



FLORIDA ASSOCIATION OF COUNTIES

2019 INNOVATION & POLICY CONFERENCE

LOCALS *first*

Finance, Tax & Administration

2019 INNOVATION & POLICY CONFERENCE



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2019 INNOVATION & POLICY CONFERENCE



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2019-2020 PROPOSED FINANCE, TAX & ADMINISTRATION GUIDING PRINCIPLES

Taxation and Funding of Local Government

County governments have the responsibility to provide not only core public services, but also to provide the infrastructure and services that form the foundation of local and state economies. Adequate revenue must be raised to fund these local needs, while also providing for services and programs that are mandated by the state. If counties are to succeed in meeting their responsibilities, an adequate and fair local tax policy that is commensurate with the many responsibilities of modern county government must be developed. The mechanisms for financing county services should be able to adapt to emerging technology, changing economic circumstances, and should be structured to address the ever-increasing demands on county government service delivery.

- FTA 1. The Florida Association of Counties is dedicated to protecting the integrity, functionality and fairness of local ad valorem taxing authority, as well as that of the other locally available revenue sources.
- FTA 2. The Florida Association of Counties supports policies that consider impacts to state revenues shared with counties for the provision of local services and is opposed to permanent modifications to state shared revenue sources or related funding formulas that would significantly impact the counties' ability to continue to fund local services.
- FTA 3. The Florida Association of Counties supports tax reform measures that simplify administration and provide an economic boost to Florida's taxpayers while at the same time considering and minimizing the collective and cumulative negative impact on local revenues, including state shared and local discretionary revenue sources that are critical to local governments.
- FTA 4. The Florida Association of Counties supports measures that enhance the effectiveness of existing local revenue sources to meet current and future public service demands.
- FTA 5. The Florida Association of Counties supports the comprehensive Payment In Lieu of Taxes programs that offset the impact of lands acquired by Federal, State, or other tax-exempt entities. PILT programs should be funded in a fashion, so as not to diminish the fiscal capacity of small counties. Additionally, the Florida Association of Counties supports the adjustment of PILT payments to accommodate the increased value and/or the valued use of the property by the purchasing entity.



FTA 6. The Florida Association of Counties recognizes the unique fiscal challenges of Florida's rural counties and state-designated fiscally constrained counties. The Association is dedicated to preserving established programs that provide critical resources for essential programs and infrastructure needs of these counties.

Economic Development

Economic prosperity depends on communities with dependable basic services, but also where the quality of life encourages businesses and individuals to flourish. Maintaining and enhancing the standards that Floridians expect and deserve will require more innovative cooperation between the public and private sectors. Therefore, counties need flexible tools to develop economic strategies that target local strengths, enhance and expand employment opportunities, and maintain adequate infrastructure.

FTA 7. The Florida Association of Counties supports measures that empower local governments and provides resources to work with community partners towards the creation of quality jobs, more vibrant Florida communities, as well as an enhanced level of national and global competitiveness.

FTA 8. The Florida Association of Counties supports legislation and appropriation that enhances the efficiency and effectiveness of the state and local government partnership in economic development through the greater use of targeted strategic investments in infrastructure and programmatic enhancements designed to induce sustainable economic activity resulting in a consistent positive return on investment for both state and local governments.

FTA 9. The Florida Association of Counties supports state and local policies, programs, and funding mechanisms that not only preserve, but enhance as well, the Florida tourism and film industries.

FTA 10. The Florida Association of Counties supports enhancing programs to increase funding for rural infrastructure, job growth, and workforce development policies and efforts to reduce the digital divide and expand internet access to underserved areas through industry partnerships and collaboration with local stakeholders.

FTA 11. The Florida Association of Counties supports enhancing the ability for Rural Areas of Opportunity (RAOs) to advance local rural economic development initiatives through allocation of additional resources.

Administration



The power to administer county government can be found in the State Constitution and the Florida Statutes. However, the system of shared governance between the state and counties, and its political subdivisions, is critical to the successful administration of local services in the most efficient and effective manner. Decisions regarding statewide administrative policy must accurately reflect the ability of the state and counties to utilize resources in an optimal manner to provide and produce essential public services.

FTA 12. The Florida Association of Counties supports that policies related to retirement, workers' compensation and other administrative systems be based on sound and accurate data analyzed with consideration for state and local fiscal impact, fairness and accessibility for state and local employees, as well as, predictability and stability relative to market forces for the long-term effective management of state and local financial plans.

FTA 13. The Florida Association of Counties supports policies that enable local governments to comply with public notice and legal advertisements requirements through the application of various available mediums of technology to achieve an ideal balance between fiscal efficiency and public effectiveness.

FTA 14. The Florida Association of Counties supports policies which allow for competitive and efficient procurement procedures to streamline the development process for county projects.

Accountability and Transparency

The foundation of a strong democracy is a public that is educated and informed about the decisions of its government. Accessible and accountable county governments are more responsive to the needs of their citizens and result in more engaged and satisfied constituents. Counties work to uphold the trust of their voters and taxpayers by maintaining open and accessible meetings and records; providing timely, informative, and accurate public information; and adhering to the highest standards of administrative and fiscal transparency.

FTA 15. The Florida Association of Counties supports policies that promote ethical standards for public officials that are fiscally reasonable, consistent throughout all levels of government, and that do not inhibit the efficient and effective administration of local services

FTA 16. The Florida Association of Counties supports policies that promote access to public records in a manner that is not frivolous; that upholds fiscal responsibility; that does not prevent the efficient and effective administration of local services; and



allows for exemptions to protect the safety and security of individuals providing or receiving critical public services.

FTA 17. The Florida Association of Counties supports policies that promote the provision of accurate and accessible administrative and fiscal public information in a manner that is fiscally responsible, publicly comprehensible, technologically efficient, and that does not constrain the effective administration of local services.

FTA 18. The Florida Association of Counties is dedicated to preserving, when at all possible, the link between the programs and services provided by counties with the decisions related to the funding for these programs and services, in an effort to maximize the manner and source of accountability of public officials to the citizenry.

