



FLORIDA ASSOCIATION OF COUNTIES

**2019 INNOVATION &  
POLICY CONFERENCE**

**LOCALS** *first*

**Federal**

# **2019 INNOVATION & POLICY CONFERENCE**



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# **2019 INNOVATION & POLICY CONFERENCE**



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# **2019 INNOVATION & POLICY CONFERENCE**



**FAC Federal Policy Committee  
Existing Policy Update  
September 2019**

**1. NATIONAL FLOOD INSURANCE PROGRAM**

**National Flood Insurance Program (NFIP) Reform: SUPPORT** reauthorization of the NFIP with legislative, policy and programmatic modifications to ensure no coverage lapses and to improve the affordability, transparency, and financial stability of the program through reforms in the following areas: 1) Affordability/Rate Structure; 2) Mapping/Data Collection/Modeling; and, 3) Mitigation. **OPPOSE** any reauthorization efforts that are detrimental to policy holders, local governments, and the integrity of the program.

**Update:**

- The NFIP is set to expire on September 30, 2019.
- In July, the House Financial Services Committee passed H.R. 3167 on a bipartisan 59-0 vote. Along with reauthorizing the program for five-years, the legislation would make key reforms to enhance and modernize NFIP. Provisions within the bill include:
  - Creating a five-year pilot program to provide means-tested assistance for low-income policy holders; however, the program does not account for geographic disparities in housing costs in certain coastal communities.
  - Providing \$500 million annually for updates to mapping technology to better predict future flood risk
  - Allocating \$200 million annually for the flood mitigation assistance grant program
  - Providing continuous coverage for policy holders who wish to explore flood insurance in the private market
- HR 3167 does not provide affordability protections for the more than 47,000 Florida policy holders who own businesses and/or second homes or rental properties. These properties are subject to premium increases as high as 25% per year.
- July 2019 - Bipartisan bills in both the U.S. House and the U.S. Senate were introduced to reauthorize and reform the NFIP. The bills, S. 2187 (sponsored by Sen. Robert Menendez (D-N.J.)) and H.R. 3872 (sponsored by Rep. Frank Pallone, Jr. (D-N.J.)). Key provisions of the bills:
  - Authorizes the program for five-years to 2024.
  - Caps annual premium increases at 9 percent.
  - Expands coverage losses from \$250,000 to \$500,000 for residential properties
  - Creates a means-tested affordability program
  - Creates a new mitigation set-aside program



- Creates two new mitigation loan programs
- Provides \$400 million annual for mapping
- While HR 3167 includes provisions that are laudable, S. 2187 and HR 3872 align more with FAC priorities.

**Staff Recommendation:**

**A. Retain current FAC policy**

**2. WATER**

**Comprehensive Statewide Water Policy: TBD by FAC Water Policy Committee**

**WRDA:** - **SUPPORT** bi-annual passage of the Water Resources Development Act that authorizes Corps of Engineers projects and policies that often have state-wide impacts to Florida, including Everglades restoration, port and inlet construction, and beach nourishment projects.

**Update:**

- Congress is in the early stages of developing a 2020 Water Resources Development Act, with draft language expected to be released this fall. This would maintain the requested biennial water infrastructure reauthorization timeline.

**Staff Recommendation:**

**A. Retain current FAC policy**

**3. DISASTER RECOVERY**

**Recovery & Preparedness:** **SUPPORT** increased investment in mitigation programs such as the Pre-disaster Mitigation Program, the Hazard Mitigation Grant Program and other partnerships between local and federal governments to complete mitigation projects and increase resiliency to disasters.

**OPPOSE** programmatic changes that would increase the local cost share for disaster recovery, such as the implementation of a disaster deductible.

**Update:**

- Preparedness:





July 2019 - Bipartisan bills in both the U.S. House and the U.S. Senate were introduced to reauthorize and reform the NFIP. The bills, S. 2187 (sponsored by Sen. Robert Menendez (D-N.J.) and H.R. 3872 (sponsored by Rep. Frank Pallone, Jr. (D-N.J.)). Key provisions of the bills:

- Authorizes the program for five-years to 2024.
  - Caps annual premium increases at 9 percent.
  - Expands coverage losses from \$250,000 to \$500,000 for residential properties
  - Creates a means-tested affordability program
  - Creates a new mitigation set-aside program
  - Creates two new mitigation loan programs
  - Provides \$400 million annual for mapping
- Disaster Recovery  
On June 6, 2019, President Trump signed into law a \$19.1 billion disaster relief bill that included supplemental funds to address 2018 hurricanes, wildfires, flooding and other 2019 natural disasters. Among the funded programs is the Community Development Grant Program – Disaster Recovery (CDBG-DR). According to the Florida Department of Economic Opportunity (DEO), Florida is scheduled to receive \$448 million from the CDBG-DR program. However, the Department of Housing and Urban Development (HUD) has yet to issue its regulations for how the funds will be dispersed and utilized.

