website for the city     |
| LaBelle                  | No online evidence of fee being assessed | No online evidence of fee being assessed | No online evidence of fee being assessed              | No online evidence of fee being assessed              | No online evidence of fee being assessed | Assessed: Unknown<br>Listed: Yes<br>Located: Municipal code website for the city |
| <b>SUWANEE COUNTY</b>    |  |  |   |   |  |  |
| Live Oak                 | No online evidence of fee being assessed | No online evidence of fee being assessed | No online evidence of fee being assessed              | No online evidence of fee being assessed              | No online evidence of fee being assessed | Assessed: Yes<br>Listed: Yes<br>Located: City website containing codes           |
| Branford                 | No online evidence of fee being assessed | No online evidence of fee being assessed | No online evidence of fee being assessed              | No online evidence of fee being assessed              | No online evidence of fee being assessed | No online evidence of fee being assessed   |

<sup>1</sup> Cities are listed within counties, in order of their population (highest to lowest).

Source: OPPAGA analysis of information on county, city, and municipal code webpages.



## Appendix B

### Exhibit B-1 Other County Fees<sup>1</sup>

|                   | Water and Sewer Connection   | Water and Wastewater   | Stormwater   | Sign Ordinance  | Tree Ordinance   | Building or Demolition   | Local Licenses for Construction or Specialty Trades                                    | Local Business Tax   |
|-------------------|--|--|--|---|--|--|--|--|
| Orange County     | Assessed: Yes<br>Listed: Yes<br>Located: County website                        | Assessed: Yes<br>Listed: Yes<br>Located: County website                        | Assessed: No<br>Listed: No<br>Located: County online fee directory | Assessed: Yes<br>Listed: Yes<br>Located: County online fee directory                    | Assessed: Yes<br>Listed: Yes<br>Located: County online fee directory | Assessed: Yes<br>Listed: Yes<br>Located: County online fee directory                   | Assessed: Yes<br>Listed: Yes<br>Located: County online fee directory                   | Assessed: Yes<br>Listed: Yes<br>Located: County municipal code website |
| Polk County       | Assessed: Yes<br>Listed: Yes<br>Located: County utility rates and fees website | Assessed: Yes<br>Listed: Yes<br>Located: County utility rates and fees website | Assessed: Yes<br>Listed: Yes<br>Located: County website            | Assessed: Yes<br>Listed: No<br>Information Located: County website with PDFs of permits | Assessed: Unknown<br>Listed: No<br>Located: County website           | Assessed: Yes<br>Listed: No<br>Located: County website                                 | Assessed: Yes<br>Listed: No<br>Located: County website                                 | Assessed: Yes<br>Listed: Yes<br>Located: Tax collector website         |
| Santa Rosa County | Assessed: Yes<br>Listed: No<br>Location: County website                        | Assessed: Yes<br>Listed: Yes<br>Located: County website                        | Assessed: Yes<br>Listed: No<br>Located: County website             | Assessed: Yes<br>Listed: Yes<br>Located: County website                                 | Assessed: Yes<br>Listed: Yes<br>Located: County website              | Assessed: Yes<br>Listed: Yes<br>Located: County website                                | Assessed: Yes<br>Listed: Yes<br>Located: County municipal code website                 | Assessed: Yes<br>Listed: No<br>Located: Tax collector website          |
| Sumter County     | No online evidence of fee being assessed                                       | No online evidence of fee being assessed                                       | No online evidence of fee being assessed                           | Assessed: Yes<br>Listed: Yes<br>Located: County building services fee schedule website  | Assessed: Yes<br>Listed: Yes<br>Located: County website              | Assessed: Yes<br>Listed: Yes<br>Located: County building services fee schedule website | Assessed: Yes<br>Listed: Yes<br>Located: County building services fee schedule website | No online evidence of fee being assessed                               |
| Hendry County     | No online evidence of fee being assessed                                       | No online evidence of fee being assessed                                       | No online evidence of fee being assessed                           | Assessed: Yes<br>Listed: No<br>Located: County municipal code website                   | No online evidence of fee being assessed                             | Assessed: Yes<br>Listed: No<br>Located: County municipal code website                  | Assessed: Yes<br>Listed: No<br>Located: Application and instructions on county website | Assessed: Yes<br>Listed: No<br>Located: Tax collector website          |
| Suwannee County   | No online evidence of fee being assessed                                       | No online evidence of fee being assessed                                       | No online evidence of fee being assessed                           | No online evidence of fee being assessed  | No online evidence of fee being assessed                             | Assessed: Yes<br>Listed: Yes<br>Located: County website                                | Assessed: Yes<br>Listed: Yes<br>Located: County municipal code website                 | No online evidence of fee being assessed                               |

<sup>1</sup> Counties are listed based on their populations (largest to smallest).

Source: OPPAGA analysis of information on county, city, and municipal code webpages.



**Exhibit B-2**  
**Other City Fees<sup>1</sup>**

|                      | Water and Sewer Connection  | Water and Wastewater   | Stormwater  | Sign Ordinance  | Tree Ordinance   | Building or Demolition   | Local Licenses for Construction or Specialty Trades                                    | Local Business Tax  |
|----------------------|---|--|---|---|--|--|--|---|
| <b>ORANGE COUNTY</b> |   |  |   |   |  |  |  |   |
| Orlando              | Assessed: Yes<br>Listed: Yes (sewer only)<br>Located: City website            | Assessed: Yes (sewer only)<br>Listed: Yes<br>Located: City website | Assessed: Yes<br>Listed: Yes<br>Located: City website               | Assessed: Yes<br>Listed: No<br>Located: City website                            | Assessed: Yes<br>Listed: Yes<br>Located: City website                | Assessed: Yes<br>Listed: Yes<br>Located: Fee directory on city website | No online evidence of fee being assessed   | Assessed: Yes<br>Listed: Yes<br>Located: City website                               |
| Apopka               | Assessed: Yes<br>Listed: Yes<br>Located: City website                         | Assessed: Yes<br>Listed: Yes<br>Located: City website              | Assessed: Yes<br>Listed: Yes<br>Located: City website               | Assessed: Yes<br>Listed: Yes<br>Located: City website                           | No online evidence of fee being assessed                             | Assessed: Yes<br>Listed: Yes<br>Located: City website                  | Assessed: Yes<br>Listed: No<br>Located: City website                                   | Assessed: Yes<br>Listed: No<br>Located: City website                                |
| Ocoee                | Assessed: Yes (water only)<br>Listed: Yes<br>Located: City website            | Assessed: Yes<br>Listed: Yes<br>Located: City website              | Assessed: Yes<br>Listed: No<br>Located: City municipal code website | Assessed: Yes<br>Listed: Yes<br>Located: City municipal code website            | Assessed: Yes<br>Listed: Yes<br>Located: City municipal code website | Assessed: Yes<br>Listed: Yes<br>Located: City website                  | Assessed: Yes<br>Listed: No<br>Located: City website                                   | Assessed: Yes<br>Listed: No<br>Located: Application on city website                 |
| <b>POLK COUNTY</b>   |   |  |   |   |  |  |  |   |
| Lakeland             | Assessed: Yes<br>Listed: Yes (only sewer connection)<br>Located: City webpage | Assessed: Yes<br>Listed: Yes<br>Located: City website              | Assessed: Yes<br>Listed: Yes<br>Located: City website               | Assessed: Yes<br>Listed: Yes<br>Located: City website                           | Assessed: Yes<br>Listed: No<br>Located: City website                 | Assessed: Yes<br>Listed: Yes<br>Located: City website                  | Assessed: Yes<br>Listed: Yes (registered contractor fee only)<br>Located: City website | Assessed: Yes<br>Listed: No<br>Located: City website                                |
| Winter Haven         | Assessed: Yes<br>Listed: Yes<br>Located: City website                         | Assessed: Yes<br>Listed: Yes<br>Located: City website              | Assessed: Yes<br>Listed: Yes<br>Located: City website               | Assessed: Yes<br>Listed: No<br>Located: City municipal code website             | No online evidence of fee being assessed                             | Assessed: Yes<br>Listed: No<br>Located: City municipal code website    | Assessed: Yes<br>Listed: Yes<br>Located: City website                                  | Assessed: Yes<br>Listed: Yes<br>Located: City website                               |
| Bartow               | Assessed: Yes<br>Listed: Yes<br>Located: City website                         | Assessed: Yes<br>Listed: Yes<br>Located: City website              | Assessed: Yes<br>Listed: Yes<br>Located: City website               | No online evidence of fee being assessed, but could be included in building fee | No online evidence of fee being assessed                             | Assessed: Yes<br>Listed: Yes<br>Located: City website                  | Assessed: Yes<br>Listed: No<br>Located: City website                                   | Assessed: Yes<br>Listed: Yes<br>Located: City website                               |
| Auburndale           | Assessed: Yes<br>Listed: Yes<br>Located: City website                         | Assessed: Yes<br>Listed: Yes<br>Located: City website              | No online evidence of fee being assessed                            | Assessed: Yes<br>Listed: Yes<br>Located: City website                           | No online evidence of fee being assessed                             | Assessed: Yes<br>Listed: Yes<br>Located: City website                  | Assessed: Yes<br>Listed: Yes<br>Located: City website                                  | Assessed: Yes<br>Listed: Yes (not all fees)<br>Located: City municipal code website |



|                          | Water and Sewer Connection  | Water and Wastewater  | Stormwater  | Sign Ordinance  | Tree Ordinance  | Building or Demolition  | Local Licenses for Construction or Specialty Trades | Local Business Tax  |
|--------------------------|---|---|---|---|---|---|---|---|
| <b>SANTA ROSA COUNTY</b> |   |   |   |   |   |   |   |   |
| Milton                   | Assessed: Yes<br>Listed: Yes<br>Located: City website               | Assessed: Yes<br>Listed: Yes<br>Located: City website               | Assessed: Yes<br>Listed: Yes<br>Located: City website               | Assessed: Yes<br>Listed: Yes<br>Located: City website               | Assessed: Yes<br>Listed: Yes<br>Located: City website   | Assessed: Yes<br>Listed: Yes<br>Located: City website               | No online evidence of fee being assessed            | Assessed: Yes<br>Listed: Yes<br>Located: City website   |
| Gulf Breeze              | Assessed: Yes<br>Listed: Yes<br>Located: City website               | Assessed: Yes<br>Listed: No<br>Located: City municipal code website | Assessed: Yes<br>Listed: No<br>Located: City municipal code website | Assessed: Yes<br>Listed: No<br>Located: City website                | Assessed: Yes<br>Listed: No<br>Located: City municipal code website                                   | Assessed: Yes<br>Listed: No<br>Located: City website                | No online evidence of fee being assessed            | Assessed: Yes<br>Listed: Yes<br>Located: City website   |
| Jay                      | No online evidence of fee being assessed                            | No online evidence of fee being assessed                            | No online evidence of fee being assessed                            | No online evidence of fee being assessed                            | No online evidence of fee being assessed  | No online evidence of fee being assessed                            | No online evidence of fee being assessed            | No online evidence of fee being assessed  |
| <b>SUMTER COUNTY</b>     |   |   |   |   |   |   |   |   |
| Wildwood                 | Assessed: Yes<br>Listed: Yes<br>Located: City website               | Assessed: Yes<br>Listed: Yes<br>Located: City website               | No online evidence of fee being assessed                            | Assessed: Yes<br>Listed: Yes<br>Located: City website               | Assessed: Yes<br>Listed: No<br>Located: City website  | Assessed: Yes<br>Listed: Not on web<br>Located: City website        | No online evidence of fee being assessed            | Assessed: No (moratorium on collection of business tax effective 10/10/11)<br>Listed: No<br>Located: City website |
| Bushnell                 | Assessed: Yes<br>Listed: Yes<br>Located: Municipal code             | Assessed: Yes<br>Listed: No<br>Located: City website                | No online evidence of fee being assessed                            | No online evidence of fee being assessed                            | No online evidence of fee being assessed  | Assessed: Yes<br>Listed: Yes<br>Located: City municipal code only   | No online evidence of fee being assessed            | Assessed: Yes<br>Listed: Yes<br>Located: City website   |
| Center Hill              | Assessed: Yes<br>Listed: No<br>Located: City municipal code website | Assessed: Yes<br>Listed: No<br>Located: City municipal code website | Assessed: Yes<br>Listed: No<br>Located: City municipal code website | Assessed: Yes<br>Listed: No<br>Located: City municipal code website | No online evidence of fee being assessed  | Assessed: Yes<br>Listed: No<br>Located: City municipal code website | No online evidence of fee being assessed            | Assessed: Yes<br>Listed: No<br>Located: City municipal code website   |
| <b>SUWANEE COUNTY</b>    |   |   |   |   |   |   |   |   |
| Live Oak                 | Assessed: Yes<br>Listed: Yes<br>Located: City website               | Assessed: Yes<br>Listed: No<br>Located: City website                | Assessed: Yes<br>Listed: Yes<br>Located: City website               | Assessed: Yes<br>Listed: Yes<br>Located: City website               | Assessed: Yes, applies only to city property and right-of-way<br>Listed: Yes<br>Located: City website | Assessed: Yes<br>Listed: Yes<br>Located: City website               | No online evidence of fee being assessed            | Assessed: Yes<br>Listed: No<br>Located: City website  |
| Branford                 | No online evidence of fee being assessed                            | No online evidence of fee being assessed                            | No online evidence of fee being assessed                            | No online evidence of fee being assessed                            | No online evidence of fee being assessed  | No online evidence of fee being assessed                            | No online evidence of fee being assessed            | No online evidence of fee being assessed  |

<sup>1</sup> Cities are listed within counties, in order of their population (highest to lowest).

Source: OPPAGA analysis of information on county, city, and municipal code webpages.



## Community Redevelopment Agencies

February 15, 2017

### ***Scope***

As directed by the Legislature, OPPAGA reviewed community redevelopment agencies (CRAs) created pursuant to s. [163.356](#), *Florida Statutes*. The review considered the following issues.