Intergovernmental Relations

Florida's elected county commissioners are ultimately answerable to their voters for the provision of programs and services and associated funding decisions. Since Florida's citizens conferred home rule power to counties with the ratification of the 1968 Constitution. County officials have been dedicated to the preservation of democratic principles, specifically that the government closest to the people is the appropriate authority to serve the needs and requirements of the community. County governments reflect the communities that they serve and, particularly in a state as large and diverse as Florida, the needs and values of these communities vary widely between counties.

FTA 19. The Florida Association of Counties is dedicated to maintaining the integrity of county home rule power which allows counties to develop and implement community-based solutions to local problems, without State limitations or mandates.

FTA 20. The Florida Association of Counties opposes any state or federal unfunded mandates and preemptions that ultimately limit the ability of local elected officials to make fiscal and public policy decisions for the citizens to whom they are accountable.

FTA 21. The Florida Association of Counties support the establishment of an agreed upon course of action whereby state and county elected officials deliberatively evaluate the appropriate funding and delivery of intergovernmental service responsibilities between counties and the state.

FTA 22. The Florida Association of Counties recognizes that the statewide regulation of certain sectors may not be inconsistent with the principles of self-governance, to



the extent that the state regulations do not hamper the counties' ability to regulate and control county facilities and to maintain minimal safety, aesthetic, and environmental standards.

FTA 23. The Florida Association of Counties opposes the dilution of decision-making ability of local county commissioners/councilmembers with regard to the funding of the local duties of other constitutionally proscribed county officers.

FTA 24. The Florida Association of Counties supports the provision of adequate state funding for constitutionally proscribed county officers that are required to perform duties on behalf of the state.

FTA 25. The Florida Association of Counties opposes the use of local revenue sources to fund the state's judicial responsibilities.

2019 INNOVATION & POLICY CONFERENCE



FINANCE, TAX & ADMINISTRATION PROPOSED POLICIES

FTA-PP-1- Fuel Tax Indexing

FAC Staff Recommendation: Adopt

Proposed Policy: SUPPORT indexing local option fuel taxes to annual adjustments of the Consumer Price Index.

Background: Local fuel tax revenues have been constantly eroding as the costs of road construction and maintenance has increased as well as vehicles becoming more fuel efficient. Unlike local governments, the Florida Department of Transportation has the ability to index their motor fuel tax rate as it relates to the Consumer Price Index (CPI). Without the ability for local governments to index, we are unable to keep pace with our growing transportation costs and needs.

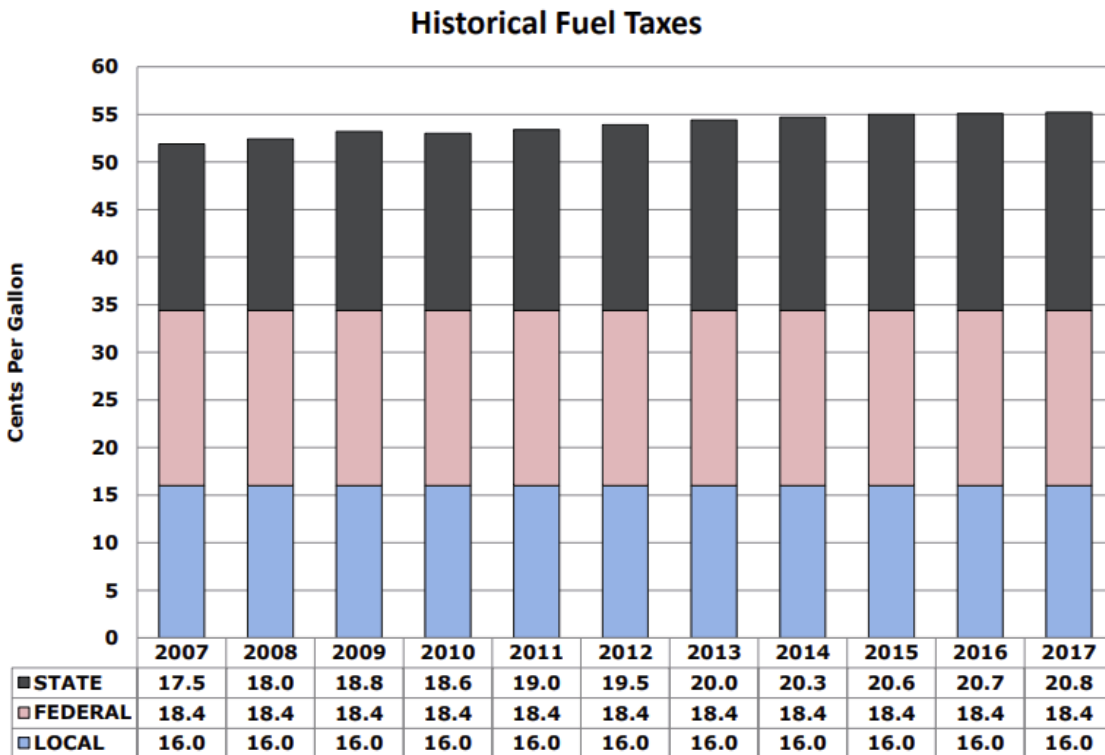
Analysis: The motor fuel taxes are the principle source of funding for the construction, maintenance, and operation for most of Florida's local agencies. The costs of transportation system construction and operation are linked to the costs of goods and services, which continues to rise. As the costs of goods and services – measured by the Consumer Price Index-continue to rise, the buying power from there revenue generated from motor fuel taxes will continue to decrease. Sec. 206.41(f) and (g) allows for the State Comprehensive Enhanced Transportation System Tax and "fuel sales tax" to be indexed to the Consumer Price Index. These taxes are state-levied. The fuel taxes authorized to be levied by counties, (contained in Sec. 206.41(1)(a)-(f) and Sec. 206.60) are not indexed.