**Staff Recommendation:**

**A. Retain current FAC Policy**

**B. Add**

**Hurricane Michael Recovery:** To assist with long-term recovery from Hurricane Michael, **SUPPORT** efforts that will expedite the funding guidelines required for the CDBG-DR program.

**4. OFFSHORE OIL DRILLING**

**Offshore Oil Drilling: SUPPORT** the Gulf of Mexico Energy Security Act of 2006 (GOMESA), which bans oil and gas leasing within 125 miles off Florida’s Gulf Coast until 2022. **SUPPORT** keeping Florida’s east coast free from offshore drilling and maintaining the Department of Interior’s commitment to remove Florida from consideration in the next draft of the proposed leasing plan. **OPPOSE** any legislation that moves the ban to an earlier date.

**Update:**

- The House recently passed two bills that would ban offshore drilling in most coastal regions, including the Atlantic and Gulf coasts of Florida.
  - H.R. 1941, the Coastal and Marine Economies Protection Act, would permanently ban oil and gas leasing off of the Atlantic and Pacific coasts. The bill passed by a 238-189 vote.



- H.R. 205, the Protecting and Securing Florida’s Coastline Act of 2019, would ban oil and gas leasing in the eastern Gulf of Mexico, thus making permanent the existing moratorium on drilling in that region. The bill passed by a 248-180 vote.

- Florida Shores Protection and Fairness Act

Senator Rubio filed S. 13 in January of 2019. This bill expands the Gulf of Mexico outer Continental Shelf revenue sharing program to include Florida. (Currently, only Alabama, Louisiana, Mississippi, and Texas are included in the program that shares the revenues from oil and gas leasing on the Gulf of Mexico outer Continental Shelf.)

Additionally, the bill extends to June 30, 2027, the moratorium on oil and gas leasing in certain areas of the Gulf of Mexico.

**Staff Recommendation:**

**A. Retain current FAC Policy**

**5. FEDERAL APPROPRIATIONS**

**Appropriations for Programs of Significant Importance:** The Florida Association of Counties **SUPPORTS** continuation of adequate funding of critical programs that provide resources for the provision of local services and local public infrastructure. These funding programs include, but are not limited to, the following:

- Corps of Engineers funds -Everglades restoration, port & inlet construction & maintenance & beach nourishment
- Community Development Block Grant program
- Community Services Block Grant program
- Social Services Block Grant program
- Economic Development Administration
- State Criminal Alien Assistance Program

**Update:**

- United State Army Corps of Engineers (USACE)

Congress generally funds the civil works activities of the U.S. Army Corps of Engineers (USACE) in annual Energy and Water Development appropriations acts. These activities include planning and construction of water resource projects and operation and maintenance of infrastructure and navigation improvements managed by USACE (e.g., navigation channels). For USACE civil works,



President Trump requested \$5.0 billion for FY2020, inclusive of a May 13, 2019, amendment to the President's request.

The President's May 2019 amendment to the FY2020 budget request increased restoration funding for the Everglades from \$69 million to \$205 million.

The FY2019 USACE work plan designates \$448 million for ecosystem restoration, including \$111 million for the Everglades. The work plan identifies the projects, programs, and activities within the Civil Works program that will receive the FY 2019 funding and how much each will receive. Some of the Florida projects targeted in the work plan include:

Studies Funded for Completion in FY 2019:

- Central Everglades Planning Project PPA South (South Florida Ecosystem Restoration), FL
- Western Everglades Restoration Project (South Florida Ecosystem Restoration), FL

Construction Projects Funded for Completion in FY 2019:

- Herbert Hoover Dike, FL (Seepage Control) <sup>1/</sup>
- Panama City Harbor, FL
- C-111 South Dade (South Florida Ecosystem Restoration), FL
- Indian River Lagoon South C-44 Reservoir and Storm Treatment Area Bank Stabilization (South Florida Ecosystem Restoration), FL

<sup>1/</sup> This project has been funded to completion with these funds and funds provided in the Bipartisan Budget Control Act of 2018.

- **Community Development Block Grant (CDBG):**

Established in 1974, CDBG is a federal grant program administered by the U.S. Department of Housing and Urban Development (HUD) that provides annual grants on a formula basis to more than 1,200 metropolitan city and county governments, as well as state governments, to support housing, economic opportunities and infrastructure improvements for low- and moderate-income residents. This includes efforts to address affordable housing, improve water infrastructure and to meet human service needs. CDBG provides flexibility to states and localities to tailor the program to meet local conditions and needs. In July 2019, the Community Block Grant Coalition, which includes the National Association of Counties (NACo), released a report highlighting the positive impacts of the CDBG program and the importance of continued support: <https://ncdaonline.org/wp-content/uploads/2019/07/CDBG-Report-72019.pdf>

FAC strongly supports CDBG restoring funding to \$3.8 billion in FY 2020. The CDBG program received \$3.3 billion, level funding for FY 2019. According to the National Association of Counties (NACo) CDBG funding has fallen over \$1 billion since FY 2010.