- Primary activities performed by CRAs
- CRA governance structure, including board composition compared to other local boards
- CRA funding mechanisms, including bonding authority and the amount of outstanding bonds
- Whether the activities performed by CRAs are similar to those performed by other entities
- Whether CRAs are achieving established goals
- Opportunities for improving CRAs

### ***Background***

Community redevelopment agencies were created to revitalize slum and blighted areas; as of January 1, 2017, there were 219 CRAs in Florida, each employing an average of two full-time staff members. The 1969 Legislature adopted the Community Redevelopment Act to provide a funding mechanism for local redevelopment efforts.<sup>1</sup> The act originally stated that local governments can establish community redevelopment agencies in areas containing slum or blight where there is a shortage of affordable housing and where area redevelopment is in the interest of the public welfare of the county or municipality.<sup>2</sup> Per current state law, a “slum area” is an area having physical or economic conditions conducive to disease, infant mortality, juvenile delinquency, poverty, or crime because there is a predominance of buildings or improvements that are impaired by reason of dilapidation, deterioration, age, or obsolescence. A “blight area” is an area with a substantial number of deteriorated or deteriorating structures in which conditions, as indicated by government-maintained statistics or other studies, endanger life or property or are leading to economic distress.

In 2002, the Legislature amended the Community Redevelopment Act. The amendment stipulated that lack of affordable housing could no longer be an independent reason for creating a CRA, required local governments to adopt a data-backed resolution before establishing a CRA, and established a 40-year time limit on new CRAs. Most recently, the 2006 Legislature amended the act to revise procedures for calculating tax increment revenues, adopting community redevelopment plans or plan modifications that expand CRA boundaries, and delegating community redevelopment powers to cities by charter counties.<sup>3</sup>

To establish a CRA, the local government legislative body adopts a resolution finding that the designated area is a slum or blighted area or that it contains a shortage of affordable housing and rehabilitation or redevelopment of the area is necessary in the interest of public health, safety, morals or welfare. Upon a finding of necessity and upon a further finding that there is a need for

<sup>1</sup> Chapter [163 Part III](#), *F.S.*

<sup>2</sup> Section [163.355](#), *F.S.*

<sup>3</sup> Chapter [2006-307](#), *Laws of Florida*.



a community redevelopment agency to function in the county or municipality to carry out the community redevelopment purposes described therein, the local government may create a CRA. CRAs are dependent special districts, which generally means that the governing body members are identical to or appointed by the governing body of a single county or a single municipality. However, the CRA's budget may not be subject to approval by the county or city governing body.

CRAs are only granted powers necessary to carry out and effectuate the purposes of the Community Redevelopment Act. These powers include the ability to issue bonds and acquire property by eminent domain, if approved by the governing body that established the agency. CRAs are also granted the power to undertake and carry out community redevelopment and related activities within the community redevelopment area.<sup>4</sup> CRAs are not permitted to pay for construction or expansion of administrative buildings for public bodies or police/fire facilities; leverage general governmental operating expenses unrelated to CRA activities; or fund projects outside of their designated community redevelopment area.

As of January 1, 2017, there were 219 active CRAs in Florida.<sup>5</sup> The number of CRAs per county ranges from zero (10 counties) to 15 (Brevard County). (See Exhibit 1.) (See Appendix A for a complete list of CRAs by county.)

---

<sup>4</sup> The community redevelopment agency (CRA) is the governing body, and the community redevelopment area is the land over which the CRA has redevelopment authority.

<sup>5</sup> There are currently no inactive CRAs. Seventeen CRAs have been dissolved during the program's history.



<sup>1</sup> OPPAGA did not find creation documentation for one of the 219 CRAs that were examined. Source: OPPAGA analysis of Department of Economic Opportunity data.



To gather information about the operations, goals, and primary activities of the state’s community redevelopment agencies, OPPAGA conducted a survey of the 219 active CRAs.<sup>6</sup> Survey respondents reported that their CRAs employ an average of 2 full-time staff and 0.7 part-time staff. Several (38%) reported that they have no staff paid directly with CRA funds.<sup>7</sup> Most (60%) CRAs reported that they are scheduled for dissolution within the next 20 years; 14% did not report a dissolution date. (See Exhibit 3.)

### Exhibit 3

#### Most CRAs Reported Dissolution Dates Between 2017 and 2036

| Dissolution Date Range                    | Percent of CRA Survey Respondents |
|---|-----------------------------------|
| 2017 – 2026                               | 19%                               |
| 2027 – 2036                               | 41%                               |
| 2037 – 2046                               | 22%                               |
| 2047 – 2056                               | 4%                                |
| No Dissolution Date Reported <sup>1</sup> | 14%                               |

<sup>1</sup> Of the CRAs that reported no dissolution date, some reported that their CRA is not scheduled to dissolve and others reported that their CRA does not have a dissolution date because it consists of multiple community redevelopment agency areas that each have their own unique dissolution date.

Source: OPPAGA survey.

CRAs must create an official redevelopment plan. Each CRA is responsible for producing and implementing a community redevelopment plan to address overall goals and specific needs; the plans must conform to the local governments’ comprehensive plans.<sup>8</sup> The redevelopment plan must describe any land acquisition, structure demolition and removal, redevelopment, improvements, and rehabilitation to be carried out in the designated area. The plan must also provide for the development of affordable housing in the area or provide an explanation for not addressing the issue in the plan. To meet changing needs, the local government may subsequently modify the community redevelopment plan upon the recommendation of the CRA.

Community redevelopment plans describe the types of projects planned for the area. Projects typically include street improvements; building construction or renovation; flood control initiatives; parking lots and garages; and neighborhood parks. Projects may also include grants and loans for businesses. Businesses may use this money for façade improvements, signage, sprinkler system upgrades, and structural improvements.

### Questions and Answers

#### *What are the primary activities of CRAs?*

The primary activities of CRAs include enhancing and rehabilitating residential and commercial properties. The most frequent statutory criteria that CRAs responding to OPPAGA’s survey identified as the reason for their creation were blight (95%) and slum (51%). CRAs also cited lack of affordable housing (21%) and economically distressed coastal or tourist areas (14%) as statutory reasons for creation. With regard to CRA goals, survey respondents cited increasing economic

<sup>6</sup> OPPAGA surveyed 219 active CRAs; 110 (53%) responded; 93 (45%) provided complete responses, and 17 (8%) provided partial responses.

<sup>7</sup> These CRAs may be supported by staff from other departments within the municipality or county in which the CRA is located.

<sup>8</sup> Each CRA shall submit any community redevelopment plan to the governing body and to each taxing authority that levies ad valorem taxes on taxable real property contained within the geographic boundaries of the redevelopment area; the governing body approves the plan. Some CRAs are not required by law to obtain county approval for adoption of, or amendment to, their CRA plans. This applies to CRAs located in noncharter counties and CRAs that are located in charter counties but in which the municipal CRA was created prior to the chartering of the county.



activity in the urban core (64%), reducing blight (55%), and improving infrastructure (50%) as primary objectives.

According to OPPAGA survey results, the most frequently reported types of projects funded by CRAs include

- enhancing the appearance of residential or commercial areas (64%);
- rehabilitating commercial properties (42%);
- improving transportation infrastructure (28%); and
- improving utilities (28%).

In addition, 64% of the CRAs reported that they also award grants to other entities. The most frequently cited grant recipients include businesses (90%), non-profit organizations (40%), and private citizens (41%).

Survey respondents have embarked on a wide variety of projects. For example, to improve their utilities, the Alachua CRA funded projects to create underground stormwater storage and a stormwater basin, and the Titusville CRA has provided funds to property owners to upgrade their buildings to meet certain building codes to enhance viability of buildings for reuse. To improve transportation infrastructure, the Merritt Island CRA has funded a veteran memorial park parking lot, various signage programs for parks, and the construction of bus shelters. In addition, the City of Marianna CRA funded projects to enhance the appearance of residential and commercial areas through landscape improvements, new medians, and new street lighting, and the West Palm Beach CRA has redeveloped their old city hall site and funded a series of commercial façade grants to address the rehabilitation of commercial properties.

### ***How are CRAs governed?***

Department of Economic Opportunity Special District Accountability Program data shows that 76% of CRAs are governed by a board that either mirrors or is very similar to the county or city commission that oversees the CRA. OPPAGA's survey provided additional detail about governing board composition. The majority (72%) of CRAs that responded to the survey reported that their board membership consists solely of elected officials, with the number of members on these boards ranging from four to nine per board. Several (18%) CRAs reported that their boards are composed of elected officials and private citizens, while 8% reported that the board is composed solely of private citizens. Overall, 27% of CRAs reported that private citizens serve on their CRA's board, ranging from two to nine citizens per board.

Recent reports have expressed concerns regarding CRA governance. For example, in 2015 the Florida Auditor General found that when the governing body of the entity that created the CRA is functioning as the CRA board, there is an increased risk that CRA funds may be used to supplant those used for the general operating expenses of the entity that created the CRA.<sup>9</sup> The Auditor General noted instances in which the CRA paid moneys to the municipality that created it for services purportedly provided to the CRA, but for which there was no documentation of the services provided and, as a result, it appeared these moneys were used to pay for the municipality's general operating costs. To address this concern, the Auditor General recommended that the Legislature consider revising Ch. 163, *Florida Statutes*, to require county approval for the adoption and amendment of all municipal CRA plans. According to the Auditor General, requiring county

---

<sup>9</sup> *Local Government Financial Reporting System*, Florida Auditor General, [Report No. 2015-037](#), October 2014.



approval would strengthen oversight of CRA activities and help ensure that CRA funds are expended only for authorized CRA activities.

Similarly, the Broward County Inspector General has reported on several instances of misuse of CRA funds by governing boards. For example, a 2013 investigation found that officials of the City of Hallandale Beach and the Hallandale Beach Redevelopment Agency grossly mismanaged public funds entrusted to the care of the CRA.<sup>10</sup> Between 2007 and 2012, city officials operating as CRA board members made at least \$2.1 million in questionable expenditures. A 2014 investigation found that the Margate Community Redevelopment Agency failed to comply with the requirements of Florida law for the allocation and disposition of funds, resulting in a debt to Broward County of approximately \$2.7 million.<sup>11</sup> The inspector general recommended that the CRA promptly develop procedures that will ensure legal compliance for the handling of taxpayer funds that it receives.

Most recently, a 2016 Miami-Dade County Grand Jury report expressed concern that most CRA boards are composed of only the elected officials of the city in which the CRA is located.<sup>12</sup> The grand jury identified several examples of CRA boards spending large amounts of funding on commissioner “pet projects,” as well as the appearance and perception that certain boards are controlled by one commissioner. The grand jury stated that this promotes a temptation to use CRA funds as “slush funds” for elected officials. To address these concerns, the grand jury recommended that non-elected citizens be appointed to serve as full-fledged voting members on CRA boards, that state law reflect this as a requirement, and that these civilian appointees be knowledgeable in architecture, finance, construction, land use, or other education or professional experience in the area of community redevelopment.

### ***How are CRAs funded?***

Tax increment financing is the primary source of funding for most community redevelopment agencies; in Fiscal Year 2014-15, CRAs reported nearly \$600 million in revenues. CRAs use a variety of mechanisms to leverage public funds in order to promote private sector activity and redevelopment. Tax increment financing (TIF) is the most commonly used tool to increase investment and growth in local government development. CRA governing bodies are required to establish, by ordinance, a redevelopment trust fund if they wish to receive or spend any TIF funds. TIF is formulated by determining the value of all property in the community redevelopment area on a fixed date and freezing that value. The property tax revenue on the frozen value is available for general government purposes, but any tax revenue from increases to the property value is distributed to the CRA redevelopment trust fund and dedicated to redevelopment projects and activities in the designated area. Annually, CRAs generally receive 95% of the difference between the amount of ad valorem taxes levied by each taxing authority and the frozen value established when the CRA was created.<sup>13</sup> Additional funding mechanisms available to CRAs include other government financial support, private sector support, grants, and donations.

Most (93%) OPPAGA survey respondents reported that TIF funds are the primary source of financial support for their CRAs, and 51% reported that TIF funds are their sole source of financial

---

<sup>10</sup> *OIG Final Report Re: Gross Mismanagement of Public Funds by the City of Hallandale Beach and the Hallandale Beach Community Redevelopment Agency*, Broward Office of the Inspector General, [Ref. OIG 11-020](#), April 2013.

<sup>11</sup> *OIG Final Report Re: Misconduct by the Margate Community Redevelopment Agency in the Handling of Taxpayer Funds*, Broward Office of the Inspector General, [Ref. OIG 13-015A](#), July 2014.

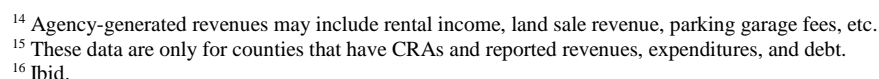
<sup>12</sup> *CRAs: The Good, The Bad And The Questionable*, [Final Report of The Miami-Dade County Grand Jury](#), Spring Term A.D. 2015, February 2016.