Since 1997, when State's Highway Fuel Sales Tax has been indexed, the CPI has risen 54%. The State's fuel tax, which was 6.9 cents/gallon has since risen to 20.8 cents/gallon in 2017. The local tax rate has been fixed since at least 2007. Though some costs were reduced during the great recession due to decreased demand for building materials, the long-term trend will continue to be increased costs and, thus, decreased value. Florida's local governments play an integral role in funding Florida's local, regional, and state transportation system and that system will see increasing deterioration if this vital funding source is not reinforced. In aligning the state and counties with the same indexing system, it would allow counties to strategically fund projects from revenue generated within their county thus allowing for maintenance, development and investment. According to the FDOT website, "The department (FDOT) received about \$690 million additional revenue in fiscal year 2015-16 when compared to what collections would have been without fuel tax indexing." If aligned, counties would likewise see a funding increase.



Figure 2. from FDOT's 2017 version of *Florida's Transportation Tax Sources: A Primer* shows the relative increase in historical fuel taxes by levying entity and shows the rate at which the rate would have increased:

Figure 2 - Historical Fuel Taxes



Fiscal Impact: In aligning the state and counties with the same indexing system, it would allow counties to strategically fund projects from revenue generated within their county thus allowing for maintenance, development and investment into already failing infrastructure.

Submitter: St. Lucie County/ Florida Association of County Engineers and Road Superintendents (FACERS)



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July 1, 2019

Ms. Virginia Delegal
Executive Director
Florida Association of Counties
100 South Monroe Street
Tallahassee, FL 32301

Dear Ms. Delegal:

At the General Membership Meeting in June 2019, FACERS again adopted the attached resolution requesting that the Florida Association of Counties include the indexing of the motor fuel taxes as a priority during the upcoming legislative session.

FACERS appreciates your support for this issue and looks forward to working with your staff on this and other issues during the coming months.

Sincerely,

Brian M. Singleton, P.E.
FACERS President

**RESOLUTION REQUESTING THAT FLORIDA
ASSOCIATION OF COUNTIES SEEK LEGISLATION TO
INDEX THE MOTOR FUEL TAXES COLLECTED BY THE
STATE OF FLORIDA FOR LOCAL GOVERNMENTS**

WHEREAS, motor fuel taxes are the principal source of funding for the construction, maintenance and operation of the transportation systems in most local agencies of Florida;

WHEREAS, motor fuel taxes are based on a fixed "pennies per gallon";

WHEREAS, the cost of constructing, maintaining and operating the transportation system continues to increase annually as indicated by increases in the Consumer Price Index;

WHEREAS, the effect of this annual increase in costs of goods and services without a corresponding adjustment to the motor fuel tax rate results in a reduction in buying power of the motor fuel tax revenues;

WHEREAS, deficiencies in the local transportation system will continue to worsen as the buying power of motor fuel tax revenues declines;

WHEREAS, the Florida Legislature has indexed the motor fuel taxes for the State Transportation Trust fund, allowing for annual adjustments in accordance with changes in the Consumer Price Index;

WHEREAS, the Florida Legislature did not provide for such adjustments to the motor fuel taxes for local governments; and

NOW THEREFORE BE IT RESOLVED that Florida Association of County Engineers and Road Superintendents (FACERS) recommends to Florida Association of Counties (FAC) that FAC seek legislation to apply the indexing procedure used for the state transportation trust fund to motor fuel taxes for local government to keep the purchasing power of the local motor fuel taxes from continuing to decline.



Brian M. Singleton, P.E., President
Florida Association of County Engineers and Road Superintendents

1 JULY 19

Date



FTA-PP-2-Sales Tax Competitiveness

FAC Staff Recommendation: Adopt

Proposed Policy: SUPPORT legislation applying Florida's sale and use tax laws to online/e-commerce sales from out-of-state retailers to ensure competitiveness for Florida's in-state retailers.

Background: In 2018, the U.S. Supreme Court ruled that states may impose taxes on entities that have a “substantial nexus” to the taxing state regardless of whether the entity has a physical presence within that state. This overrules previous Supreme Court precedent that had prevented states from levying sales tax on sellers without a physical presence. Florida does not currently tax entities without a physical presence in the State. During the 2019 legislative session, SB 1112, would have required retailers with no physical presence in Florida to collect Florida’s sales tax on sales of taxable items delivered to purchases in Florida if they make a substantial number of sales into Florida. The bill was approved by two of its three Senate committees, but did not have a House companion. For the 2020 legislative session, Sen. Gruters has filed SB 126 to expand sales tax collection to include out-of-state vendors.

Analysis:

In response to *Wayfair*, numerous groups have called for Congress to enact federal sales tax collection legislation to standardize sales tax collections across the states so that sellers can avoid a “regulatory free-for-all.” Any federal law would likely seek to minimize the number of taxing entities within a state and require state and local sales tax uniformity.

Whether or not Congress is able to pass legislation, 43 of the 45 states that collect sales tax have laws in place that allow them to capture sales tax revenue from remote sales. This means that Florida’s retailers are at a competitive disadvantage in 43 states because Florida’s retailers are paying those state and local sales taxes, while vendors from those states are not paying sales tax in Florida.

Fiscal Impact: Florida’s Office of Economic and Demographic Research estimates the value of the out-of-state collections to be \$702 million per year recurring in state and local revenues.

Submitter: FAC Staff

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FTA-PP-3-Small County Surtax

FAC Staff Recommendation: Do Not Adopt

Proposed Policy: SUPPORT legislation that allows counties that levy the small county surtax to exceed a combined rate of more than 1% in combination of with the levy of another discretionary sales surtax.

Background: Counties that levy the Small County Surtax cannot levy the Local Government Infrastructure Surtax, Indigent Care and Trauma Center Surtax, and County Public Hospital Surtax in excess of a combined rate of 1%.

With slow population growth and slow economic development in Florida's small counties, gains in ad valorem tax revenue have been minimal. Allowing more flexibility in the mix of sales tax options available to small counties would allow them to use the existing revenue for existing expenses, but to raise additional funds for dedicated programs or projects. If approved by voters, proceeds from the levy of the tax may be used to service bonded indebtedness, to finance, plan and construct infrastructure and acquiring land for public recreation, conservation, or protection of natural resources. Infrastructure means any fixed capital expenditure associated with the construction, reconstruction, or improvement of public facilities having a life expectancy of more 5 years or more, and any related land acquisition, land improvement, design, and engineering costs. If approved by an extraordinary vote of the county's governing body, the proceeds and accrued interest may be used for operational expenses of infrastructure or any public purpose authorized in the ordinance.