- Community Services Block Grant (CSBG):

The CSBG operates in 99% of the nation's counties, the playing an integral role in tackling the root causes of poverty. The program helps to provide services related to educational attainment, budget planning, self-sufficiency, gaining adequate housing, and promoting community participation. The CBDG is an investment at the local level, especially paired with it's employment gaining opportunities, providing a measurable impact on the causes of poverty

Social Services Block Grant program covers more than 30 different types of social services, counties use funding from the SSBG to provide services to many vulnerable populations included adults and children at risk for abuse and neglect.

- Economic Development Administration:

The U.S. Economic Development Administration (EDA) is the only federal agency with a mission solely focused on private sector job creation in distressed areas. EDA's portfolio of economic development infrastructure, business development finance, regional innovation strategies and public-private partnerships are tailored to support the unique needs of each region. EDA-funded projects are awarded on a competitive basis and typically require a 50 percent local match and significant private sector investment, helping to ensure projects have local support and are part of a broader regional strategy.

The FY 2019 omnibus provides \$304 million for the Economic Development Administration (EDA), a \$2.5 million increase above the FY 2018 level. EDA funding support regional strategies for long-term term growth and serves as a catalyst in helping communities achieve long-term economic growth. The total includes \$117.5 million for EDA's Public Works program, which supports brick-and -mortar projects in distressed communities across the nation, and \$23.5 million for the Regional Innovation Program to help create jobs by establishing and expanding region-focused, innovative technology business endeavors.

- State Criminal Alien Assistance Program: The State Criminal Alien Assistance Program (SCAAP) saw an increase in funding under the omnibus, increasing from \$240 million in FY 2018 to \$243.5 million in FY 2019 SCAAP has seen an increase in funding each of the last two years and is used to reimburse state and local governments for the cost of incarcerating undocumented immigrants who have been convicted of certain crimes

With the new Federal Fiscal year starting on October 1, 2019 and Congress returning from an extended August recess, Congress has a very short timeframe to fund the government. Congress has



adopted the overall spending levels and, to head off a shut down, the House is preparing a short-term spending extension that would maintain existing funding levels until late November.

**Staff Recommendation:**

**A. Retain current FAC Policy**

**6. VETERANS**

**Veterans Homelessness: SUPPORT** legislation ensuring that the U.S. Department of Veterans Affairs (VA) supported housing program has at least one program manager for every 35 rental assistance cases under such program.

**Update:**

S. 8 has been filed by Senator Rubio. This bill requires the Department of Veterans Affairs (VA) to provide case management support to local housing authorities under the VA-supported housing program. The program assists veterans who are homeless and their families in finding and sustaining permanent housing.

**Staff Recommendation:**

**A. Amend current statement**

SUPPORT legislation ensuring that the U.S. Department of Veterans Affairs (VA) supported housing program has at least one program manager for every 35 rental assistance cases under such program, requiring the Department of Veteran Affairs (VA) to provide case management support to local housing authorities under the VA-supported housing program.

**7. INFRASTRUCTURE**

**Infrastructure: SUPPORT** federal legislation that ensures funding for locally-owned infrastructure, including water and wastewater facilities, preserves the tax-exempt status of municipal bonds, streamlines the federal permitting process, promotes innovative financing, and ensures the long-term certainty and solvency of the Federal Highway Trust Fund.

**Update:**

- While Congress and the President have discussed a comprehensive infrastructure package, no details or funding mechanisms (such as raising the gas tax) have been agreed on, making such a package unlikely prior to the 2020 elections; however, surface transportation and water infrastructure authorization bills do appear to be on track for 2020 approval.



- In July, the Senate Environment and Public Works Committee unanimously approved S. 2302, America’s Transportation Infrastructure Act (ATIA). The bill is a five-year surface transportation reauthorization act, authorizing \$287 billion from the Highway Trust Fund for highway transportation programs over five years (FY 2021-2025). This is a 27 percent increase over funding levels authorized by the Fixing America’s Surface Transportation (FAST) Act, which expires in September 2020. The House is expected to advance its own version of a surface transportation reauthorization package, which would then be negotiated with the House package.
- In May, H.R. 2772 was introduced, which would restore the tax-exempt status of advance refunding bonds, which have accounted for approximately one-third of the municipal bond market in recent years. While the tax-exempt status of municipal bonds was protected in the 2017 comprehensive tax reform package, the bill eliminated advance refunding bonds. Prior to its elimination, this tool saved local governments at least \$14.3 billion between 2012 and 2017.

**Staff Recommendation:**

**A. Retain current FAC Policy**



## **Fed-PP-1: FEMA Flood Mapping – Risk Rating 2.0**

### **FAC Staff Recommendation: Adopt**

**Proposed Policy:** **SUPPORT** a transparent process for rating a property’s flood risk. **SUPPORT** a longer implementation schedule (24 months) for FEMA’s proposed Risk Rating 2.0 program. **SUPPORT** a process that requires FEMA to consult with states and local governments before fully implementing Risk Rating 2.0. **SUPPORT** an appeal process where counties and policy holders can petition rate changes that do not reflect a property’s flood risk.