<sup>13</sup> Section [163.387\(2\)\(c\)](#), *F.S.*

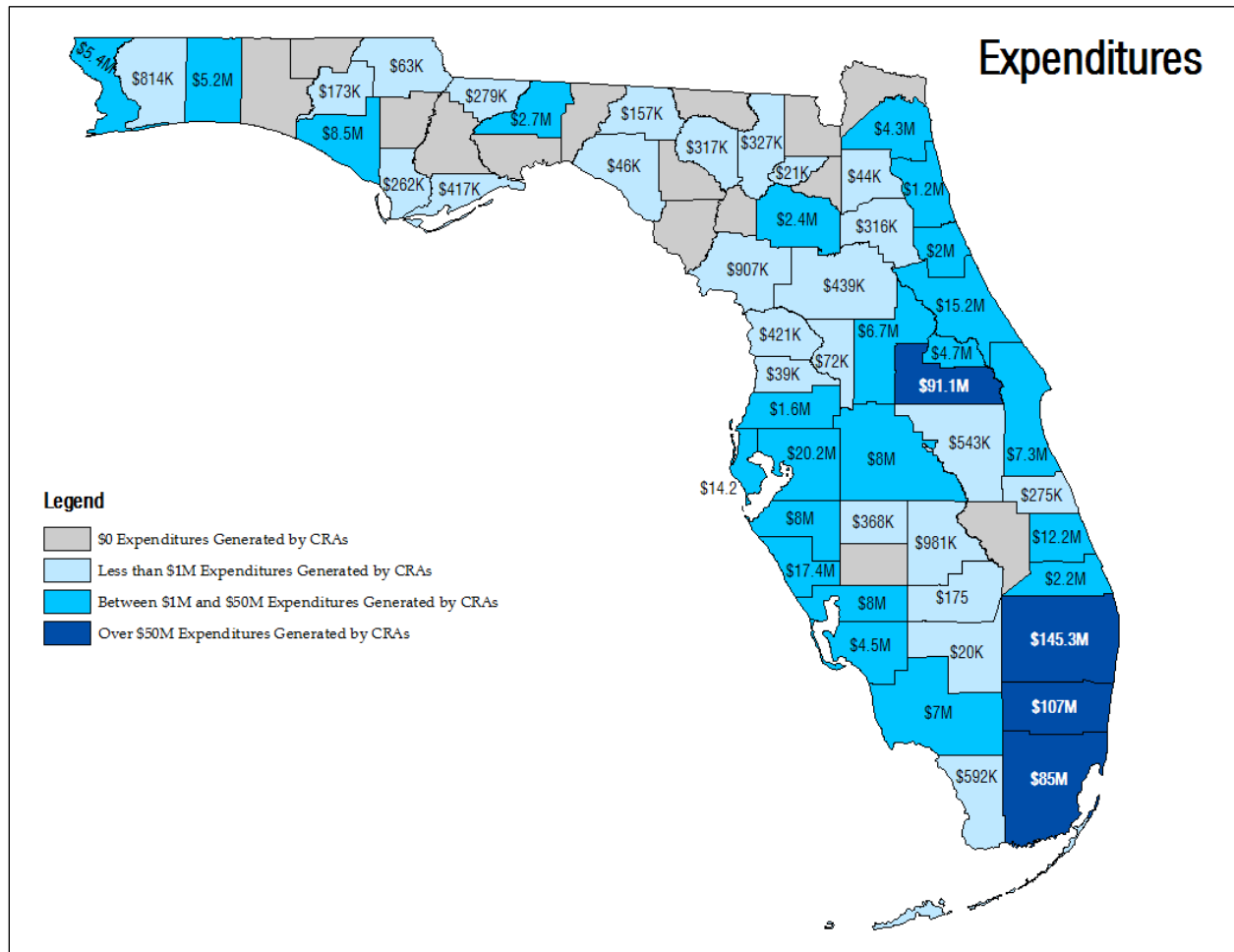


Department of Financial Services data shows that for Fiscal Year 2014-15 (the most recent year for which data is available), Florida's CRAs reported a total of \$594.4 million in revenues and \$605.2 million in expenditures. During the period, CRAs also reported \$714.5 million in debt. (See Appendix A for a list of revenues, expenditures, and debt by CRA.) Total CRA revenues and expenditures varied significantly by county. For example, 22 counties reported CRA revenues of less than \$1 million, while 4 reported over \$50 million in revenues for the period.<sup>15</sup> Similarly, 24 counties reported expenditures under \$1 million while 4 reported expenditures above \$50 million.<sup>16</sup> (See Exhibit 4.)

### In Fiscal Year 2014-15, CRA Revenues and Expenditures Varied Significantly by County







Source: OPPAGA analysis of Department of Financial Services data.

During a 10-year period, CRAs issued more than \$1 billion in bonds. CRAs have the legal authority to issue bonds to leverage available funds; bond issues provide upfront money to pay for redevelopment projects and TIF is used to pay the debt service on the bonds. However, 80% of survey respondents reported that their CRAs have never issued bonds. When asked how these CRAs leverage their TIF funds, the most frequently reported responses include local government funding (51%) and grants from various sources (22%).

To further examine CRAs bond activity, OPPAGA obtained data from the State Board of Administration's (SBA) Division of Bond Finance. This information shows that from December 30, 2005, to July 8, 2016, 46 CRAs had a total of 81 bond issues. (See Appendix B for a list of the 81 bonds by CRA.) These bonds total \$1.35 billion and range from \$50,000 to \$286.3 million. The average bond issued during this period was \$16.6 million and the median was \$7.6 million. Ten CRAs account for 77.3% (\$1.04 billion of \$1.35 billion) of all bonds issued. The Miami Beach Redevelopment Agency has issued the most bonds at \$322.1 million, followed by the City of Orlando's CRA at \$205.2 million. (See Exhibit 5.)



## Exhibit 5

### Ten CRAs Reported Issuing \$1.04 Billion in Bonds From December 30, 2005, to July 8, 2016

| Community Redevelopment Agency                              | Amount Issued          |
|---|------------------------|
| Miami Beach Redevelopment Agency                            | \$322,095,000          |
| City of Orlando, Florida Community Redevelopment Agency     | 205,235,000            |
| City of Hollywood, Florida Community Redevelopment Agency   | 128,575,000            |
| West Palm Beach Community Redevelopment Agency              | 121,964,000            |
| City of Port St. Lucie Community Redevelopment Agency       | 86,922,530             |
| Southeast Overtown/Park West Community Redevelopment Agency | 55,885,000             |
| Pompano Beach Community Redevelopment Agency                | 34,100,000             |
| Fort Pierce Redevelopment Agency                            | 31,055,000             |
| Collier County Community Redevelopment Agency               | 28,057,900             |
| Riviera Beach Community Redevelopment Agency                | 25,570,000             |
| <b>TOTAL</b>  | <b>\$1,039,459,430</b> |

Source: OPPAGA analysis of State Board of Administration Division of Bond Finance data.

### *Do CRA programs and projects duplicate those of other entities?*

Nearly 40% of OPPAGA survey respondents reported that there are other organizations within the same geographic area that fund projects or programs similar to those funded by their CRA. While 47% of survey respondents reported that they do not think there is overlap between the activities funded by their CRA and those of other organizations in their area, 39% of survey respondents reported that they believe that there is overlap.<sup>17</sup> Of these 39% of respondents, 97% reported that other similar projects may be funded by local government entities such as cities or counties. Types of similar activities reported by these respondents include streetscape projects, sidewalk improvements, and other infrastructure improvements such as roadways, parks, and stormwater facilities. A few (16%) CRAs reported that similar projects may also be funded by non-profit entities that fund projects such as historic preservation or economic development projects. When asked what types of projects their CRA funds that other organizations do not fund, the most frequently cited type of project was façade and site improvement and rehabilitation (55%).

The Department of Economic Opportunity's (DEO) Special District Accountability database includes several other entities that may support efforts that are similar to CRA activities. These entities include housing authorities, downtown improvement/development districts, economic development authorities, and business improvement districts. Like CRAs, these entities are primarily dependent special districts, with exceptions being certain county development authorities, certain housing authorities, certain downtown improvement/development authorities, and certain economic development authorities.<sup>18</sup> Often, the goals of these entities overlap with the goals of CRAs. Similar goals include reducing slum and blight, increasing economic activity at the urban core, providing affordable housing, and improving infrastructure.

However, the financial means to achieve these goals differ. For instance, housing authorities may be funded through the U.S. Department of Housing and Urban Development; downtown improvement/development districts may be funded through ad valorem taxes; and business improvement districts are funded on an extra tax levied among businesses in that district. These funding sources, including federal grants and extra business taxes, are not available to CRAs.

<sup>17</sup> Fifteen percent of respondents reported that they are not sure if there is overlap between the projects and programs funded by their CRA and those of other organizations.

<sup>18</sup> Several of the independent special districts cover more than one county. Per current state law, a district that includes more than one county is an independent special district unless the district lies wholly within the boundaries of a single municipality.



CRAs primarily depend upon TIF, which is rarely used by other special districts.<sup>19</sup> Furthermore, the populations affected by improvements done by these entities may differ, with other special districts having a more narrow population focus than CRAs. For instance, housing authorities typically exist to serve low-income individuals and households only, whereas a CRA may have affordable housing as one of many goals.

### ***In general, are CRAs achieving established goals?***

Studies of CRAs in other states demonstrate mixed results; recent Florida reports have raised concerns about effectiveness. The use of tax increment financing to support redevelopment efforts has been examined in several states. These studies have yielded mixed results regarding effectiveness in terms of property values and economic development outcomes. Researchers have examined residential property value growth in redevelopment areas supported by TIF in Illinois, Indiana, and Michigan and have found positive effects, with assessed values increasing.<sup>20</sup> However, results are mixed in other states. For example, in 2011, researchers using data from Wisconsin municipalities considered residential, commercial, and manufacturing property values separately and found that there were positive impacts in the commercial TIF districts but no comparable increases in residential or manufacturing property values.<sup>21</sup>

Studies that examined economic development outcomes (e.g., employment, retail sales, and manufacturing sales) in redevelopment areas supported by TIF have also yielded varying results. A 2010 study found that a sample of Illinois TIF districts that focused on industrial development had positive associations with employment.<sup>22</sup> However, a 2014 study that examined employment, business creation, and building permits in Chicago did not find evidence that the TIF districts led to greater levels of economic development compared to control areas or that TIF designation led to greater private investment in blighted neighborhoods.<sup>23</sup> Another 2014 study evaluated the impact of tax increment financing in Indiana counties from 2003-2012 and found that while TIF areas are associated with small but positive growth in assessed value, there are uniform negative impacts on traditional measures of economic development such as employment, number of business establishments, and sales tax revenue.<sup>24</sup> This led researchers to conclude that in Indiana, TIF is not an economic development tool, but a county budget management tool.

In California, a 2011 legislative report found no reliable evidence that redevelopment increases regional or statewide economic development.<sup>25</sup> According to the report, the limited academic literature on redevelopment agencies finds that the effect of such programs on property values is minimal. In addition, the report noted that redevelopment may cause some geographic shifts in economic development, but does not increase overall economic activity in a region. Moreover, the report found that, similar to analyses of property values, research typically finds that any employment gains in project areas are offset by losses in other parts of the region. Subsequent to

---

<sup>19</sup> According to DEO's Special District Accountability Program database, only 7 of 1,441 special districts other than CRAs reported using TIF as a revenue source.

<sup>20</sup> Greenbaum, Robert T. and Jim Landers, 2014. "The Tiff Over TIF: A Review of The Literature Examining the Effectiveness of the Tax Increment Financing." *National Tax Journal* 67(3), 655-674.

<sup>21</sup> Merriman, David F., Mark L. Skidmore, and Russ D. Kashian, 2011. "Do Tax Increment Finance Districts Stimulate Growth in Real Estate Values?" *Real Estate Economics* 39(2), 221-250.

<sup>22</sup> Byrne, Paul F., 2010. "Does Tax Increment Financing Deliver on its Promise of Jobs? The Impact of Tax Increment Financing on Municipal Employment Growth." *Economic Development Quarterly*, 24(1), 13-22.

<sup>23</sup> Lester, William T., 2014. "Does Chicago's Tax Increment Financing (TIF) Programme Pass the 'But-for' Test? Job Creation and Economic Development Impacts Using Time-series Data." *Urban Studies* 51(4), 655-674.

<sup>24</sup> Hicks, M., D. Faulk and P. Quirin. 2014. *Some Economic Effects of Tax Increment Financing in Indiana*. Center for Business and Economic Research, Ball State University, Working Paper.

<sup>25</sup> California Legislative Analyst's Office, *Should California End Redevelopment Agencies*, February 9, 2011.



the report's publication, the California Legislature abolished the state's local redevelopment program and established a formal dissolution process for redevelopment agencies.<sup>26</sup>

Recent Florida studies have identified issues that may impact CRA effectiveness, particularly regarding the use of funds meant to support redevelopment efforts. In 2015, the Florida Auditor General reported that operational audits of CRAs in recent years have noted that CRA trust fund moneys have often been used for purposes not specifically delineated in state law and not directly related to redevelopment as it is defined in law.<sup>27</sup> The report found that because some CRA boards have broadly interpreted the phrase "including, but not limited to" in s. 163.387(6), *Florida Statutes*, to authorize expenditure of moneys for anything perceived as a CRA undertaking, CRA trust fund moneys may be expended in a manner inconsistent with legislative intent. According to the Auditor General, providing clear direction to CRAs as to the express authority for expending CRA trust fund moneys would ensure that legislative intent is accomplished.

Similarly, the 2016 Miami-Dade County Grand Jury report questioned whether some CRA's use of funds is consistent with legislative intent.<sup>28</sup> While recognizing that many CRAs fund projects such as streetscaping and road improvements, infrastructure construction, and purchase of land for development of affordable housing, the grand jury's investigation revealed large scale spending on projects that did not address slum, blight, or affordable housing. According to the grand jury report, "CRAs often times spend money and find a way to say it fits within 'the approved community redevelopment plan.'" The grand jury went on to say that it observed "a wide range of projects, events, services and acquisitions in which spending was justified only when the interpretation of the community redevelopment plans was stretched beyond the pale." To address this concern, the grand jury recommended that state law be amended to require that the inspector general for the county in which a CRA is located perform a yearly audit; if there is not a county inspector general, the state's Chief Inspector General would perform the audit. The goal of the audit would be to determine whether expenditures comply with laws governing CRAs.