Analysis: All authorized counties currently levy the Small County Surtax at the maximum rate of 1%, except Flagler at .5%. Levying this surtax at 1% prevents the county from levying other surtaxes and, thus, from accessing the full capacity to apply surtax under the law. Of the currently discretionary sales taxes authorized by Florida law, the small county surtax is the only tax whose use is not limited to designated purposes and may be used for "any public purpose" authorized by an ordinance adopted by the county. However, under current law, counties sacrifice tax capacity that could be accessed if other taxes could be levied in conjunction with the small county tax.

Fiscal Impact: In Okeechobee County, an additional 1% allocated to local government infrastructure surtax would equal an estimated \$5.8M a year. Okeechobee County is in the process of planning the replacement of its aging jail of over 30 years due to the facility not meeting the needs of the public. We would use this money to service bonded indebtedness to



lessen the burden on the ad valorem tax payers and spread the tax burden across the overall residential population.

Submitter: Okeechobee County



FTA-PP-4-Rural Development Grants

FAC Staff Recommendation: Adopt

Proposed Policy: SUPPORT modifying Rural Development Grant program to reduce the program match requirement to 50% and increase the allocation of grant funds from \$150,000 to \$250,000 for each of the three Rural Areas of Opportunity (RAO) designated by the Governor's Executive Order.

Background: Each RAO is served by a regional rural economic development organization to include Opportunity Florida (serving nine counties in Northwest Florida); Florida's Heartland Economic Region of Opportunity (serving 6 counties in South Central Florida and the North Florida Economic Development Partnership (serving 14 counties in North Central Florida).

Analysis: Over the past few years, the RAOs have requested modifications to the grant process as we are with this submittal. Each year we continue to gain more supporters, but at the last moment the bill dies. In 2017-2018 session, bill passed in the House, died in messages because Senate adjourned. In 2018-2019 session, bill passed in Senate, but received little support so the bill dies after the first committee. The RAOs are committed on increasing the grant amount. This request does not require additional funding, because funding is already allocated in the Rural Revolving Loan Fund. What is required is a re-allocation of the funds.

This grant program provides for critical funding to enable a range of technical assistance, marketing, and leadership capacity building and education services for rural counties within the RAO's. The three organizations specified above are responsible for providing, facilitating and coordinating the aforementioned services on behalf of the counties within their respective regions. It has become increasingly difficult to generate local and private match dollars to maximize the use of this grant program, but the service needs and demands continue to expand.

Fiscal Impact: No fiscal impact to the State Budget. As indicated above, the funding source, Rural Regional Loan Fund is funded in the amount of \$1.17M on an annual basis.

Submitter: Okeechobee County/ Small County Coalition

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FTA-PP-5-Qualified Target Industry Tax Refund Program

FAC Staff Recommendation: Adopt

Proposed Policy: FAC SUPPORTS the reauthorization of the Qualified Targeted Industries Tax Refund, which is scheduled to sunset in June 2020, for another 10 years.

Background: The Qualified Target Industry (QTI) Tax Refund is a tool available to Florida communities to encourage quality job growth in targeted high value-added businesses, such as life sciences, aviation/aerospace or financial/professional services. If approved, the applicant may receive refunds on the taxes it pays. This includes corporate income, sales, ad valorem, intangible personal property, insurance premium, communications services, and certain other taxes.

Analysis: This economic tool allows our Counties to leverage their respective communities when competing to obtain new or expanding businesses to their area, as well as assisting our existing businesses with retention. If this program is to sunset, it could jeopardize our performance in the marketing arena on a state, national or international level, placing our Counties in a difficult position economically.

Fiscal Impact: Indeterminate

Submitter: St. Lucie County

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FTA-PP-6-VISIT FLORIDA Funding

FAC Staff Recommendation: Adopt

Proposed Policy: FAC SUPPORTS the reauthorization and full annual funding of VISIT FLORIDA.

Background: VISIT FLORIDA was created by the Florida Legislature as a direct-support organization in 1996. In 2014, the Florida Legislature passed a bill that affected all direct-support organizations in the state. The bill added a paragraph to the laws governing all direct-support organizations (including VISIT FLORIDA's law) that automatically repeals each organization on a specific date unless it is "reviewed and saved from repeal" by the Florida Legislature. This is known as a "sunset provision." VISIT FLORIDA's " " was reauthorized during the FY19 Legislative session for one year and is scheduled to sunset in 2020. The investment that Visit FLORIDA provides to assist destinations with smaller budgets is vital to the success of smaller destinations. During the FY19 Legislative Session, the legislature allowed VISIT FLORIDA to sunset and only partially funded the organization at \$50 million to permit the organization to operate for one additional year.

Analysis: In 2019 Visit Florida funding was cut by 33 percent and this reduction has a significant impact on the entire State, all tourism organizations, and is particularly detrimental to smaller communities with limited budgets. VISIT FLORIDA is vital during disasters such as outbreaks of red tide and blue green algae for marketing and messaging on behalf of the tourism industry in these smaller communities.

Fiscal Impact: Tourism is the largest industry in the state of Florida driving revenue and creating jobs. According to the Florida Chamber of Commerce, tourism generates \$5 billion in local tax revenue and \$6 billion in state tax revenue. Florida Tourism generates over \$88 billion in revenue.

Submitter: Martin County

2019 INNOVATION & POLICY CONFERENCE



FTA-PP-7-Commissioner Travel Reimbursement

FAC Staff Recommendation: Adopt

Proposed Policy: SUPPORT For purposes of travel reimbursement, clarify the official headquarters of a county commissioner may be a branch office, and not exclusively the county seat as interpreted by Attorney General Opinion 83-37 on June 16, 1983.

Background: In Okaloosa County, as in Pasco County for whom the AGO Opinion was written, there are three commissioners who maintain offices in an Administrative building outside the "county seat." There are two commissioners who maintain offices in Crestview, the county seat, and three who maintain offices in Shalimar. The AGO opinion creates a disparity where two commissioners are entitled to travel reimbursement, and three are not. Branch offices where principal work is performed should constitute the official headquarters of commissioners for purposes of s. 112.061, F.S. in the same way as any other employee.