**Issue Summary:** Risk Rating 2.0 will fundamentally change the way FEMA rates a property’s flood risk and prices insurance. The current rating methodology has not changed since it was first developed in the 1970s. The current rating methodology is heavily dependent on the 1-percent-annual-chance-event, while Risk Rating 2.0 will incorporate a broader range of flood frequencies. Catastrophe models, in combination with the ability to leverage the NFIP’s mapping data, are proposed to provide a better and more comprehensive understanding of risk at both the national and local level

**Background:** The NFIP is administered by the Federal Emergency Management Agency (FEMA) and allows property owners in participating communities to buy insurance to protect against flood losses. Under federal law, the purchase of flood insurance is mandatory for all federal or federally related financial assistance, including home mortgage loans, for the acquisition and/or construction of buildings in high-risk flood areas (Special Flood Hazard Areas or SFHAs). In 2014, Congress passed the Homeowners Flood Insurance Affordability Act (HFIAA). Among the issues addressed were rate increases that were soaring as a result of previous legislation. Through HFIAA, rate increases were capped at no more than 18% annually for residential and 25% for commercial properties.

**Analysis:** NFIP rates are directly tied to FEMA flood maps (a.k.a. Florida Insurance Rate Maps – FIRMs). While FEMA has labored to update maps across the country, most community maps are out of date and don’t account for new development, increased impervious areas, or local flood control efforts. In short, FEMA’s approach to rating a property’s risk can be viewed as being binary – that is, a property is either in or out of mapped flood zone. That alone determines whether a property is required to have flood insurance. Moreover, premium rates are developed community-wide rather than on an individual property’s risk. To address the deficiencies in the traditional mapping process, FEMA is scheduled to launch a new risk rating system called Risk Rating 2.0.

Risk Rating 2.0 will determine a customer’s flood risk by incorporating multiple rating characteristics—like different types of flood, the distance a building is from the coast or another flooding source, or the cost to rebuild a home. It will also use industry technology (e.g. catastrophe [CAT] models) with the NFIP’s mapping data to establish a new risk-informed rating plan.



Risk Rating 2.0 is set to roll out on April 1, 2020 for single family residential properties, while new rates will go into effect on October 1, 2020. There is much uncertainty how the new approach will affect premiums and whether properties outside a FEMA-mapped flood zone will be required to purchase flood insurance. Couple this uncertainty with the maximum annual premium rate increase of up to 18%, there is real concern that Florida property owners could be negatively impacted. Accordingly, FAC believes there should be sufficient time for the State of Florida and policy holders to understand how the new system will work. The current six-month time frame is insufficient for such an assessment and staff recommends the following:

- That no rate changes go into effect for at least 24-months;
- That FEMA consult with the State and counties before any changes take place; and,
- That an appeal process be created so counties and policy holders can appeal any changes they find do not reflect a property's flood risk.





## **Fed-PP-2: Health Care for Non-Convicted Persons**

### **FAC Staff Recommendation: Adopt**

**Proposed Policy:** **SUPPORT** the reinstatement of federal health care benefits, including those benefits awarded to veterans, for non-convicted justice involved individuals.

**Issue Summary:** Reinstatement Federal health care benefits, including those benefits awarded to veterans, for non-convicted justice involved individuals.

**Background:** The Social Security Act (Sec. 1905(a)(A)) prohibits use of federal funds and services, such as Veterans Affairs, Children’s Health Insurance Program (CHIP) and Medicaid, for medical care provided to “inmates of a public institution.” The federal law does not differentiate between a convicted inmate and a person incarcerated prior to conviction

**Analysis:** The Medicaid Inmate Exclusion Policy is only enacted for individuals confined inside the jail. Federal rules prohibit states from billing Medicaid for any inmate care unless the covered individual requires a hospital stay of at least 24 hours, as stated in F.S. 409.9025. This policy denies federal benefits to individuals who are still presumed innocent under the Constitution, per rights outlined in the Due Process (5th Amendment) and Equal Protection (14th Amendment) clauses of the U.S. Constitution. Furthermore, this policy removes access to Children’s Health Insurance Program (CHIP) benefits. More than 9,000 youths in juvenile facilities and awaiting trial are impacted. Limits access to veteran’s health benefits. In effect the veteran loses access to a VA medical care facility while incarcerated until such time as he or she is unconditionally released. More than half of justice-involved veterans have either mental health conditions, such as PTSD, depression or anxiety, or substance use disorders.

**Fiscal Impact:** Approximately two-thirds of the local jail population are being held prior to trial and have not been convicted of a crime. If this change is to take effect, our County alone would experience a significant positive fiscal impact in the millions.

**Submitting County and Contact:** St. Lucie; [fogartyn@stlucieco.org](mailto:fogartyn@stlucieco.org); 7724626406

**Assigned Committee:** HS/Federal

# **2019 INNOVATION & POLICY CONFERENCE**



### **Fed-PP-3: Digital Divide**

**Staff Recommendation:** Adopt

**Proposed Policy Statement:** **FAC SUPPORTS** increasing public funding for construction of broadband infrastructure; **FAC SUPPORTS** improving service mapping accurately by requiring more granular data from service providers, allowing crowd sourced data to be used to inform the map, and creating an appeal process to challenge demonstrable inaccuracies.