CRAs use a variety of measures to gauge performance, but there is currently no standard process for gathering and reporting performance data across CRAs. To determine how CRAs gauge the impact of their projects and primary activities, OPPAGA asked survey respondents to report the ways in which they measure the success of their CRA in achieving goals and areas where their CRA could enhance performance. The most frequently reported ways of measuring success include changes in property values (73%), increases in the number of new businesses (49%), and new construction activity (38%). When asked if there are areas where CRA's can enhance their performance, the most commonly reported responses include increasing public awareness and education (79%) and increasing community participation (41%). For example, respondents suggested providing more public awareness and education events on CRA programs and providing more opportunities for community stakeholder participation in CRA meetings and events. Twelve CRAs reported that performance monitoring is an area in need of improvement and suggested changes such as establishing better performance indicators and benchmarks and ensuring consistent monitoring of program outcomes. Eight respondents made individual suggestions for improvements including clarifying how funding can be used, streamlined and clearer reporting requirements, enhanced board member qualifications, less stringent blight requirements, and more funding.

<sup>26</sup> Swenson, C.W. 2015. "The Death of California Redevelopment Areas: Did the State Get it Right?" *Economic Development Quarterly*, 29(3) 211-228.

<sup>27</sup> *Local Government Financial Reporting System*, Florida Auditor General, [Report No. 2015-037](#), October 2014.

<sup>28</sup> CRAs: *The Good, The Bad And The Questionable*, [Final Report of The Miami-Dade County Grand Jury](#), Spring Term A.D. 2015, February 2016.



While CRAs may measure their own performance using indicators such as property values or number of new businesses, there is no standard, centralized process for reporting progress with respect to such performance indicators. The Florida Redevelopment Association provides a set of suggested performance measures that can help CRAs measure the benefits of redevelopment, including value of renovations, amount of occupied space, change in employment, and number of new businesses. These measures may be voluntarily measured and tracked by individual CRAs but are not required reporting elements. CRAs are, however, subject to several statutorily required reports to various government entities, and these reports are predominantly focused on financial information. For example, CRAs must submit an annual financial report to the Department of Financial Services as well as an annual financial audit completed by an independent certified public accountant to the Auditor General.<sup>29, 30</sup> CRAs are also required to submit information on new bond obligations and any new issue of bonds to the SBAs Division of Bond Finance.<sup>31</sup> Additionally, CRAs must provide regularly scheduled actuarial reports to the Department of Management Services.<sup>32</sup> The Special District Accountability Program monitors CRAs' adherence to these reporting requirements.<sup>33</sup> In addition to these reports, each CRA is required to submit an annual report of its activities and finances to its local governing body.<sup>34</sup> However, there are no specific performance reporting requirements for these reports, and the content with respect to CRA goals, performance, and progress varies significantly across CRAs.

Several other states have more specific CRA performance requirements that result in consolidated reports on statewide redevelopment efforts. For example, Missouri state law requires the governing body of the municipality to prepare a report by November 15 every year concerning the status of each redevelopment plan and redevelopment project existing as of December 31 of the preceding year.<sup>35</sup> Data elements include number of projects, total anticipated project costs, total expenditures for TIF-eligible project costs, number of new and retained jobs, original assessed real property value of project, and assessed real property value at the end of the reporting period. Similarly, the Vermont Economic Progress Council and the Vermont Department of Taxes are required to report on the progress of the state's tax increment financing districts by April 1 each year.<sup>36</sup> For each district, the report must include the date of creation, a profile of the district, a district map, the original taxable value, the scope and value of projected and actual improvements and developments, and a set of performance indicators that includes the number of jobs created in the district, what sectors experienced job growth, and the amount of infrastructure work performed by Vermont firms. Nebraska requires that on or before December 1, cities provide the Department of Revenue a copy of any new redevelopment project plans not previously reported or any amendments that are made to an existing project.<sup>37</sup> Information for each project includes project name, type of property, description of development undertaken, a history of yearly assessments, taxes levied, and any other pertinent information (e.g., job creation).

---

<sup>29</sup> Section [218.32](#), *F.S.*

<sup>30</sup> Sections [218.39](#) and [163.387\(8\)](#), *F.S.*

<sup>31</sup> Section [218.38](#), *F.S.*

<sup>32</sup> Section [112.63](#), *F.S.*

<sup>33</sup> Section [189.064](#), *F.S.*

<sup>34</sup> Section [163.356\(3\)\(c\)](#), *F.S.*

<sup>35</sup> [2015 Tax Increment Financing in Missouri: Local TIF Project Information and Financial Data](#), Missouri Department of Revenue, February 1, 2016.

<sup>36</sup> [2016 Annual Report on Tax Increment Financing Districts in Vermont](#), Vermont Economic Progress Council and Vermont Department of Taxes, April 1, 2016.

<sup>37</sup> [Community Redevelopment Tax Increment Financing Projects Tax Year 2015](#), Nebraska Department of Revenue, March 1, 2016.



Economic and social indicators show that CRAs have greater socioeconomic disadvantages compared to surrounding urban areas. Given that CRAs are justified on the basis of such disadvantages through a finding of slum and blight, their current social and economic status is not surprising. However, these data were not used to judge the effectiveness of CRAs; since the data present socioeconomic conditions for one period only, changes in conditions over time (e.g., improving or deteriorating) would not be reflected.

As discussed earlier, a slum finding indicates poor social conditions, while a blight finding indicates poor economic conditions. To determine social and economic conditions in CRAs compared to surrounding urban areas, OPPAGA used 2014 five-year U.S. Census Bureau American Community Survey estimates to conduct a spatial analysis for 10 sample counties that contain CRAs.<sup>38, 39</sup> Data was obtained at the census block group level, and population estimates were calculated within the CRA boundary and within the urban area boundary (excluding the CRA population).<sup>40</sup> Data elements include

- educational attainment for the population 25 years and over;
- poverty status in the past 12 months;
- median household income in the past 12 months;
- employment status for the population 16 years and over; and
- year a structure was built.<sup>41</sup>

OPPAGA calculated the percentage or total difference between these data elements for the urban area and the CRA. This percentage or total difference is equal to the percentage or total of a given data element for the CRA minus that percentage or total for the urban area. Therefore, a positive percentage or total difference indicates that a CRA had a higher rate for a given data element, and a negative percentage or total difference indicates that a CRA had a lower rate.

Overall, CRAs show greater levels of socioeconomic disadvantages compared to surrounding urban areas. In general, CRAs have lower levels of educational attainment, higher levels of unemployment and poverty, and lower median incomes compared to their surrounding urban areas. (See Exhibit 6.) Specifically, for social indicators, there are on average 3.5% more individuals without a high school degree, 2.6% more unemployed individuals, and 6.8% more old structures (built in 1979 or earlier) in the sample CRAs compared to their surrounding urban areas. For economic indicators, median incomes are on average \$9,989 lower and poverty rates 6.3% higher in the sample CRAs compared to their surrounding urban areas. (See Appendix C for complete data).

---

<sup>38</sup> The American Community Survey is a sample of the population, which means that results are subject to sampling error and are only a statistical estimate of the population parameters. In this case, data were sampled each year in the five-year period, then aggregated to provide an overall estimate for the time period.

<sup>39</sup> Counties were chosen based upon available GIS data (Manatee, Martin, Miami-Dade, Orange, Palm Beach, Pinellas, St. Johns, and Volusia), and then upon ability to draw CRA boundaries manually in ArcGIS and for reasonable geographic distribution (Bay and Charlotte). Chosen CRAs are not representative of all CRAs in Florida.

<sup>40</sup> Sample sizes for the counties outside of urban areas and CRAs were too small to provide accurate population estimates. Therefore, county population was not included in this analysis.

<sup>41</sup> The year a structure was built refers to when the building was first constructed, not when it was remodeled, added to, or converted. This number includes both occupied and vacant housing units. A housing unit is defined by the U.S. Census as a house, an apartment, a group of rooms, or a single room occupied or intended for occupancy as separate living quarters.



# Exhibit 6 CRAs Display Greater Disadvantages Compared to Surrounding Urban Areas on Key Social and Economic Indicators<sup>1</sup>

|                            | Social Indicators <sup>2</sup>   |             |                                 |
|----------------------------|----------------------------------|-------------|---------------------------------|
|                            | No High School Degree            | Unemployed  | Structure Built 1979 or Earlier |
| Bay                        | 0.4%                             | 1.2%        | 2.3%                            |
| Charlotte                  | 5.0%                             | 3.1%        | 26.6%                           |
| Manatee                    | -7.9%                            | -3.4%       | -40.6%                          |
| Martin                     | 7.2%                             | 1.1%        | 2.1%                            |
| Miami-Dade                 | 6.9%                             | 5.2%        | 9.3%                            |
| Orange                     | 0.0%                             | -0.6%       | 0.7%                            |
| Palm Beach                 | 10.2%                            | 4.6%        | 26.0%                           |
| Pinellas                   | 7.5%                             | 3.6%        | 14.6%                           |
| St. Johns                  | 9.3%                             | 4.2%        | 7.3%                            |
| Volusia                    | 1.8%                             | 1.6%        | 20.1%                           |
| <b>Average<sup>3</sup></b> | <b>3.5%</b>                      | <b>2.6%</b> | <b>6.8%</b>                     |
|                            | Economic Indicators <sup>2</sup> |             |                                 |
|                            | Median Income                    | Poverty     |                                 |
| Bay                        | -\$2,054                         | 3.7%        |                                 |
| Charlotte                  | -\$6,690                         | 7.5%        |                                 |
| Manatee                    | \$32,320                         | -8.0%       |                                 |
| Martin                     | -\$3,315                         | 0.8%        |                                 |
| Miami-Dade                 | -\$15,577                        | 10.8%       |                                 |
| Orange                     | -\$4,912                         | 2.1%        |                                 |
| Palm Beach                 | -\$21,664                        | 13.4%       |                                 |
| Pinellas                   | -\$15,020                        | 8.9%        |                                 |
| St. Johns                  | -\$41,843                        | 9.1%        |                                 |
| Volusia                    | -\$8,264                         | 4.2%        |                                 |
| <b>Average<sup>3</sup></b> | <b>-\$9,989</b>                  | <b>6.3%</b> |                                 |

<sup>1</sup> Red shading means a CRA has higher rates of a negative data element (such as poverty) or lower rates of a positive data element (such as median income). Green shading means a CRA has lower rates of a negative data element or higher rates of a positive data element. No shading indicates that the percent difference was less than 1% and greater than -1%.

<sup>2</sup> Numbers represent percentage or total difference between a given county's CRA and its urban areas. A positive number implies a CRA has higher rates or values than its surrounding urban area.

<sup>3</sup> This average is calculated by adding up the total number of people or buildings in every block group in the CRA or urban area that fit the criteria then dividing by the total number of people or buildings. It is not an average of the given averages.

Source: OPPAGA analysis of 2014 U.S. Census Bureau American Community Survey data.



## Could CRAs be improved?

Considering the results of OPPAGA’s literature review and survey of CRAs, as well as critical evaluations of CRAs by the Auditor General, the Miami-Dade Grand Jury, and the Broward County Inspector General, OPPAGA offers the following options for the Legislature to consider for enhancing CRA governance, use of funds, and accountability.

### Exhibit 7

#### There Are Several Options for Improving Florida’s Community Redevelopment Areas

##### IMPROVE GOVERNANCE

OPTION 1 – Provide county taxing authorities more control or approval over expenditures of CRAs created by municipalities<sup>1</sup>

OPTION 2 – Expand board composition to include non-elected citizen members, including citizens with experience in land use, construction, architecture, and finance<sup>2</sup>

##### ENSURE APPROPRIATE USE OF FUNDS

OPTION 3 – Specify the types of expenditures that qualify for undertakings of a CRA<sup>1</sup>

OPTION 4 – Require all municipally-created CRAs to submit annual budget requests with sufficient time to allow the board of county commissioners to review the budget prior to the start of the fiscal year to which the budget relates<sup>2</sup>

OPTION 5 – Promote compliance with the audit requirement in s. 163.387(8), *Florida Statutes*<sup>1</sup>

OPTION 6 – Require audits to include a determination of compliance with laws pertaining to expenditure and disposition of unused CRA trust fund moneys<sup>1</sup>

##### ENHANCE ACCOUNTABILITY

OPTION 7 – Require CRAs to submit digital map files depicting geographical boundaries and total acreage to the Department of Economic Opportunity’s Special District Accountability Program

OPTION 8 – Require CRAs to annually report to DEO on a set of standard performance measures that include job creation, business establishment growth, unemployment, poverty, crime, income, and property value metrics

OPTION 9 – Require CRAs to annually submit to DEO a project list that includes project name, brief project narrative, total anticipated project costs, total project expenditures to date, original assessed real property value of project, and assessed real property value at the end of the reporting period

OPTION 10 – Require CRAs to demonstrate sustained progress prior to expiration date; in order to be reauthorized, CRAs must demonstrate business, employment, and wage growth as well as poverty, unemployment, and crime reduction

OPTION 11 – Create a dissolution process for CRAs that do not demonstrate progress in business, employment, and wage growth as well as poverty, unemployment, and crime reduction during the first 20 years of existence, or in the case of those that have been reauthorized, during the first 20 years since the last reauthorization

<sup>1</sup> Also recommended by the Auditor General.

<sup>2</sup> Also recommended by the Miami-Dade Grand Jury.