In Okaloosa County, the geography of the county is bifurcated by the Eglin Air Force Base reservation used as bombing and training ranges. Because the population is greater in the south end of the county, the county has two courthouses and two administration buildings. In fact, there are no county commissioner offices in either of the courthouses. All of their offices are in administrative buildings. There is an inherent disparity in allowing business travel reimbursement for some commissioners and not for others.

Fiscal Impact: The fiscal impact would likely be approximately \$7500 annually. It is more of a fairness impact than a fiscal issue

Submitter: Okaloosa County

2019 INNOVATION & POLICY CONFERENCE



FTA-PP-8-Penalties for Animal Neglect

FAC Staff Recommendation: Do Not Adopt

Proposed Policy: Florida Association of Counties SUPPORTS a collaboration between the Clerk of the Court and the County to enforce stiffer penalties, such as drivers' license suspension or denial to renew vehicle registrations for those who disregard civil citations to ensure accountability measures are enforced for animal neglect.

Background: Currently a "Final Judgement" is issued by the Clerk of Courts and ultimately sent to a private collections agency. Unfortunately, in Palm Beach County, 51% of the Animal Control Division's 1600 citations processed through the Clerk of Court in 2016 remain ignored and unpaid (\$154,750 not including court costs) as well as 58% of the 1571 citations processed in 2017 (\$168,025 not including court costs). Many of these citations were issued for animal neglect and/or public safety related violations. Section 828.27, F.S. allows the court to issue an "order to show cause"; however, this is not a welcome workload for the Court. Additional steps should be taken to ensure accountability for these violations.

Analysis: Currently a "Final Judgement" is issued by the Clerk of Courts and ultimately sent to a private collections agency. Unfortunately, 51% of the Division's 1600 citations processed through the Clerk of Court in 2016 remain ignored and unpaid (\$154,750 not including court costs) as well as 58% of the 1571 citations processed in 2017 (\$168,025 not including court costs). Many of these citations were issued for animal neglect and/or public safety related violations. Palm Beach County currently is working with the Clerks Association and Florida Animal Control Association.

Fiscal Impact: Indeterminate

Submitter: Palm Beach County

2019 INNOVATION & POLICY CONFERENCE



FTA-PP-9-Firefighter Cancer Benefits

FAC Staff Recommendation: Do Not Adopt.

Proposed Policy: FAC **SUPPORTS** legislation clarifying language in the 2019 CS/CS/SB 426-Firefighters.

Background: On July 1, 2019, CS/CS/SB 426 went into effect. This bill makes firefighters who are diagnosed with certain cancers eligible to receive certain disability or death benefits. Specifically, in lieu of pursuing workers' compensation coverage, a firefighter is entitled to cancer treatment and a one-time cash payout of \$25,000, upon the firefighter's initial diagnosis of cancer.

To receive these benefits, the firefighter must be employed by the employer for at least five continuous years, may not have used tobacco products in the preceding five years, and may not have been employed in any other position that is proven to create a higher risk for any cancer in the preceding five years.

Analysis:

Charlotte County is in support of our county and state firefighters, and **only** wants to ensure qualified firefighters receive their full and appropriate benefits. Charlotte County is requesting that FAC act to ensure that counties and the state of Florida are fulfilling the intent of the bill in an orderly process that protects qualified firefighters.

Charlotte County is seeking clarification on several sections within CS/CS/SB 426-Firefighters:

Line 38: *"7. Invasive skin cancer."*

1. What does "invasive skin cancer mean/entail?

Lines 61-142: *"Upon a diagnosis of cancer, a firefighter is entitled to the following benefits, as an alternative to pursuing workers' compensation benefits under chapter 440..."*

1. How does this section comport with collective bargaining agreements currently in effect?
2. Does this re-open collective bargaining agreements that are currently in effect?
3. Does implementing this new mandate start with bargaining impasse?

Lines 61-63: *"Upon a diagnosis of cancer, a firefighter is entitled to the following benefits, as an alternative to pursuing workers' compensation benefits under chapter 440..."*

1. Does this limit a firefighter from electing both (workers compensation and the CS/CS/SB 426 listed benefits)?



2. Does this create an exception to public policy that holds that employees cannot waive workers' compensation benefits except in certain limited situations?

Lines 65-66: *"...has not used tobacco products for at least the preceding 5 years."*

1. Will this allow an employer to conduct health screenings to ensure this requirement is met?
2. Will this allow an employer to receive medical records to ensure this requirement is met?
3. Will this allow an employer to contact the firefighters' doctors to ensure this requirement is met?

Lines 66-68: *"...and has not been employed in any other position in the preceding 5 years which is proven to create a higher risk for any cancer..."*

1. Will this allow an employer to conduct a risk assessment on the "other high-risk position(s)" to ensure this requirement is met?
2. Will this allow an employer to require disclosures of outside employment?

Lines 74-75: *"(b) A one-time cash payout of \$25,000, upon the firefighter's initial diagnosis of cancer."*

1. What if a firefighter is under a different health plan/private employer plan/public employer plan?
2. Is the \$25,000 cash payout limited to only one cancer or applicable to multiple diagnosis/different diagnosis/metastasized diagnosis?

Lines 77-88: *"If the firefighter elects to continue coverage in the employer sponsored health plan or group health insurance trust fund after he or she terminates employment, the benefits specified in paragraphs (a) and (b) must be made available by the former employer of a firefighter for 10 years following the date on which the firefighter terminates employment so long as the firefighter otherwise met the criteria specified in this subsection when he or she terminated employment and was not subsequently employed as a firefighter following that date. For purposes of determining leave time and employee retention policies, the employer must consider a firefighter's cancer diagnosis as an injury or illness incurred in the line of duty."*

1. What does terminate employment mean?
2. What if the firefighter is fired with cause?
3. COBRA benefits allow former employees to remain in the employer's health plan for up to 3 years. How does this interplay with the 10-year requirement?