**Background:**

Florida is home to national and international destinations for tourism and commerce, yet many Floridians – both in rural and urban areas- lack access to broadband internet in their homes. In 2018, FAC membership voted to adopt a statement in support of expanding broadband access throughout the state partnering with experienced providers using the most efficient technology. In Florida the barriers to internet ubiquity appear to be two-fold: (1) the lack of last-mile service due to the cost to construct and operate a network; and (2) refusal of prospective end-users to subscribe to available service, typically due to cost.

For years, rural residents have argued that actual coverage is much lower than the FCC’s data reflects and have questioned the accuracy of the data. The overreporting of connectivity in Florida, may have led Florida’s State and Congressional officials to underestimate the extent of the problem. Florida counties are not alone in questioning the data provided by the FCC. The FCC’s 2019 Broadband Deployment report counted 21.3 million Americans as lacking internet, while a 2019 Microsoft study found that 162 million Americans do not have access to an internet connection meeting the definition of broadband.

One of the primary factors creating this overreporting is the current requirement that providers information on coverage via the “Form 477” which allows an entire census tract to be considered “covered” if one person within that tract has access to broadband service. This creates a barrier to identifying those areas that actually lack service and to hold service providers accountable for providing services that they may have promised in consideration for public subsidies for broadband expansion. The poor quality of the FCC maps has been recognized both by Congress and the FCC with some movement toward improving the quality of the maps.

The issue does appear to have gained traction with Congress over the past two years. For example, on September 6, members of the House Small Business Subcommittee on Contracting and Infrastructure, which includes Florida Congressman Ross Spano, visited the University of Maine and heard from small businesses owners about the challenges that arise when internet access is unreliable or unavailable.

**Analysis:**



While no State-level programs have successfully supported broadband infrastructure construction, several Federal programs have been created to fund expansion of broadband infrastructure. Two programs of note:

#### United States Department of Agriculture – Rural Utilities Services

The March 2018 Federal omnibus spending plan created a new broadband pilot program within the USDA. The \$600 million authorization charged the USDA to "conduct a new broadband loan and grant pilot program under the Rural Electrification Act of 1936..." and requiring that at least 90% of the households to be served by a project be in rural areas with insufficient access to broadband. The newly authorized pilot program is supplemental to the USDA's Rural Utilities Service existing telecommunications programs aimed at expanding broadband access to rural areas, including the Rural Broadband Access Loans and Loan Guarantees Program.

The Broadband ReConnect Program furnishes loans and grants to provide funds for the costs of construction, improvement, or acquisition of facilities and equipment needed to provide broadband service in eligible rural areas. The application for the first round of funding has closed and applications are currently under review.

#### Federal Communications Commission—Rural Digital Opportunity Fund

The FCC approved a Notice of Proposed Rulemaking for the Rural Digital Opportunity Fund (RDOF), which would provide \$20.4 billion over 10 years to help companies expand broadband in unserved remote areas. RDOF will assign funding in two phases: Phase I will target areas with no broadband service and Phase II will target areas that are partially served. The program will leverage repurposed revenue from the Connect America Fund, which is set to expire in 2021. The comment period for this provision will begin 30 days after the date of publication in the Federal Register. Comments on the proposed rule were due on September 20.

#### Activity to Improve Mapping:

NACo's TestIT App: To address the FCC's broadband data disparities, NACo partnered with the Local Initiatives Support Corporation (LISC), the Rural Community Assistance Partnership (RCAP), the National Association of Development Organizations (NADO) and Farm Credit, to develop "TestIT" – a mobile app designed to crowdsource connectivity data in areas with little or no connectivity. Through TestIT, users can report their broadband speeds from anywhere with the push of a button. The data collected through this app will help identify areas where broadband service is overstated and underfunded by comparing the data to the FCC's National Broadband Map. To learn how to download the app, [click here](#).

#### Congressional Action:



Broadband Deployment Accuracy and Technological Availability (DATA) Act (H.R 4229 116<sup>th</sup> Congress) Would require the FCC to collect data more granularly and would establish process to challenge map data.

Mapping Accuracy Promotes Services (MAPS) Act H.R. 4227 would make it “unlawful for a person to willfully, knowingly, or recklessly submit broadband internet access services coverage information or data to the Commission for the purposes of compiling a broadband coverage map that is inaccurate with respect to the availability or quality of service of broadband internet access service.”

In a September 12 hearing before U.S House of Representatives’ Communications and Technology Subcommittee stakeholders reviewed results of studies from Virginia and Missouri showing that current maps overestimate broadband availability. Use of ‘crowdsourcing’ was also suggested to supplement information provided by providers. Speakers discussed the lack of accountability in the existing Federal programs, recommending that the FCC track where funds have been awarded to deploy services.

FCC Action:

Perhaps in an effort to preempt legislative action, on August the FCC proposed the Digital Opportunity Data Collection (DODC), a new process for collecting broadband data to better pinpoint where broadband service is lacking. The proposal would continue to rely on provider-supplied data, but it opens the door for crowdsourcing data collection – a method supported by counties.