*Appendix A*

# Community Redevelopment Agencies by County; Fiscal Year 2014-15 Revenues, Expenditures, and Debt

## Exhibit A-1

## Descriptive Information for 219 Active CRAs

| County                | Name of CRAs Active as of January 1, 2017                          | Creation Year | Revenues            | Expenditures       | Debt                |
|-----------------------|--|---------------|---------------------|--------------------|---------------------|
| Alachua               | Alachua Community Redevelopment Agency                             | 1987          | \$764,964           | \$982,254          | \$640,370           |
|                       | Gainesville Community Redevelopment Agency                         | 1981          | \$1,736,493         | \$1,347,703        | \$2,341,675         |
|                       | Hawthorne Community Redevelopment Agency                           | 1993          | \$54,991            | \$34,000           | No reported         |
|                       | High Springs Community Redevelopment Agency                        | 1986          | No reported         | No reported        | No reported         |
| <b>Alachua Total</b>  | <b>4</b>   |               | <b>\$2,556,448</b>  | <b>\$2,363,957</b> | <b>\$2,982,045</b>  |
| Bay                   | Callaway Community Redevelopment Agency                            | 2007          | \$25,585            | \$37,516           | \$0                 |
|                       | Community Redevelopment Agency of the City of Parker               | 2006          | \$14                | \$175              | \$0                 |
|                       | Lynn Haven Community Redevelopment Agency                          | 2004          | \$298,740           | \$198,389          | \$0                 |
|                       | Panama City Beach Community Redevelopment Agency                   | 2000          | \$8,280,317         | \$6,326,250        | \$0                 |
|                       | Panama City Community Redevelopment Agency                         | 2006          | \$2,384,321         | \$1,888,166        | \$0                 |
|                       | Springfield Community Redevelopment Agency                         | 2007          | No reported         | No reported        | No reported         |
| <b>Bay Total</b>      | <b>6</b>   |               | <b>\$10,988,977</b> | <b>\$8,450,496</b> | <b>\$0</b>          |
| Bradford              | Starke Community Redevelopment Agency                              | 1991          | \$1                 | \$0                | \$0                 |
| <b>Bradford Total</b> | <b>1</b>   |               | <b>\$1</b>          | <b>\$0</b>         | <b>\$0</b>          |
| Brevard               | Babcock Street Community Redevelopment Agency                      | 1997          | \$647,369           | \$582,434          | \$0                 |
|                       | Bayfront Community Redevelopment Agency                            | 1999          | \$654,317           | \$907,004          | \$3,545,000         |
|                       | Cape Canaveral Community Redevelopment Agency                      | 2012          | \$126,140           | \$41,809           | \$0                 |
|                       | City of Rockledge Community Redevelopment Agency                   | 2002          | \$1,471,899         | \$1,426,767        | \$2,310,275         |
|                       | Cocoa Community Redevelopment Agency                               | 1981          | \$1,051,318         | \$843,578          | \$297,729           |
|                       | Diamond Square Community Redevelopment Agency                      | 1997          | \$73,315            | \$58,188           | \$0                 |
|                       | Downtown Cocoa Beach Community Redevelopment Agency                | 2009          | \$94,580            | \$24,794           | \$0                 |
|                       | Joint West Melbourne-Brevard County Community Redevelopment Agency | 2012          | \$86,267            | \$83,611           | \$0                 |
|                       | Melbourne Community Redevelopment Agency                           | 1982          | \$958,164           | \$1,230,204        | \$423,230           |
|                       | Merritt Island Redevelopment Agency                                | 1988          | \$890,959           | \$301,471          | \$0                 |
|                       | Olde Eau Gallie Riverfront Community Redevelopment Agency          | 2000          | \$218,975           | \$156,380          | \$138,994           |
|                       | Satellite Beach Community Redevelopment Agency                     | 2002          | \$428,151           | \$934,931          | \$3,696,400         |
|                       | Titusville Community Redevelopment Agency                          | 1993          | \$724,041           | \$591,220          | \$0                 |
|                       | Town of Palm Shores Community Redevelopment Agency                 | 2004          | \$84,542            | \$76,746           | \$0                 |
|                       | U.S. 1 Corridor Community Redevelopment Agency                     | 1997          | \$69,716            | \$89,783           | \$0                 |
| <b>Brevard Total</b>  | <b>15</b>  |               | <b>\$7,579,753</b>  | <b>\$7,348,920</b> | <b>\$10,411,628</b> |



| County                 | Name of CRAs Active as of January 1, 2017            | Creation Year | Revenues            | Expenditures         | Debt                 |
|------------------------|--|---------------|---------------------|----------------------|----------------------|
| Broward                | Broward County Community Redevelopment Agency        | 1981          | \$0                 | \$0                  | \$0                  |
|                        | City of Coral Springs Community Redevelopment Agency | 2001          | \$216,845           | \$299,124            | \$0                  |
|                        | City of Lauderhill Community Redevelopment Agency    | 2004          | \$339,950           | \$547,157            | \$2,244,415          |
|                        | City of Oakland Park Community Redevelopment Agency  | 2002          | \$452,218           | \$468,530            | \$3,773,977          |
|                        | City of Plantation Community Redevelopment Agency    | 2000          | \$2,124,723         | \$1,522,637          | \$4,325,815          |
|                        | Dania Beach Community Redevelopment Agency           | 2002          | \$1,529,524         | \$1,663,240          | \$0                  |
|                        | Davie Community Redevelopment Agency                 | 1988          | \$2,898,490         | \$2,965,193          | \$15,491,131         |
|                        | Deerfield Beach Community Redevelopment Agency       | 1999          | \$2,617,923         | \$2,577,652          | \$10,859,584         |
|                        | Fort Lauderdale Community Redevelopment Agency       | 1989          | \$21,984,513        | \$16,097,745         | \$7,603,000          |
|                        | Hallandale Beach Community Redevelopment Agency      | 1996          | \$5,378,660         | \$9,281,686          | \$0                  |
|                        | Hollywood Community Redevelopment Agency             | 1979          | \$30,231,540        | \$44,836,301         | \$47,150,661         |
|                        | Lauderdale Lakes Community Redevelopment Agency      | 2000          | \$1,582,923         | \$1,638,060          | \$6,983,050          |
|                        | Margate Community Redevelopment Agency               | 1996          | \$8,496,623         | \$8,726,702          | \$9,573,567          |
|                        | Pompano Beach Community Redevelopment Agency         | 1988          | \$10,105,658        | \$16,350,833         | \$19,867,028         |
| <b>Broward Total</b>   | <b>14</b>  |               | <b>\$87,959,590</b> | <b>\$106,974,860</b> | <b>\$127,872,228</b> |
| Calhoun                | Blountstown Community Redevelopment Agency           | 1990          | \$0                 | \$0                  | \$0                  |
| <b>Calhoun Total</b>   | <b>1</b>   |               | <b>\$0</b>          | <b>\$0</b>           | <b>\$0</b>           |
| Charlotte              | Charlotte Harbor Community Redevelopment Agency      | 1992          | \$719,606           | \$1,081,077          | \$0                  |
|                        | City of Punta Gorda Community Redevelopment Agency   | 1989          | \$1,584,390         | \$1,665,237          | No reported          |
|                        | Murdock Village Community Redevelopment Agency       | 2003          | \$4,995,929         | \$4,283,463          | \$45,528,438         |
|                        | Parkside Community Redevelopment Agency              | 2010          | \$834,659           | \$959,887            | \$0                  |
| <b>Charlotte Total</b> | <b>4</b>   |               | <b>\$8,134,584</b>  | <b>\$7,989,664</b>   | <b>\$45,528,438</b>  |
| Citrus                 | City of Inverness Community Redevelopment Agency     | 1991          | \$144,908           | \$166,467            | \$0                  |
|                        | Crystal River Redevelopment Agency                   | 1988          | \$514,686           | \$254,067            | \$0                  |
| <b>Citrus Total</b>    | <b>2</b>   |               | <b>\$659,594</b>    | <b>\$420,534</b>     | <b>\$0</b>           |
| Clay                   | Keystone Heights Community Redevelopment Agency      | 2006          | \$50,173            | \$44,415             | \$0                  |
| <b>Clay Total</b>      | <b>1</b>   |               | <b>\$50,173</b>     | <b>\$44,415</b>      | <b>\$0</b>           |
| Collier                | City of Naples Community Redevelopment Agency        | 1993          | \$2,232,320         | \$2,202,075          | \$0                  |
|                        | Collier County Community Redevelopment Agency        | 2000          | \$4,914,875         | \$4,838,204          | \$6,009,577          |
| <b>Collier Total</b>   | <b>2</b>   |               | <b>\$7,147,195</b>  | <b>\$7,040,279</b>   | <b>\$6,009,577</b>   |
| Columbia               | Lake City Community Redevelopment Agency             | 1989          | \$1,598,553         | \$326,896            | \$1,311,250          |
| <b>Columbia Total</b>  | <b>1</b>   |               | <b>\$1,598,553</b>  | <b>\$326,896</b>     | <b>\$1,311,250</b>   |
| Duval                  | Downtown Investment Authority                        | 2012          | \$67,968            | \$1,126,181          | \$0                  |
|                        | Jacksonville Beach Community Redevelopment Agency    | 1978          | \$8,754,078         | \$3,220,697          | \$665,311            |
| <b>Duval</b>           | <b>2</b>   |               | <b>\$8,822,046</b>  | <b>\$4,346,878</b>   | <b>\$665,311</b>     |
| Escambia               | City of Pensacola Community Redevelopment Agency     | 1980          | \$3,977,161         | \$3,924,024          | No reported          |
|                        | Community Redevelopment Agency of Escambia County    | 1996          | \$1,183,830         | \$1,482,029          | \$0                  |
| <b>Escambia Total</b>  | <b>2</b>   |               | <b>\$5,160,991</b>  | <b>\$5,406,053</b>   | <b>\$0</b>           |



| County                    | Name of CRAs Active as of January 1, 2017                    | Creation Year | Revenues            | Expenditures        | Debt                |
|---------------------------|--|---------------|---------------------|---------------------|---------------------|
| Flagler                   | Bunnell Community Redevelopment Agency                       | 2007          | \$0                 | \$0                 | \$0                 |
|                           | Flagler Beach Community Redevelopment Agency                 | 2002          | \$115,551           | \$118,739           | \$873,000           |
|                           | State Road 100 Corridor Community Redevelopment Agency       | 2004          | \$1,489,438         | \$1,847,995         | \$9,666,000         |
|                           | Town of Marineland Community Redevelopment Agency            | 2000          | \$0                 | \$175               | \$0                 |
| <b>Flagler Total</b>      | <b>4</b>   |               | <b>\$1,604,989</b>  | <b>\$1,966,909</b>  | <b>\$10,539,000</b> |
| Franklin                  | Apalachicola Community Redevelopment Agency                  | 1989          | \$0                 | \$0                 | \$0                 |
|                           | Carrabelle Community Redevelopment Agency                    | 1992          | \$206,976           | \$417,146           | \$0                 |
| <b>Franklin Total</b>     | <b>2</b>   |               | <b>\$206,976</b>    | <b>\$417,146</b>    | <b>\$0</b>          |
| Gadsden                   | Community Redevelopment Agency of the Town of Havana         | 1997          | \$15,380            | \$9,644             | \$0                 |
|                           | Quincy Community Redevelopment Agency                        | 1998          | \$423,179           | \$268,981           | \$0                 |
| <b>Gadsden Total</b>      | <b>2</b>   |               | <b>\$438,559</b>    | <b>\$278,625</b>    | <b>\$0</b>          |
| Gilchrist                 | City of Trenton Community Redevelopment Agency               | 2002          | No reported         | No reported         | No reported         |
| <b>Gilchrist Total</b>    | <b>1</b>   |               | <b>No reported</b>  | <b>No reported</b>  | <b>No reported</b>  |
| Glades                    | City of Moore Haven Redevelopment Agency                     | 1997          | \$153               | \$175               | \$0                 |
| <b>Glades Total</b>       | <b>1</b>   |               | <b>\$153</b>        | <b>\$175</b>        | <b>\$0</b>          |
| Gulf                      | Port St. Joe Redevelopment Agency                            | 1990          | \$279,499           | \$261,904           | No reported         |
| <b>Gulf Total</b>         | <b>1</b>   |               | <b>\$279,499</b>    | <b>\$261,904</b>    | <b>No reported</b>  |
| Hardee                    | Wauchula Community Redevelopment Agency                      | 1997          | \$490,266           | \$368,312           | No reported         |
| <b>Hardee Total</b>       | <b>1</b>   |               | <b>\$490,26</b>     | <b>\$368,312</b>    | <b>No reported</b>  |
| Hendry                    | City of Clewiston Community Redevelopment Agency             | 2005          | \$101               | \$20,420            | \$0                 |
| <b>Hendry Total</b>       | <b>1</b>   |               | <b>\$101</b>        | <b>\$20,420</b>     | <b>\$0</b>          |
| Hernando                  | City of Brooksville Community Redevelopment Agency           | 1998          | \$91,458            | \$39,362            | \$0                 |
|                           | Hernando County Community Redevelopment Agency               | 2016          | No reported         | No reported         | No reported         |
| <b>Hernando Total</b>     | <b>2</b>   |               | <b>\$91,458</b>     | <b>\$39,362</b>     | <b>\$0</b>          |
| Highlands                 | Avon Park Community Redevelopment Agency                     | 1988          | \$160,578           | \$99,662            | \$0                 |
|                           | Sebring Community Redevelopment Agency                       | 1981          | \$611,103           | \$636,512           | \$0                 |
|                           | Sebring Regional Airport and Industrial Park CRA             | 1996          | \$419,237           | \$244,607           | \$0                 |
| <b>Highlands Total</b>    | <b>3</b>   |               | <b>\$1,190,918</b>  | <b>\$980,781</b>    | <b>\$0</b>          |
| Hillsborough              | City of Tampa Community Redevelopment Agency                 | 1982          | \$20,318,708        | \$19,572,396        | \$0                 |
|                           | Community Redevelopment Agency of the City of Temple Terrace | 2000          | \$0                 | \$0                 | \$0                 |
|                           | Plant City Community Redevelopment Agency                    | 1981          | \$839,971           | \$649,350           | \$0                 |
| <b>Hillsborough Total</b> | <b>3</b>   |               | <b>\$21,158,679</b> | <b>\$20,221,746</b> | <b>\$0</b>          |
| Indian River              | City of Sebastian Community Redevelopment Agency             | 1995          | \$334,310           | \$267,636           | \$0                 |
|                           | Community Redevelopment Agency of the City of Fellsmere      | 2005          | \$2,438             | \$7,181             | \$0                 |
| <b>Indian River Total</b> | <b>2</b>   |               | <b>\$336,748</b>    | <b>\$274,817</b>    | <b>\$0</b>          |
| Jackson                   | City of Marianna Community Redevelopment Agency              | 1993          | \$152,348           | \$62,811            | No reported         |
| <b>Jackson Total</b>      |  |               | <b>\$152,348</b>    | <b>\$62,811</b>     | <b>No reported</b>  |
| Lake                      | Carver Heights/Montclair Community Redevelopment Agency      | 2001          | \$493,728           | \$624,487           | \$293,598           |
|                           | City of Mascotte Community Redevelopment Agency              | 2005          | \$110               | \$35,000            | \$0                 |
|                           | City of Minneola Community Redevelopment Agency              | 2014          | \$95,570            | \$13,784            | \$0                 |
|                           | Community Redevelopment Agency of the City of Umatilla       | 1997          | \$145,226           | \$130,606           | \$0                 |
|                           | Downtown and East Town Redevelopment Agency                  | 1990          | \$413,528           | \$411,723           | \$0                 |