Lines 120-124: *"(5)(a) The costs to provide the reimbursements and lump sum payments under subsection (2) and the costs to provide disability retirement benefits under paragraph (3)(b) and the line-of-duty death benefits under paragraph (4)(b) must be borne solely by the employer."*

1. What is the prescribed funding source for this sub-section?

Lines 125-133: *"(5)(b) The employer or employers participating in a retirement plan or system are solely responsible for the payment of the contributions necessary to fund the*



increased actuarial costs associated with the implementation of the presumptions under paragraphs (3)(a) and (4)(a) ..."

1. What is the prescribed funding source for this sub-section?

Line 179: *"Section 5. This act shall take effect July 1, 2019."*

1. When does the benefits and claims within this bill take effect?

Fiscal Impact: Indeterminate

Submitter: Charlotte County

2019 INNOVATION & POLICY CONFERENCE



FTA-PP-10-Public Records – Emergency Management

FAC Staff Recommendation: Adopt.

Note: FAC's 2017-2018 Legislative Action Plan supported an exemption for identifying information provided to emergency shelters; as noted below, HB 7079, addressing parts (1) and (2) below passed the House, but did not see final passage in the Senate. FAC's 2018-19 Legislation Action Plan included all three items in the proposal, but was not filed as a bill.

Proposed Policy: SUPPORT a public records exemption for information obtained by a local government in the course of providing emergency management services:

Issue Summary: Counties collect various types of personal information for use prior to, during, and after a disaster. Currently, much of this information is not exempt from public records disclosure. Information such as name, address, and telephone numbers of persons impacted by disasters could expose those vulnerable individuals to people who may wish to take advantage of them. This policy would exempt three categories of information currently collected: (1) personal information about individuals staying in public shelters; (2) personal information about homeowners and tenants collected by public agencies in the process of providing or receiving damage assessment data following a disaster; and (3) emergency management database platforms, applications, programs, software, and all data and records contained therein.

Background: FAC's FTA committee adopted FTA-PP-5 into the 2018 Legislative Action Plan. This policy supported public records exemptions for emergency management functions and resulted in FAC supporting HB 7079. The bill would have exempted two categories of emergency management-related information from public disclosure: the name, address, and telephone number of a person using a public shelter during an emergency; and the name, address, and telephone number of a homeowner or tenant held by an agency for the purpose of providing damage assessment data following a disaster, for one year following the date of the disaster. This exemption would have allowed vulnerable persons who are displaced from their residences and possessions from being taken advantage of because this information was publicly available. As provided by the necessity statement in HB 7079, persons seeking shelter for their safety and the safety of their families should not be forced to forfeit their privacy for such safety. HB 7079 passed the House with no opposition, but, like many other disaster preparedness-related bills, did not see final passage.

In reviewing the aftermath of Hurricanes Mathew and Irma, a third category of information is also included in the policy proposal: an exemption for information included in county emergency management databases. Exempting database information will prevent public



records requests by unscrupulous firms/agents who will either prey on vulnerable individuals, file phony claims on their behalf, or otherwise fleece victims of a major disaster. Furthermore, the unintended release of exempt information buried within large datasets (e.g., linked information to names, addresses of exempt employees within the database) opens the door for unscrupulous persons to follow and harass exempt employees, and to provide knowledge of critical facilities and/or unoccupied domiciles, etc. These issues were raised at a recent meeting of the Florida Emergency Preparedness Association (FEPA), and several emergency management directors spoke of sweeping public records requests which has led to their support of legislation to protect our citizens and responders from harassment and high-pressure sales tactics in the aftermath of a devastating disaster.

Analysis: The Robert T. Stafford Disaster Relief and Emergency Assistance Act allows a state to collect monetary assistance from the federal government when an emergency “situation is of such severity and magnitude that [an] effective response is beyond the capabilities of the State and the affected local governments.” To receive funding, the Governor must request from the President of the United States a declaration that an emergency exists (Stafford declaration). As a part of the request, the Governor must submit information that describes the state and local efforts and resources that have been or will have to be used to alleviate the emergency as well as define the type and extent of federal aid required. The request for a Stafford declaration also must include preliminary damage assessment information obtained by the state or local government that could include personal identifying information.

The Division of Emergency Management (DEM) which currently manages a program for surveying existing public and private buildings, with the owner’s written agreement, to identify which facilities are appropriately designed and located to serve as shelters in the event of an emergency. Based on this survey, DEM prepares the sheltering element of the state comprehensive emergency management plan (CEMP), which is then integrated into the Federal government’s emergency management plans. Shelter providers may collect personal information about shelter users to ensure an accurate accounting of those individuals staying at the shelter and to aid in reunification after the event. This information is not presently exempt from public records disclosure.

Emergency Management Database Exemption: For nearly two decades, the emergency management discipline has been collecting, inventorying, analyzing, and sharing a wide range of disaster-related information via electronic collaboration systems or databases in the interest of expediently responding to emergencies and disasters. These collaborative software systems are used to plan for, track, and manage a myriad of functions including registration of persons with special needs, tabulation of responder contact information, tabulation & analysis of damage assessment data, assignment of missions to agencies, tracking the fulfillment of said missions, and to track resource cost data, to name just a few. More recently, with the effort to go paperless, nearly every emergency management process or function is managed by these



electronic collaboration databases to maximize efficient information sharing during critical situations. As such, these databases are amassing large volumes of data, much of it exempt from public records.

While these databases have numerous security protocols, access measures, and user privileges controlled primarily through usernames and passwords, many components of the database are collaborative and interactive due to the very nature of disasters. Users may hurriedly or unintentionally enter exempt information in components identified as exempt due to the immediacy or criticality of the associated event or mission. Additionally, due to the interconnectedness of database components, oftentimes general information (i.e., non-exempt “public” information) such as a building address, is linked to exempt information (e.g., the building’s floorplan).

Shortly after hurricanes *Matthew* and *Irma*, numerous Florida emergency management agencies including Palm Beach County, received broadly worded public records requests from attorneys, specifically requesting names, addresses, telephone numbers, and e-mail addresses. At best, these requests were for marketing purposes. The Florida Division of Emergency Management (FDEM) has cited s. 252.905, Florida Statutes, for providing an exemption for the information management system used by the State Emergency Response Team in the State Emergency Operations Center. However, this statute does not provide specific exemption for electronic collaboration systems.