According to the FCC, the proposed order includes three significant changes to the process:

- Collects geospatial broadband coverage maps from broadband Internet service providers. This geospatial data will facilitate development of granular, high-quality fixed broadband deployment maps, which should improve the FCC’s ability to target support for broadband expansion through the agency’s Universal Service Fund programs.
- Adopts a process to collect public input on the accuracy of service providers’ broadband maps, facilitated by a crowd-sourcing portal that will gather input from consumers as well as from state, local and tribal governments.
- Makes targeted changes to the existing Form 477 data collection to reduce reporting burdens for all filers and incorporate new technologies.

Stakeholders will be allowed to provide comments to the FCC regarding the proposed rulemaking 30 days after the notice is published in the Federal Register, August 1, 2019.

# **2019 INNOVATION & POLICY CONFERENCE**



## **Fed-PP-4: Non-Domestic Sand Sources**

**FAC Staff Recommendation:** Adopt

**Proposed Policy:** **SUPPORT** allowing local governments to acquire sand by purchase, exchange or otherwise from non-domestic sources to replenish shorelines due to beach erosion.

**Background:** In the 115th Congress, the Sand Acquisition, Nourishment, and Development 39 (SAND) Act of 2017 (H.R. 833/S.279) was introduced in both the U.S. House of Representatives 40 and the U.S. Senate. The SAND Act proposed to repeal current law that does not allow communities to buy sand from foreign countries to replenish shorelines due to beach erosion. A similar bill is expected to be introduced in the 116th Congress. In Miami-Dade and Broward Counties, the limited supply of suitable offshore sands has been depleted, increasing the need for cost-effective options to replenish Florida’s beaches. Current beach projects are using sand trucked from upland mines over 100 miles away while the ban on federally funded non-domestic (foreign) sand prevents the possible use of Bahamian sand from 60 miles away. Florida’s economically critical beaches increasingly need unrestricted sand sources kept affordable by free-market competition. Although a study by the Army Corps of Engineers found that sand is available offshore of St. Lucie & Martin Counties, those sands are planned for use by other counties, may not be a good match for southern beaches, create public and political concerns over using “their” sand, and cannot be purchased with state funds for use in South Florida.

**Analysis:**

- Expanding the opportunities for competing vendors to cost-effectively maintain Florida’s beaches.
- Providing a sand source similar to South Florida sand in content and color.
- Using barged non-domestic sources is less disruptive than hundreds of trucks per day at truck-hauled projects.
- Eliminating the USACE’s need to take offshore sand from one county for use in another.
- Reducing competition between counties for the same upland and offshore sand sources.
- Impacts of beach re-nourishment including: Coastal storm risk management; Beach erosion control; Hurricane storm protection; Protect infrastructure; Preserve the environment for wildlife; Support the economy; Build coastal resiliency

**Fiscal Impact:** Indeterminate.

**Submitting County:** Broward


# **2019 INNOVATION & POLICY CONFERENCE**




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# **2019 INNOVATION & POLICY CONFERENCE**



Finance, Tax, & Administration  
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# **2019 INNOVATION & POLICY CONFERENCE**





## **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.

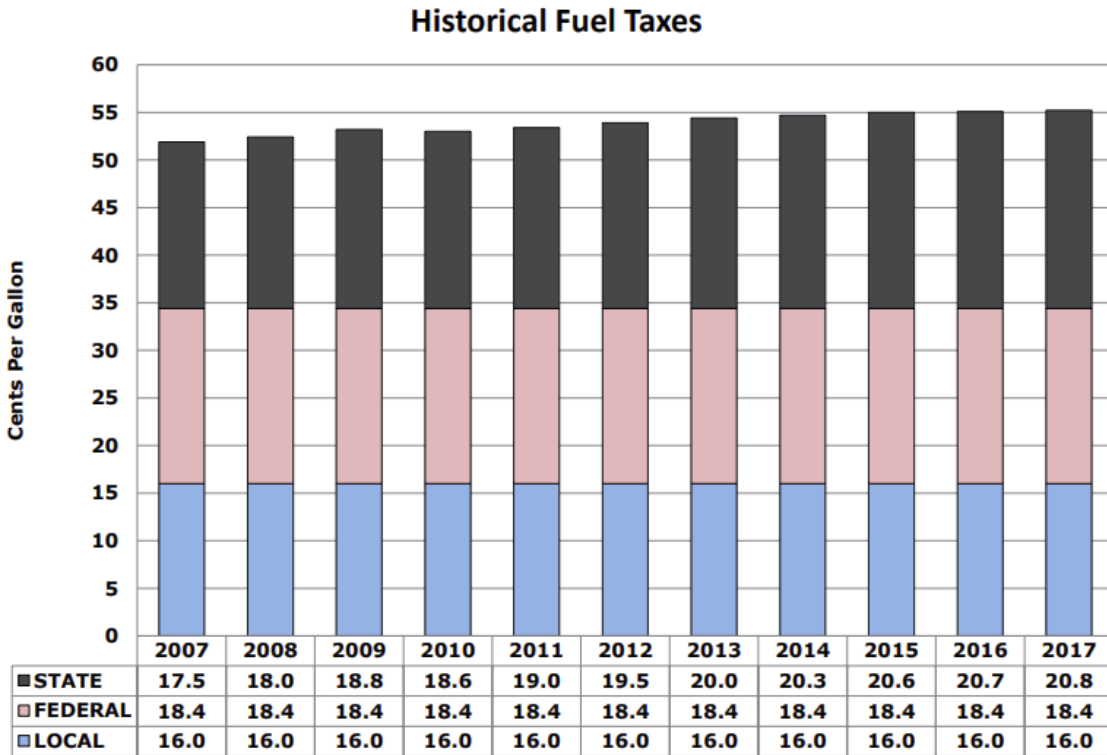
**Analysis:** The motor fuel taxes are the principle source of funding for the construction, maintenance, and operation for most of Florida's local agencies. The costs of transportation system construction and operation are linked to the costs of goods and services, which continues to rise. As the costs 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)