| County               | Name of CRAs Active as of January 1, 2017            | Creation Year | Revenues           | Expenditures       | Debt                |
|----------------------|--|---------------|--------------------|--------------------|---------------------|
|                      | Downtown Clermont Redevelopment Agency               | 1997          | \$204,484          | \$425,477          | \$0                 |
|                      | Fruitland Park Community Redevelopment Agency        | 1995          | \$231,760          | \$82,487           | \$0                 |
|                      | Greater Leesburg Community Redevelopment Agency      | 1996          | \$1,458,282        | \$1,417,460        | \$1,000,000         |
|                      | Groveland Community Redevelopment Agency             | 2002          | \$386,959          | \$372,967          | No reported         |
|                      | Mount Dora Community Redevelopment Agency            | 1987          | \$871,235          | \$1,475,819        | \$2,215,000         |
|                      | Mt. Plymouth-Sorrento Community Redevelopment Agency | 2012          | \$7,453            | \$0                | \$0                 |
|                      | Northeast Community Redevelopment Agency             | 1990          | \$385,332          | \$284,293          | \$0                 |
|                      | Tavares Greater Downtown TIF District                | 1995          | \$223,240          | \$604,293          | \$0                 |
|                      | U.S. Highway 441/27 Community Redevelopment Agency   | 2006          | \$31,481           | \$838,191          | \$14,170,000        |
| <b>Lake Total</b>    | <b>14</b>  |               | <b>\$4,948,388</b> | <b>\$6,716,587</b> | <b>\$17,678,598</b> |
| Lee                  | Cape Coral Community Redevelopment Agency            | 1986          | \$845,609          | \$889,306          | \$0                 |
|                      | Fort Myers Community Redevelopment Agency            | 1984          | \$3,248,859        | \$3,623,334        | \$3,473,077         |
| <b>Lee Total</b>     | <b>2</b>   |               | <b>\$4,094,468</b> | <b>\$4,512,640</b> | <b>\$3,473,077</b>  |
| Leon                 | City of Tallahassee Community Redevelopment Agency   | 1998          | \$2,883,000        | \$2,702,000        | \$0                 |
| <b>Leon Total</b>    | <b>1</b>   |               | <b>\$2,883,000</b> | <b>\$2,702,00</b>  | <b>\$0</b>          |
| Levy                 | City of Cedar Key Community Redevelopment Agency     | 1999          | \$503,023          | \$663,504          | \$6,405,000         |
|                      | Williston Community Redevelopment Agency             | 1999          | \$174,321          | \$243,929          | \$0                 |
| <b>Levy Total</b>    | <b>2</b>   |               | <b>\$677,344</b>   | <b>\$907,433</b>   | <b>\$6,405,000</b>  |
| Madison              | Madison Community Redevelopment Agency               | 1989          | \$108,832          | \$156,964          | \$0                 |
| <b>Madison Total</b> | <b>1</b>   |               | <b>\$108,832</b>   | <b>\$156,964</b>   | <b>\$0</b>          |
| Manatee              | Bradenton Beach Community Redevelopment Agency       | 1992          | \$986,197          | \$1,031,360        | No reported         |
|                      | Bradenton Community Redevelopment Agency             | 1980          | \$2,332,095        | \$2,759,563        | \$5,192,667         |
|                      | Central Community Redevelopment Agency               | 2000          | \$1,002,549        | \$955,142          | \$3,243,427         |
|                      | City of Palmetto Community Redevelopment Agency      | 1985          | \$2,893,635        | \$3,081,537        | \$2,417,250         |
|                      | Fourteenth Street Community Redevelopment Agency     | 1993          | \$372,181          | \$218,438          | \$640,949           |
| <b>Manatee Total</b> | <b>5</b>   |               | <b>\$7,586,657</b> | <b>\$8,046,040</b> | <b>\$11,494,293</b> |
| Marion               | City of Dunnellon Community Redevelopment Agency     | 1993          | \$142,311          | \$59,172           | \$0                 |
|                      | Downtown Belleview Community Redevelopment Agency    | 2013          | No reported        | No reported        | No reported         |
|                      | Marion County Community Redevelopment Agency         | 2013          | \$0                | \$0                | \$0                 |
|                      | Ocala Community Redevelopment Agency                 | 1999          | \$576,592          | \$379,403          | \$0                 |
| <b>Marion Total</b>  | <b>4</b>   |               | <b>\$718,903</b>   | <b>\$438,575</b>   | <b>\$0</b>          |
| Martin               | City of Stuart Community Redevelopment Agency        | 1990          | \$767,397          | \$1,011,653        | \$844,632           |
|                      | Martin County Community Redevelopment Agency         | 1997          | \$1,881,554        | \$1,202,234        | \$0                 |
| <b>Martin Total</b>  | <b>2</b>   |               | <b>\$2,648,951</b> | <b>\$2,213,887</b> | <b>\$844,632</b>    |
| Miami-Dade           | Florida City Community Redevelopment Agency          | 1996          | \$1,575,422        | \$1,706,626        | \$0                 |
|                      | Hialeah Redevelopment Agency                         | 1982          | \$0                | \$0                | \$0                 |
|                      | Homestead Community Redevelopment Agency             | 1993          | \$1,878,376        | \$2,804,744        | \$1,136,812         |
|                      | Miami Beach Redevelopment Agency                     | 1976          | \$44,620,159       | \$34,384,346       | \$54,990,000        |
|                      | Midtown Community Redevelopment Agency               | 2005          | \$4,365,197        | \$4,326,847        | \$0                 |
|                      | Naranja Lakes Community Redevelopment Agency         | 1998          | \$892,401          | \$910,319          | \$0                 |
|                      | North Miami Beach Community Redevelopment Agency     | 2004          | \$552,907          | \$417,488          | \$1,916,667         |
|                      | North Miami Community Redevelopment Agency           | 2005          | \$1,431,739        | \$433,493          | \$0                 |



| County                  | Name of CRAs Active as of January 1, 2017                        | Creation Year | Revenues            | Expenditures        | Debt                 |
|-------------------------|--|---------------|---------------------|---------------------|----------------------|
|                         | NW 79th Street Corridor Community Redevelopment Agency           | 2011          | \$2                 | \$0                 | \$0                  |
|                         | NW 7th Avenue Corridor Community Redevelopment Agency            | 2004          | \$323,048           | \$253,571           | \$0                  |
|                         | Omni Redevelopment District Community Redevelopment Agency       | 1986          | \$12,452,664        | \$20,516,771        | \$0                  |
|                         | South Miami Community Redevelopment Agency                       | 1998          | \$1,053,191         | \$1,002,960         | \$77,254             |
|                         | Southeast Overtown/Park West Community Redevelopment Agency      | 1982          | \$14,851,697        | \$18,094,979        | \$51,576,002         |
|                         | West Perrine Community Redevelopment Agency                      | 2005          | \$1,087             | \$163,116           | \$0                  |
| <b>Miami-Dade Total</b> | <b>14</b>  |               | <b>\$83,997,890</b> | <b>\$85,015,260</b> | <b>\$109,696,735</b> |
| Monroe                  | Key West Bight and Bahama Village Community Redevelopment Agency | 1992          | \$1,464,453         | \$592,456           | \$437,344            |
|                         | Naval Properties Local Redevelopment Authority                   | 1995          | \$0                 | \$0                 | \$0                  |
| <b>Monroe Total</b>     | <b>2</b>   |               | <b>\$1,464,453</b>  | <b>\$592,456</b>    | <b>\$437,344</b>     |
| Nassau                  | Fernandina Beach Community Redevelopment Agency                  | 2004          | \$0                 | \$0                 | \$0                  |
| <b>Nassau Total</b>     | <b>1</b>   |               | <b>\$0</b>          | <b>\$0</b>          | <b>\$0</b>           |
| Okaloosa                | Community Redevelopment Agency of the Town of Cinco Bayou        | 2002          | \$36,532            | \$25,029            | \$138,827            |
|                         | Crestview Community Redevelopment Agency                         | 1995          | \$165,166           | \$73,149            | No reported          |
|                         | Destin Community Redevelopment Agency                            | 1998          | \$945,105           | \$1,299,473         | \$16,266,560         |
|                         | Fort Walton Beach Community Redevelopment Agency                 | 1977          | \$1,608,906         | \$3,808,005         | \$0                  |
| <b>Okaloosa Total</b>   | <b>4</b>   |               | <b>\$2,755,709</b>  | <b>\$5,205,656</b>  | <b>\$16,405,387</b>  |
| Orange                  | Apopka Community Redevelopment Agency                            | 1993          | \$203,475           | \$228,422           | \$0                  |
|                         | International Drive Community Redevelopment Agency               | 1998          | \$9,493,936         | \$7,844,510         | \$0                  |
|                         | Maitland Downtown Community Redevelopment Agency                 | 2003          | \$14,351,021        | \$14,347,684        | \$13,485,000         |
|                         | Ocoee Community Redevelopment Agency                             | 2006          | \$226,405           | \$260,044           | \$0                  |
|                         | Orange Blossom Trail Community Redevelopment Agency              | 1990          | \$205,824           | \$272,609           | \$0                  |
|                         | Orlando Community Redevelopment Agency                           | 1980          | \$60,530,045        | \$65,481,652        | \$0                  |
|                         | Town of Eatonville Community Redevelopment Agency                | 1997          | \$304,816           | \$78,676            | \$0                  |
|                         | Winter Garden Community Redevelopment Agency                     | 1992          | \$637,429           | \$88,548            | \$0                  |
|                         | Winter Park Community Redevelopment Agency                       | 1991          | \$2,714,545         | \$2,498,760         | \$12,400,000         |
| <b>Orange Total</b>     | <b>9</b>   |               | <b>\$88,667,496</b> | <b>\$91,100,905</b> | <b>\$25,885,000</b>  |
| Osceola                 | City of Kissimmee Community Redevelopment Agency                 | 1991          | \$907,000           | \$305,000           | \$0                  |
|                         | City of St. Cloud Community Redevelopment Agency                 | 2005          | \$656,681           | \$237,950           | \$0                  |
|                         | Osceola County Community Redevelopment Agency - East U.S. 192    | 2012          | \$0                 | \$0                 | \$0                  |
| <b>Osceola Total</b>    | <b>3</b>   |               | <b>\$1,563,681</b>  | <b>\$542,950</b>    | <b>\$0</b>           |
| Palm Beach              | Boca Raton Community Redevelopment Agency                        | 1980          | \$11,078,545        | \$9,371,321         | \$24,197,702         |
|                         | Boynton Beach Community Redevelopment Agency                     | 1981          | \$14,623,289        | \$13,877,032        | \$18,744,000         |
|                         | City of Belle Glade Community Redevelopment Agency               | 2003          | \$16,665            | \$100,721           | \$0                  |
|                         | Community Redevelopment Agency of the Town of Lake Park          | 1996          | \$517,033           | \$446,631           | No reported          |
|                         | Delray Beach Community Redevelopment Agency                      | 1985          | \$13,371,704        | \$8,698,860         | \$9,559,173          |
|                         | Lake Clarke Shores Community Redevelopment Agency                | 2016          | No reported         | No reported         | No reported          |
|                         | Lake Worth Community Redevelopment Agency                        | 1989          | \$1,779,377         | \$2,098,457         | \$0                  |
|                         | Northwood/Pleasant City Community Redevelopment Agency           | 1994          | \$21,028,320        | \$21,217,873        | \$22,750,000         |