Fiscal Impact: There may be minimal fiscal impact due to staff responsibility for compliance with public records requests associated with redacting the exempt information prior to releasing the records.

Submitter: Palm Beach/Collier Counties

2019 INNOVATION & POLICY CONFERENCE



FTA-PP-11-Public Records – County Personnel

FAC Staff Recommendation: Adopt

Proposed Policy: SUPPORT legislation granting public records exemption to counties allowing the protection of security personnel and senior county leadership (county administration offices and county attorney offices).

Background: Charlotte County is seeking FAC's support for a bill amending s. 119.071(1), F.S., providing an exemption for county security personnel, county administration, and county attorney home addresses, telephone numbers, as well as, amending s. 119.07(1)(f) to include security system operation meetings.

Analysis:

Over the last several years, Charlotte County has unfortunately experienced an uptick in anti-government activities and incidents from individuals and groups. These incidents include: stalking of County Attorney¹, filming of County security personnel and security systems², and harassing a stalking victim and witness^{3,4}. One such individual is being investigated by the Federal Bureau of Investigation and was found with 36 guns, including an AR-15-style rifle and a shotgun, along with thousands of rounds of ammunition^{5,6}. Of note, he specifically targeted the County Attorney and County security staff members.



Our request is to impede a willingness to commit harm as shown in *Figure 1* from transforming into actionable capability to commit violence. For a local community like ours, these terrible incidents have created a chilling effect among staff and security personnel. We need a solution. Exempting the home addresses of security personnel, county administrators, and the county

¹2/3/2019 <https://www.youtube.com/watch?v=yi5fbECd6iY>

²2/4/2019 <https://www.youtube.com/watch?v=w2Ri5WGHU9U>

³8/4/2019 <https://www.nbc-2.com/story/40873331/man-accused-of-sending-a-dead-kitten-in-the-mail-to-stalking-victim-facing-multiple-charges>

⁴6/28/2019 <http://charlottesun.fl.newsmemory.com/publink.php?shareid=34287f424>

⁵8/12/2019 https://www.yoursun.com/charlotte/news/jailed-youtuber-disputes-he-intended-any-harm-after-authorities-seize/article_aa16716c-b9df-11e9-8446-2b1aa030f09d.html

⁶6/28/2019 <http://charlottesun.fl.newsmemory.com/publink.php?shareid=34287f424>



attorney's office maintains the necessary balance of freedom of speech and public safety. These positions provide essential functions for county safety, they must be protected. The abuse of public records requests system has created security gaps that must be addressed to ensure that the first amendment is respected, but that the continuity of county security and leadership is protected.

Charlotte County is concerned for our county security given the heinous tactics and machinations that our security personnel, county administration offices, and county attorney offices have experienced. Charlotte County has had serious difficulty recruiting and retaining security personnel given these abuses. Charlotte County is requesting that FAC act to reduce the paths of least resistance for domestic terrorists, harassers, and criminals.

Fiscal Impact: The requested changes to public records laws are expected to yield an indeterminate reduction in the County's overall cost of service these requests.

Submitter: Charlotte County



FTA-PP-12-Public Records – Discrimination Complaints

FAC Staff Recommendation: Adopt

Proposed Policy: SUPPORT a statement of finding from the legislature that this exemption is necessary to encourage the resolution of complaints of discrimination and the effectiveness and efficiency of the conciliation process.

Background: Palm Beach County's Office of Equal Opportunity is the county agency responsible for investigating discrimination complaints. Palm Beach County has ordinances providing it with authority to investigate complaints of discrimination involving employment, housing and places of public accommodation. Additionally, Palm Beach County has agreements with the Federal Government which has deemed the County's ordinances to be substantially equivalent with the federal laws which include several protected bases and confidentiality for conciliation efforts. This change is necessary to include all federally protected bases in State law and the exemption is necessary to encourage the resolution of complaints of discrimination and the effectiveness and efficiency of the conciliation process.

Last year, Florida Association of Counties adopted this Public Records Exemption. Because Public Records Exemptions were limited last year as well as legislation the House was looking to pass this public records exemption was not considered.

Analysis: Currently, state law allows for local government agency exemptions from inspection or copying of public records relating to complaints of discrimination regarding race, color, religion, sex, national origin, age, handicap, marital status, sale or rental of housing, the provision of brokerage services, and the financing of housing. This proposal would amend Section 119.0713, F.S. to include familial status. Also, include language stating that all records created or received in the course of conciliation with any unit of local government to resolve complaints of discrimination regarding race, color, religion, sex, national origin, age, handicap, marital status, familial status, sale or rental of housing, the provision of brokerage services, and the financing of housing are confidential and exempt from disclosure pursuant to s.119.07(1) and s. 24(a), Article I of the State Constitution.

Fiscal Impact: None

Submitter: Palm Beach County

2019 INNOVATION & POLICY CONFERENCE



FTA-PP-13-Public Records – Records Request Aggregation

FAC Staff Recommendation: Do Not Adopt

Proposed Policy: FAC **SUPPORTS** legislation clarifying the aggregation of serial public records requests and requiring requestors pay outstanding record request bills before any further requests be processed is allowable.

Background: Charlotte County is seeking FAC's support for a bill amending s. 119.07 (4)(d) to add clarifying language to allow for the aggregation of serial public records requests and require requestors to pay outstanding record request bills before any further requests be processed.

Over the last couple of years, Charlotte County has seen an unprecedented rise in public records requests. The context of this influx appears to be attempts by requestors to constantly modify their requests to evade administrative charges. For example, a requestor will request emails from a specific time period. Once a cost estimate is provided, the requestor will then break down the request by day to avoid fees, abusing administrative services. These abuses must not be allowed to persist and strain administrative time and resources.

To reduce such abuses, our County acted and instituted a policy of *“aggregating multiple related requests made by one individual (or multiple individuals belonging to one group or organization) within a thirty (30) day time period for the purpose of calculating special services fees for extensive use of information technology or excessive staff time.”*

City of Pensacola’s Public Records Policy- (Escambia County)

All past due fees for records compiled for a previous request for the City's public records must be paid before complying with the requester's subsequent request(s).