# Florida Association of County Engineers and Road Superintendents

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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

# **2019 INNOVATION & POLICY CONFERENCE**



### **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 in the process of planning the replacement our 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

## **2019 INNOVATION & POLICY CONFERENCE**





## **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

## **2019 INNOVATION & POLICY CONFERENCE**



## **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 and 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

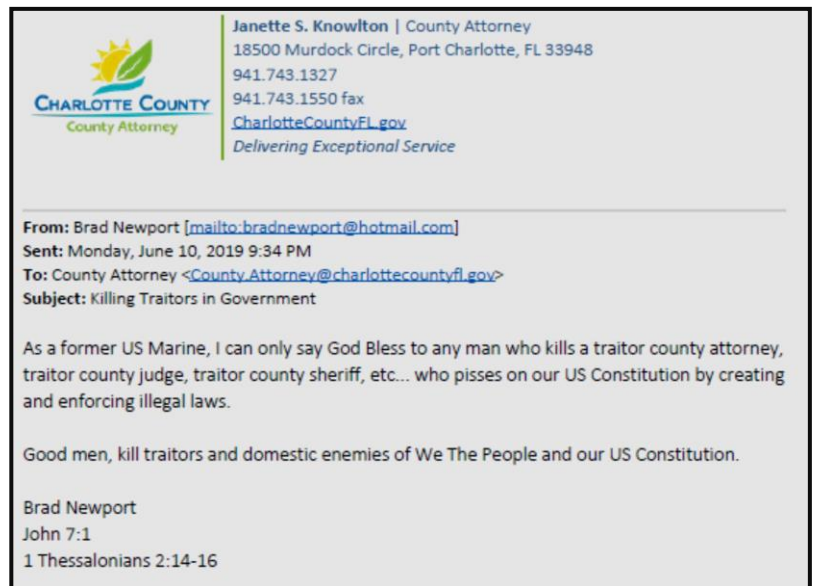
**FAC Staff Recommendation:** Adopt

**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 Attorney<sup>1</sup>, filming of County security personnel and security systems<sup>2</sup>, and harassing a stalking victim and witness<sup>3,4</sup>. 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<sup>5,6</sup>. 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

<sup>1</sup>2/3/2019 <https://www.youtube.com/watch?v=vi5fbECd6iY>

<sup>2</sup>2/4/2019 <https://www.youtube.com/watch?v=w2Ri5WGHU9U>

<sup>3</sup>8/4/2019 <https://www.nbc-2.com/story/40873331/man-accused-of-sending-a-dead-kitten-in-the-mail-to-stalking-victim-facing-multiple-charges>

<sup>4</sup>6/28/2019 <http://charlottesun.fl.newsmemory.com/publink.php?shareid=34287f424>

<sup>5</sup>8/12/2019 [https://www.yoursun.com/charlotte/news/jailed-youtuber-disputes-he-intended-any-harm-after-authorities-seize/article\\_aa16716c-b9df-11e9-8446-2b1aa030f09d.html](https://www.yoursun.com/charlotte/news/jailed-youtuber-disputes-he-intended-any-harm-after-authorities-seize/article_aa16716c-b9df-11e9-8446-2b1aa030f09d.html)

<sup>6</sup>6/28/2019 <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 polices on Public Records Aggregation throughout the state<sup>7,8,9</sup>.

**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

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<sup>7</sup>4/10/2011 <https://www.cityofpensacola.com/DocumentCenter/View/1169/City-of-Pensacola-Public-Records-Policy?bidId=>

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

<sup>9</sup>8/28/2017 <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**

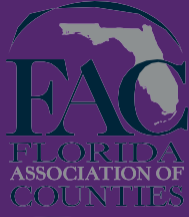
F.S. 102.031(4)(e) would cause counties who rely on private polling locations, such as churches, to potentially lose those locations. This would cause long lines and overcrowding at the polls which could impact efficiency among the election workers and the process.