| County                  | Name of CRAs Active as of January 1, 2017                    | Creation Year | Revenues             | Expenditures         | Debt                 |
|-------------------------|--|---------------|----------------------|----------------------|----------------------|
|                         | Riviera Beach Community Redevelopment Agency                 | 1984          | \$6,640,071          | \$15,396,526         | \$25,248,367         |
|                         | Town of Jupiter Community Redevelopment Agency               | 2001          | \$1,235,889          | \$2,161,145          | \$8,198,376          |
|                         | West Palm Beach Community Redevelopment Agency               | 1984          | \$75,626,076         | \$70,418,666         | \$73,136,625         |
|                         | Westgate/Belvedere Homes Community Redevelopment Agency      | 1989          | \$1,475,969          | \$1,478,144          | \$830,179            |
| <b>Palm Beach Total</b> | <b>12</b>  |               | <b>\$147,992,938</b> | <b>\$145,265,376</b> | <b>\$182,664,422</b> |
| Pasco                   | Dade City Community Redevelopment Agency                     | 1996          | \$174,165            | \$239,727            | \$0                  |
|                         | New Port Richey Community Redevelopment Agency               | 1988          | No reported          | No reported          | No reported          |
|                         | Port Richey Community Redevelopment Agency                   | 2002          | \$708,316            | \$918,492            | \$0                  |
|                         | Zephyrhills Community Redevelopment Agency                   | 1998          | \$72,216             | \$431,870            | \$0                  |
| <b>Pasco Total</b>      | <b>4</b>   |               | <b>\$954,697</b>     | <b>\$1,590,089</b>   | <b>\$0</b>           |
| Pinellas                | City of Tarpon Springs Community Redevelopment Agency        | 2001          | \$379,828            | \$132,243            | \$0                  |
|                         | Clearwater Community Redevelopment Agency                    | 1981          | \$2,034,539          | \$1,676,264          | \$0                  |
|                         | Dunedin Community Redevelopment Agency                       | 1988          | \$504,411            | \$476,211            | \$0                  |
|                         | Forty-Ninth Street Corridor Redevelopment District           | 1999          | \$68,035             | \$66,117             | \$0                  |
|                         | Gulfport Waterfront Community Redevelopment Agency           | 1992          | \$321,599            | \$48,765             | \$0                  |
|                         | Largo Community Redevelopment Agency                         | 1991          | \$669,918            | \$181,595            | \$0                  |
|                         | Lealman Community Redevelopment Agency                       | 2015          | \$0                  | \$0                  | \$0                  |
|                         | Oldsmar Community Redevelopment Agency                       | 1993          | \$545,877            | \$107,572            | \$0                  |
|                         | Pinellas Park Community Redevelopment District               | 1988          | \$1,781,728          | \$1,795,905          | \$0                  |
|                         | Safety Harbor Community Redevelopment Agency                 | 1992          | \$356,767            | \$173,082            | \$0                  |
|                         | St. Petersburg Community Redevelopment Agency                | 1981          | \$11,322,118         | \$9,545,877          | \$0                  |
| <b>Pinellas Total</b>   | <b>11</b>  |               | <b>\$17,984,820</b>  | <b>\$14,203,631</b>  | <b>\$0</b>           |
| Polk                    | Auburndale Community Redevelopment Agency                    | 1992          | \$828,930            | \$395,882            | \$0                  |
|                         | Bartow Community Redevelopment Agency                        | 1990          | \$736,231            | \$568,514            | \$0                  |
|                         | City of Eagle Lake Community Redevelopment Agency            | 2000          | \$41,145             | \$44,727             | \$0                  |
|                         | City of Fort Meade Community Redevelopment Agency            | 2008          | \$0                  | \$2,052              | \$0                  |
|                         | City of Lake Alfred Community Redevelopment Agency           | 2014          | \$0                  | \$0                  | \$0                  |
|                         | City of Mulberry Community Redevelopment Agency              | 2014          | No reported          | No reported          | No reported          |
|                         | City of Winter Haven Downtown Community Redevelopment Agency | 2000          | \$811,353            | \$823,098            | \$0                  |
|                         | Eloise Community Redevelopment Agency                        | 1998          | \$34,111             | \$20,473             | No reported          |
|                         | Florence Villa Community Redevelopment Agency                | 2000          | \$126,641            | \$172,445            | \$0                  |
|                         | Haines City Community Redevelopment Agency                   | 1990          | \$2,242,742          | \$2,039,289          | \$21,780,000         |
|                         | Harden/Parkway Community Redevelopment Agency                | 2004          | \$704,690            | \$745,000            | No reported          |
|                         | Lake Wales Community Redevelopment Agency                    | 1985          | \$997,129            | \$1,041,206          | \$6,879,948          |
|                         | Lakeland Community Redevelopment Agency                      | 1979          | \$4,083,861          | \$2,000,844          | \$0                  |
|                         | Polk Commerce Centre Community Redevelopment Agency          | 1992          | \$21,549             | \$104,257            | \$0                  |
| <b>Polk Total</b>       | <b>14</b>  |               | <b>\$10,628,382</b>  | <b>\$7,957,787</b>   | <b>\$28,659,948</b>  |
| Putnam                  | City of Crescent City Community Redevelopment Agency         | 1995          | \$31,034             | \$41,557             | \$0                  |
|                         | Palatka Downtown Redevelopment Agency                        | 1983          | \$391,962            | \$274,701            | \$0                  |
| <b>Putnam Total</b>     | <b>2</b>   |               | <b>\$422,996</b>     | <b>\$316,258</b>     | <b>\$0</b>           |



| County                  | Name of CRAs Active as of January 1, 2017                      | Creation Year | Revenues            | Expenditures        | Debt                |
|-------------------------|--|---------------|---------------------|---------------------|---------------------|
| St. Johns               | St. Augustine Community Redevelopment Agency                   | 2000          | \$614,759           | \$579,077           | \$0                 |
|                         | St. Johns County Community Redevelopment Agency                | 2002          | \$597,180           | \$614,410           | \$11,737,802        |
| <b>St. Johns Total</b>  | <b>2</b>   |               | <b>\$1,211,939</b>  | <b>\$1,193,487</b>  | <b>\$11,737,802</b> |
| St. Lucie               | City of Port St. Lucie Community Redevelopment Agency          | 2001          | \$4,777,669         | \$4,817,882         | \$43,825,000        |
|                         | Fort Pierce Redevelopment Agency                               | 1982          | \$7,461,481         | \$7,373,053         | \$28,970,000        |
| <b>St. Lucie Total</b>  | <b>2</b>   |               | <b>\$12,239,150</b> | <b>\$12,190,935</b> | <b>\$72,795,000</b> |
| Santa Rosa              | Gulf Breeze Community Redevelopment Agency                     | 1989          | \$843,665           | \$715,603           | \$0                 |
|                         | Milton Community Redevelopment Agency                          | 1982          | \$95,599            | \$97,917            | \$0                 |
| <b>Santa Rosa Total</b> | <b>2</b>   |               | <b>\$939,264</b>    | <b>\$813,520</b>    | <b>\$0</b>          |
| Sarasota                | City of Sarasota Community Redevelopment Agency                | 1986          | \$9,741,862         | \$16,447,322        | \$0                 |
|                         | Englewood Community Redevelopment Agency                       | 1999          | \$1,253,469         | \$950,833           | No reported         |
| <b>Sarasota Total</b>   | <b>2</b>   |               | <b>\$10,995,331</b> | <b>\$17,398,155</b> | <b>\$0</b>          |
| Seminole                | Altamonte Springs Community Redevelopment Agency               | 1985          | \$4,154,393         | \$2,496,394         | \$0                 |
|                         | City of Casselberry Community Redevelopment Agency             | 1995          | \$422,539           | \$191,033           | No reported         |
|                         | City of Sanford Community Redevelopment Agency                 | 1995          | \$956,549           | \$709,302           | \$0                 |
|                         | Oviedo Community Redevelopment Agency                          | 2008          | \$0                 | \$0                 | \$0                 |
|                         | U.S. Highway 17-92 Corridor Redevelopment Agency               | 1997          | \$1,821,196         | \$1,293,019         | \$0                 |
| <b>Seminole Total</b>   | <b>5</b>   |               | <b>\$7,354,677</b>  | <b>\$4,689,748</b>  | <b>\$0</b>          |
| Sumter                  | Center Hill Community Redevelopment Agency                     | 2008          | \$3,978             | \$175               | \$0                 |
|                         | Coleman Community Redevelopment Agency                         | 2003          | \$28,861            | \$2,817             | \$0                 |
|                         | Wildwood Community Redevelopment Agency                        | 1989          | \$161,904           | \$69,024            | \$0                 |
| <b>Sumter Total</b>     | <b>3</b>   |               | <b>\$194,743</b>    | <b>\$72,016</b>     | <b>\$0</b>          |
| Suwannee                | City of Live Oak Community Redevelopment Agency                | 1995          | \$281,653           | \$316,612           | \$0                 |
| <b>Suwannee Total</b>   | <b>1</b>   |               | <b>\$281,653</b>    | <b>\$316,612</b>    | <b>\$0</b>          |
| Taylor                  | City of Perry Community Redevelopment Agency                   | 1993          | \$43,678            | \$45,515            | \$0                 |
| <b>Taylor Total</b>     | <b>1</b>   |               | <b>\$43,678</b>     | <b>\$45,515</b>     | <b>\$0</b>          |
| Union                   | Lake Butler Community Redevelopment Agency                     | 1996          | \$50,536            | \$21,303            | No reported         |
| <b>Union Total</b>      | <b>1</b>   |               | <b>\$50,536</b>     | <b>\$21,303</b>     | <b>No reported</b>  |
| Volusia                 | City of DeLand Downtown Tax Increment District                 | 1984          | \$265,769           | \$190,674           | \$0                 |
|                         | City of Edgewater Community Redevelopment Agency               | 2015          | \$0                 | \$0                 | \$0                 |
|                         | City of Holly Hill Community Redevelopment Agency              | 1996          | \$2,055,727         | \$1,743,250         | \$8,240,000         |
|                         | Community Redevelopment Agency of the City of New Smyrna Beach | 2015          | \$0                 | \$0                 | \$0                 |
|                         | Community Redevelopment Agency of the City of South Daytona    | 1997          | \$3,281,015         | \$3,281,015         | \$3,891,413         |
|                         | Daytona Beach Community Redevelopment Agency                   | 1981          | \$4,902,200         | \$4,618,294         | \$1,854,542         |
|                         | Eastport Business Center                                       | 1995          | \$163,511           | \$186,773           | \$1,745,000         |
|                         | North Mainland/Ormond Crossings Community Redevelopment Agency | 2006          | \$1,000             | \$0                 | \$0                 |
|                         | Orange City Community Redevelopment Agency                     | 2014          | \$50,735            | \$0                 | \$0                 |
|                         | Ormond Beach Community Redevelopment Agency                    | 1984          | \$1,975,000         | \$1,661,000         | \$0                 |
|                         | Port Orange Town Center  | 1998          | \$255,941           | \$875,071           | \$5,230,000         |
|                         | Spring Hill Community Redevelopment Agency                     | 2004          | \$1,419             | \$31,577            | \$0                 |
| <b>Volusia Total</b>    | <b>12</b>  |               | <b>\$14,873,570</b> | <b>\$15,209,087</b> | <b>\$20,960,955</b> |



| County                         | Name of CRAs Active as of January 1, 2017 | Creation Year | Revenues                | Expenditures            | Debt              |
|--------------------------------|---|---------------|-------------------------|-------------------------|-------------------|
| Wakulla                        | City of St. Marks Redevelopment Agency    | 2008          | \$0                     | \$0                     | \$0               |
| <b><i>Wakulla Total</i></b>    | <b><i>1</i></b>                           |               | <b><i>\$0</i></b>       | <b><i>\$0</i></b>       | <b><i>\$0</i></b> |
| Washington                     | Chipley Redevelopment Agency              | 1985          | \$134,826               | \$172,693               | \$0               |
| <b><i>Washington Total</i></b> | <b><i>1</i></b>                           |               | <b><i>\$134,826</i></b> | <b><i>\$172,693</i></b> | <b><i>\$0</i></b> |

Source: Department of Economic Opportunity, Department of Financial Services, and OPPAGA survey.



**Appendix B****Bonds Issued by Community Redevelopment Agencies****Exhibit B-1****Between December 30, 2005, and July 8, 2016, 46 CRAs Issued More Than \$1 Billion in Bonds**

| Name   | Amount Issued | Purpose                       |
|--|---------------|-------------------------------|
| 1. Bayfront Community Redevelopment Agency of the City of Palm Bay | \$6,000,000   | Redevelopment                 |
| 2. Boynton Beach Community Redevelopment Agency                    | \$5,005,005   | Refunding                     |
| 3. Cedar Key Redevelopment Agency                                  | \$9,200,000   | Other                         |
| 4. City of Bradenton Community Redevelopment Agency                | \$5,285,000   | Waterfront/Beach Improvements |
| 5. City of Destin Community Redevelopment Agency                   | \$8,500,000   | Redevelopment                 |
|  | \$5,709,446   | Refunding                     |
| 6. City of Flagler Beach Community Redevelopment Agency            | \$1,100,000   | Redevelopment                 |
| 7. City of Groveland Community Redevelopment Agency                | \$850,000     | Refunding                     |
| 8. City of Holly Hill Community Redevelopment Agency               | \$4,835,000   | Refunding                     |
|  | \$5,000,000   | Redevelopment                 |
| 9. City of Hollywood Community Redevelopment Agency                | \$20,500,000  | Redevelopment                 |
|  | \$40,000,000  | Redevelopment                 |
|  | \$19,000,000  | Redevelopment                 |
|  | \$49,075,000  | Redevelopment                 |
| 10. City of Maitland Community Redevelopment Agency                | \$13,485,000  | Refunding                     |
| 11. City of Margate Community Redevelopment Agency                 | \$10,000,000  | Other                         |
|  | \$5,000,000   | Other                         |
| 12. City of New Port Richey Community Redevelopment Agency         | \$9,028,000   | Redevelopment                 |
|  | \$9,000,000   | Redevelopment                 |
| 13. City of Orlando Community Redevelopment Agency                 | \$14,475,000  | Redevelopment                 |
|  | \$5,975,000   | Redevelopment                 |
|  | \$50,955,000  | Redevelopment                 |
|  | \$4,760,000   | Redevelopment                 |
|  | \$71,415,000  | Redevelopment                 |
|  | \$19,225,000  | Refunding                     |
|  | \$9,000,000   | Redevelopment                 |
|  | \$29,430,000  | Refunding                     |
| 14. City of Palmetto Community Redevelopment Agency                | \$4,395,000   | Redevelopment                 |
| 15. City of Port St. Lucie Community Redevelopment Agency          | \$38,260,000  | Refunding                     |
|  | \$48,662,530  | Other                         |
| 16. City of Quincy Community Redevelopment Agency                  | \$115,000     | Other                         |
|  | \$350,000     | Other                         |
| 17. City of Satellite Beach Community Redevelopment Agency         | \$8,000,000   | Redevelopment                 |
| 18. City of South Daytona Community Redevelopment Agency           | \$3,000,000   | Redevelopment                 |
| 19. Collier County Community Redevelopment Agency                  | \$7,000,000   | Redevelopment                 |
|  | \$13,500,000  | Refunding                     |
|  | \$7,557,900   | Refunding                     |
| 20. Crystal River Community Redevelopment Agency                   | \$3,500,000   | Redevelopment                 |
| 21. Davie Community Redevelopment Agency                           | \$20,000,000  | Other                         |
| 22. Delray Beach Community Redevelopment Agency                    | \$50,000      | Other                         |
|  | \$50,000      | Other                         |
|  | \$7,000,000   | Other                         |
| 23. Fort Lauderdale Community Redevelopment Agency                 | \$7,603,000   | Redevelopment                 |
| 24. Fort Pierce Redevelopment Agency                               | \$31,055,000  | Other                         |
| 25. Greater Leesburg Community Redevelopment Agency                | \$1,000,000   | Other                         |
| 26. Groveland Community Redevelopment Agency                       | \$2,000,000   | Redevelopment                 |