Multiple requests by one individual may be considered as one request and extensive use charges may be applied after the first thirty (30) minutes of staff or resource time.

City of Deltona’s Public Records Policy- (Volusia County)

If a requestor makes multiple related requests in an attempt to evade these rules, the multiple requests will be aggregated and costs will be calculated as one request as to time spent and costs calculated under these policies.

For any and all requestors that have requested records and have not paid in full for those records, the Clerk will not process another public records request until the outstanding balance is paid in full.

University of South Florida’s Public Records Law Compliance and Records Confidentiality- (Hillsborough County)

The special service charge may be based on the aggregate amount of time expended by all personnel and use of information technology resources, whether in response to a single request or multiple requests received from the same Requestor within a one-month period of time.

Figure 1: List of different policies on Public Records Aggregation



Our County is not the only entity in Florida with such a policy. In *Figure 1* is a list of different policies on Public Records Aggregation throughout the state^{7,8,9}.

Fiscal Impact:

The requested changes to public records laws are expected to yield an indeterminate reduction in the County's overall cost of servicing these requests.

Submitter: Charlotte County

⁷1/10/2011 <https://www.cityofpensacola.com/DocumentCenter/View/1169/City-of-Pensacola-Public-Records-Policy?bidId=>

⁸<https://www.deltonafl.gov/city-clerk/pages/public-records-protocol>

⁹8/28/2017<http://regulationspolicies.usf.edu/policies-and-procedures/pdfs/policy-0-106.pdf>



FTA-PP-14-Public Records – Social Media

FAC Staff Recommendation: Do Not Adopt

Proposed Policy: SUPPORT legislation and programs providing clear guidelines for local officials using social media, communication apps, and other emerging technology to carry out public business. SUPPORT programs and funding for education regarding sunshine law requirements and software to capture and maintain records in accordance with the Sunshine Law.

Background: Social Media and the Sunshine Law: the use of Facebook and other communication avenues by elected officials. Would like to see clarification for compliance with the Sunshine Law and public records when using social media. Meanwhile, would like to see more training programs for elected officials that would aid in compliance.

Analysis: As social media has rapidly evolved as a mainline communications tool, Florida's Sunshine and public records laws have not kept pace. While there is not a prohibition against a board or commission member posting comments on an agency's Facebook page, it is relatively clear that members of the board or commission must not engage in an exchange or discussion of matters that foreseeably would come before the board or official for action. However, more ambiguous is what constitutes violations with posts on personal social media pages, Tweets and "likes" by other board members. Some of the prevailing guidance in this area is conflicting.

The use of technology presents new challenges for maintaining transparency in government and compliance with the Sunshine Law. The Public Records and Sunshine laws should be updated to provide clear guidelines. Further, the retention schedules and disposal of public records requirements found in Chapter 119 creates the need for expensive technology solutions to capture and retain the many messages produced through social media, texting and other emerging technology.

Fiscal Impact: Archive solutions for social media and texting can cost upwards of \$25,000 per year.

Submitter: Okaloosa County

2019 INNOVATION & POLICY CONFERENCE



FTA-PP-15-Public Records – Code Enforcement Complaints

FAC Staff Recommendation: Do Not Adopt

Proposed Policy: SUPPORT legislation exempting name of a complainant in a code enforcement case from public records disclosure.

Background: Currently the name of the complainant in a Code Enforcement action is a public record. We would ask that the Legislature make those records exempt from public record disclosure.

Analysis: Frequently neighborhood issues arise when one neighbor reports another for a Code Enforcement violation. It is important that the County or City make a have the name of complainants so we can determine if they tend to be valid complainants or they make complainants that are no genuine. This also provides a way to be more responsive to our citizens.

Fiscal Impact: None

Submitter: Citrus County

2019 INNOVATION & POLICY CONFERENCE



FTA-PP-16-Elections/Private Polling Locations

FAC Staff Recommendation: Do Not Adopt.

Proposed Policy: SUPPORT amending the election code to allow owners of private polling locations to prohibit solicitation on their property whether or not the entire property is included in the no-solicitation zone; SUPPORT repealing recently adopted law allowing photographs in polling locations.

Background

During the 2019 Legislative Session, SB 7066 was passed and signed into law. For the most part, this was a great bill that made substantive changes to the Florida Election Code and implemented Amendment 4 to the Florida Constitution which restores the rights of certain convicted felons. This bill also addressed the elections process regarding the curing of vote-by-mail and provisional ballots, timing of the primary election, and ballot uniformity. There are two provisions in this new law that could be problematic for Supervisors of Elections and County Commissions throughout the state.

F.S. 102.031(4)(e) – The owner, operator, or lessee of the property on which a polling place or an early voting site is located, or an agent or employee thereof, may not prohibit the solicitation of voters outside of the no-solicitation zone during polling hours.

In a small County such as Nassau, we currently have 14 polling locations with 6 of them being churches. The rest are public/county facilities. Most churches have said they will not allow their facility to be used as a polling place if campaigning and signage is allowed on their property. With this new law, we stand to lose 6 populated polling locations and will be forced to consolidate other locations to accommodate the voters. This will cause extreme lines and the potential for other issues due to lack of efficiency.

F.S. 102.031(5) – No photography is permitted in the polling room or early voting area, except an elector may photograph his or her own ballot.

There are several concerns regarding this provision. There are concerns that a voter could inadvertently or even purposely take a picture of another voter and their ballot. Voters could be paid to vote a certain way and their photo would be proof of their vote. Voters could be intimidated, threatened, and coerced into showing how they voted. It's critical that we protect the privacy and sanctity of the election process. This provision has the potential to eliminate that. In addition, election workers have enough to do without having to monitor voters taking photographs of their ballots.

**Analysis**

F.S. 102.031(4)(e) would cause counties who rely on private polling locations, such as churches, to potentially lose those locations. This would cause long lines and overcrowding at the polls which could impact efficiency among the election workers and the process.


F.S. 102.031(5) has the potential to breach privacy and jeopardize the integrity of the election process.


Fiscal Impact:

Submitter: Nassau County

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