| Name  | Amount Issued          | Purpose                  |
|---|------------------------|--------------------------|
| 27. Hallandale Beach Community Redevelopment Agency             | \$15,400,000           | Redevelopment            |
| 28. Lake City Community Redevelopment Agency                    | \$1,311,250            | Redevelopment            |
| 29. Lake Wales Community Redevelopment Agency                   | \$9,500,000            | Other                    |
| 30. Lauderdale Lakes Community Redevelopment Agency             | \$10,000,000           | Redevelopment            |
|   | \$3,055,000            | Other                    |
| 31. Margate Community Redevelopment Agency                      | \$15,559,296           | Refunding                |
| 32. Miami Beach Redevelopment Agency                            | \$286,245,000          | Other                    |
|   | \$35,850,000           | Other                    |
| 33. Mount Dora Community Redevelopment Agency                   | \$2,500,000            | Other                    |
| 34. North Miami Beach Community Redevelopment Agency            | \$3,000,000            | Other                    |
|   | \$5,000,000            | Other                    |
| 35. North Miami Community Redevelopment Agency                  | \$10,758,300           | Multi-Family Housing     |
| 36. Pompano Beach Community Redevelopment Agency                | \$10,000,000           | Redevelopment            |
|   | \$5,000,000            | Redevelopment            |
|   | \$5,000,000            | Redevelopment            |
|   | \$5,000,000            | Redevelopment            |
|   | \$9,100,000            | Refunding                |
| 37. Port Orange Town Center Community Redevelopment Agency      | \$5,600,000            | Redevelopment            |
| 38. Riviera Beach Community Redevelopment Agency                | \$25,570,000           | Other                    |
| 39. South Miami Community Redevelopment Agency                  | \$2,730,000            | Redevelopment            |
| 40. Southeast Overtown/Park West Community Redevelopment Agency | \$55,885,000           | Redevelopment            |
| 41. St. Johns County Community Redevelopment Agency             | \$6,000,000            | Transportation           |
|   | \$4,701,000            | Refunding                |
| 42. State Road 100 Community Redevelopment Agency               | \$4,000,000            | Road and Bridge Projects |
|   | \$5,448,000            | Refunding                |
| 43. U.S. Highway 441/27 Area Community Redevelopment Agency     | \$14,605,000           | Electric Utilities       |
| 44. Town of Davie Community Redevelopment Agency                | \$10,000,000           | Refunding                |
|   | \$7,394,769            | Refunding                |
| 45. West Palm Beach Community Redevelopment Agency              | \$77,175,000           | Redevelopment            |
|   | \$10,355,000           | Redevelopment            |
|   | \$9,829,000            | Refunding                |
|   | \$5,735,000            | Refunding                |
|   | \$18,870,000           | Refunding                |
| 46. Winter Park Community Redevelopment Agency                  | \$8,100,000            | Redevelopment            |
|   | \$5,870,000            | Refunding                |
| <b>TOTAL</b>  | <b>\$1,345,052,497</b> |                          |

Source: OPPAGA analysis of State Board of Administration Division of Bond Finance data.



## Appendix C

# 2014 American Community Survey Social and Economic Data for Community Redevelopment Areas and Related Urban Areas in 10 Counties

### Exhibit C-1

### CRA Show Greater Levels of Socioeconomic Disadvantages Compared to Surrounding Urban Areas

|                          | Educational Attainment <sup>1</sup> |                     |                    |                             |
|--------------------------|-------------------------------------|---------------------|--------------------|-----------------------------|
|                          | No High School Diploma              | High School Diploma | Associate's Degree | Bachelor's Degree or Higher |
| <b>Bay County</b>        |                                     |                     |                    |                             |
| CRA                      | 6,845 (12%)                         | 31,528 (57%)        | 5,843 (11%)        | 11,348 (20%)                |
| Urban Area               | 6,826 (12%)                         | 31,015 (54%)        | 5,967 (10%)        | 13,559 (24%)                |
| <b>Charlotte County</b>  |                                     |                     |                    |                             |
| CRA                      | 3,623 (15%)                         | 14,658 (59%)        | 2,003 (8%)         | 4,673 (19%)                 |
| Urban Area               | 10,032 (10%)                        | 62,522 (59%)        | 9,816 (9%)         | 22,748 (22%)                |
| <b>Manatee County</b>    |                                     |                     |                    |                             |
| CRA                      | 3,436 (6%)                          | 22,801 (41%)        | 5,755 (10%)        | 23,728 (43%)                |
| Urban Area               | 25,884 (14%)                        | 100,786 (55%)       | 15,047 (8%)        | 42,869 (23%)                |
| <b>Martin County</b>     |                                     |                     |                    |                             |
| CRA                      | 7,142 (15%)                         | 23,118 (47%)        | 4,836 (10%)        | 13,595 (28%)                |
| Urban Area               | 4,765 (7%)                          | 31,126 (49%)        | 6,097 (10%)        | 21,900 (34%)                |
| <b>Miami-Dade County</b> |                                     |                     |                    |                             |
| CRA                      | 53,911 (27%)                        | 96,396 (48%)        | 14,926 (7%)        | 37,276 (18%)                |
| Urban Area               | 314,202 (20%)                       | 703,742 (44%)       | 139,656 (9%)       | 438,156 (27%)               |
| <b>Orange County</b>     |                                     |                     |                    |                             |
| CRA                      | 16,137 (13%)                        | 58,406 (46%)        | 12,027 (9%)        | 41,347 (32%)                |
| Urban Area               | 82,335 (13%)                        | 302,825 (47%)       | 68,411 (11%)       | 196,659 (30%)               |
| <b>Palm Beach County</b> |                                     |                     |                    |                             |
| CRA                      | 27,562 (21%)                        | 60,968 (47%)        | 9,711 (7%)         | 31,785 (24%)                |
| Urban Area               | 93,155 (11%)                        | 394,759 (47%)       | 71,558 (8%)        | 288,532 (34%)               |
| <b>Pinellas County</b>   |                                     |                     |                    |                             |
| CRA                      | 21,369 (17%)                        | 68,040 (53%)        | 11,507 (9%)        | 27,266 (21%)                |
| Urban Area               | 52,304 (9%)                         | 290,374 (51%)       | 55,526 (10%)       | 169,624 (30%)               |
| <b>St. Johns County</b>  |                                     |                     |                    |                             |
| CRA                      | 2,575 (14%)                         | 10,975 (59%)        | 1,373 (7%)         | 3,622 (20%)                 |
| Urban Area               | 5,318 (5%)                          | 46,805 (40%)        | 10,713 (9%)        | 53,400 (46%)                |
| <b>Volusia County</b>    |                                     |                     |                    |                             |
| CRA                      | 11,203 (13%)                        | 50,270 (58%)        | 8,005 (9%)         | 16,649 (19%)                |
| Urban Area               | 30,078 (11%)                        | 152,742 (57%)       | 26,525 (10%)       | 59,960 (22%)                |



|                          | Income and Employment <sup>1</sup> |               |                                   |                                     |
|--------------------------|------------------------------------|---------------|-----------------------------------|-------------------------------------|
|                          | Below Poverty                      | Median Income | Civilian Labor Force—<br>Employed | Civilian Labor Force—<br>Unemployed |
| <b>Bay County</b>        |                                    |               |                                   |                                     |
| CRA                      | 2,518 (13%)                        | \$50,413      | 35,798 (90%)                      | 4,184 (10%)                         |
| Urban Area               | 1,916 (9%)                         | \$52,467      | 36,538 (91%)                      | 3,750 (9%)                          |
| <b>Charlotte County</b>  |                                    |               |                                   |                                     |
| CRA                      | 1,225 (15%)                        | \$42,442      | 12,197 (85%)                      | 2,136 (15%)                         |
| Urban Area               | 2,775 (7%)                         | \$49,132      | 42,311 (88%)                      | 5,657 (12%)                         |
| <b>Manatee County</b>    |                                    |               |                                   |                                     |
| CRA                      | 955 (4%)                           | \$81,105      | 33,241 (93%)                      | 2,624 (7%)                          |
| Urban Area               | 7,847 (12%)                        | \$48,785      | 100,697 (89%)                     | 12,045 (11%)                        |
| <b>Martin County</b>     |                                    |               |                                   |                                     |
| CRA                      | 4,089 (25%)                        | \$59,855      | 27,855 (88%)                      | 3,656 (12%)                         |
| Urban Area               | 5,272 (24%)                        | \$63,170      | 31,899 (89%)                      | 3,755 (11%)                         |
| <b>Miami-Dade County</b> |                                    |               |                                   |                                     |
| CRA                      | 16,028 (27%)                       | \$38,687      | 129,754 (84%)                     | 24,401 (16%)                        |
| Urban Area               | 79,853 (16%)                       | \$54,263      | 1,038,017 (89%)                   | 123,374 (11%)                       |
| <b>Orange County</b>     |                                    |               |                                   |                                     |
| CRA                      | 5,855 (15%)                        | \$50,348      | 95,685 (90%)                      | 10,538 (10%)                        |
| Urban Area               | 30,608 (13%)                       | \$55,260      | 487,529 (89%)                     | 57,232 (11%)                        |
| <b>Palm Beach County</b> |                                    |               |                                   |                                     |
| CRA                      | 8,575 (22%)                        | \$45,506      | 85,319 (85%)                      | 14,742 (15%)                        |
| Urban Area               | 25,945 (9%)                        | \$67,171      | 516,464 (90%)                     | 58,064 (10%)                        |
| <b>Pinellas County</b>   |                                    |               |                                   |                                     |
| CRA                      | 6,514 (17%)                        | \$40,393      | 74,798 (87%)                      | 10,813 (13%)                        |
| Urban Area               | 14,948 (8%)                        | \$55,413      | 341,250 (91%)                     | 33,767 (9%)                         |
| <b>St. Johns County</b>  |                                    |               |                                   |                                     |
| CRA                      | 912 (15%)                          | \$42,503      | 11,758 (89%)                      | 1,413 (11%)                         |
| Urban Area               | 2,485 (6%)                         | \$84,346      | 78,250 (93%)                      | 5,499 (7%)                          |
| <b>Volusia County</b>    |                                    |               |                                   |                                     |
| CRA                      | 3,982 (15%)                        | \$39,252      | 43,636 (88%)                      | 5,810 (12%)                         |
| Urban Area               | 10,345 (11%)                       | \$47,516      | 148,202 (90%)                     | 16,790 (10%)                        |



|                          | Building Structure Age <sup>1</sup> |                    |                       |
|--------------------------|-------------------------------------|--------------------|-----------------------|
|                          | Built 2000 or Later                 | Built 1980 to 1999 | Built 1979 or Earlier |
| <b>Bay County</b>        |                                     |                    |                       |
| CRA                      | 13,589 (25%)                        | 21,842 (41%)       | 18,297 (34%)          |
| Urban Area               | 9,082 (22%)                         | 18,674 (46%)       | 12,902 (32%)          |
| <b>Charlotte County</b>  |                                     |                    |                       |
| CRA                      | 2,391 (13%)                         | 7,316 (39%)        | 9,280 (49%)           |
| Urban Area               | 23,309 (29%)                        | 40,115 (49%)       | 18,213 (22%)          |
| <b>Manatee County</b>    |                                     |                    |                       |
| CRA                      | 21,892 (59%)                        | 11,459 (31%)       | 3,668 (10%)           |
| Urban Area               | 18,338 (13%)                        | 48,904 (36%)       | 68,754 (51%)          |
| <b>Martin County</b>     |                                     |                    |                       |
| CRA                      | 4,482 (14%)                         | 16,526 (50%)       | 11,874 (36%)          |
| Urban Area               | 8,343 (18%)                         | 21,691 (48%)       | 15,481 (34%)          |
| <b>Miami-Dade County</b> |                                     |                    |                       |
| CRA                      | 21,139 (18%)                        | 19,918 (17%)       | 79,439 (66%)          |
| Urban Area               | 127,319 (15%)                       | 251,993 (29%)      | 494,353 (57%)         |
| <b>Orange County</b>     |                                     |                    |                       |
| CRA                      | 26,365 (29%)                        | 35,259 (39%)       | 29,589 (32%)          |
| Urban Area               | 107,622 (27%)                       | 168,551 (42%)      | 128,580 (32%)         |
| <b>Palm Beach County</b> |                                     |                    |                       |
| CRA                      | 17,004 (18%)                        | 22,333 (23%)       | 56,678 (59%)          |
| Urban Area               | 98,294 (17%)                        | 285,036 (50%)      | 189,119 (33%)         |
| <b>Pinellas County</b>   |                                     |                    |                       |
| CRA                      | 7,302 (8%)                          | 15,713 (17%)       | 71,693 (76%)          |
| Urban Area               | 25,660 (6%)                         | 133,063 (33%)      | 249,580 (61%)         |
| <b>St. Johns County</b>  |                                     |                    |                       |
| CRA                      | 4,209 (34%)                         | 4,944 (40%)        | 3,165 (26%)           |
| Urban Area               | 29,759 (39%)                        | 32,662 (43%)       | 14,032 (18%)          |
| <b>Volusia County</b>    |                                     |                    |                       |
| CRA                      | 9,334 (14%)                         | 21,024 (32%)       | 35,830 (54%)          |
| Urban Area               | 37,507 (20%)                        | 84,462 (46%)       | 62,949 (34%)          |

<sup>1</sup> The population of the urban area is calculated without the population of the CRA.  
Source: OPPAGA analysis of 2014 U.S. Census Bureau American Community Survey data.