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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FLORIDA ASSOCIATION OF COUNTIES

**2019 INNOVATION & POLICY CONFERENCE**

**LOCALS** *first*

**Community,  
Health & Safety**



# **2019 INNOVATION & POLICY CONFERENCE**





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Hillsborough

**Vice Chair**

Michael Udine  
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# **2019 INNOVATION & POLICY CONFERENCE**



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# **2019 INNOVATION & POLICY CONFERENCE**



## **FAC 2019-2020 Proposed Guiding Principles COMMUNITY, HEALTH & SAFETY**

### Health and Human Services Policy

*County officials recognize the importance of adequately providing for quality health and human services to protect and assist citizens in need. As a critical link in the federal/state/county human services partnership, counties must be included in formulating and implementing policies that protect the health, safety, and welfare of all the citizens of the state.*

- CHS 1. The Florida Association of Counties supports allowing for flexibility in the delivery of health and human services within communities to achieve the desired level of services based on local needs and priorities.
- CHS 2. The Florida Association of Counties supports expanding health care and dental healthcare access and believes that efforts to refine and enhance state and local programs that provide access to affordable health care are essential.
- CHS 3. The Florida Association of Counties supports policies that increase access to acute care behavioral health services for individuals and families.
- CHS 4. The Florida Association of Counties supports policies that increase supportive housing, jail diversion, and employment and education initiatives for people with mental health, substance abuse issues, behavioral health issues and/or disabilities.
- CHS 5. The Florida Association of Counties supports diverting, medically assisting, or treating the mentally ill outside of the criminal justice process through alternative programs, such as Crisis Intervention Teams.
- CHS 6. The Florida Association of Counties supports Medicaid reform initiatives to ensure that persons with substance abuse and mental health treatment needs are appropriately served.
- CHS 7. The Florida Association of Counties supports the implementation of discharge protocols and/or procedures for hospitals, correctional facilities, and mental health facilities when releasing homeless persons.
- CHS 8. The Florida Association of Counties supports the development of policies that would allow local governments to work with the state and federal government to serve



target populations: the chronically homeless, veterans, and families and children, with emphasis on children aging out of the foster care system.

CHS 9. The Florida Association of Counties supports policies that promote continued coordination with the state's Council on Homelessness, specifically as it recommends policies and practices in support of the Federal Strategic Plan to End Homelessness.

CHS 10. The Florida Association of Counties supports policies that lessen fragmentation, inefficient operation, and costly duplication of transportation disadvantaged services.

#### Health and Human Services Funding

*While most health and human service programs and the laws that govern these programs are established by federal and state governments, many of these services are being provided through community-based services at the local level. Given the varying capacity and funding capabilities of counties, adequate federal and state funding to ensure uniformity in the human services continuum.*

CHS 11. The Florida Association of Counties supports, when feasible, directing existing funding from institutional care to community-based care programs.

CHS 12. The Florida Association of Counties supports increased funding for core and crisis mental health services, including beds, statewide.

CHS 13. The Florida Association of Counties supports life-saving interventions, including funding for prevention programs, medication-assisted treatment, residential treatment, twelve-step recovery and detoxification programs, and diversions from the criminal justice system as comprehensive efforts to reduce substance abuse and addiction.

CHS 14. The Florida Association of Counties supports increased funding of the Criminal Justice Mental Health and Substance Abuse Reinvestment Grant Program with recurring dollars in a trust fund.

CHS 15. The Florida Association of Counties supports sustainable matching state funds to counties that have received both planning and implementation Reinvestment Grant funds.

CHS 16. The Florida Association of Counties supports a system for distributing Low Income Pool dollars that ensures IGT-donor counties are able to direct the federal matching



dollars generated by their local IGT contributions to best meet the health care needs of their constituents, rather than having those dollars redistributed throughout the state.

- CHS 17. The Florida Association of Counties supports adequate funding for the Community Care for the Elderly Program, which provides cost efficient diversion from nursing home placement for impaired elders.
- CHS 18. The Florida Association of Counties supports funding Graduate Medical Education programs to meet the healthcare needs of the state and its local communities, with an emphasis on programs that provide for specialties in need, as well as the development of physicians to practice in medically underserved areas.
- CHS 19. The Florida Association of Counties supports funding for the Florida Healthy Start and Healthy Families program.
- CHS 20. The Florida Association of Counties opposes policies that further shift state Medicaid costs to counties.
- CHS 21. The Florida Association of Counties supports the continued evaluation of the county-state Medicaid cost-share arrangement, taking into consideration the impacts of state policies designed to contain growth in Medicaid costs, including statewide Medicaid managed care and diagnosis related group reimbursement for hospitals.
- CHS 22. The Florida Association of Counties supports increasing state general revenue funding for county health departments (CHDs), and opposes any state reductions to the CHD Trust Funds.
- CHS 23. The Florida Association of Counties supports maintaining a coordinated system of CHDs that is centrally housed within the Department of Health (DOH).
- CHS 24. The Florida Association of Counties supports preserving the ability of CHDs to provide primary care and direct patient care services, particularly in communities without adequate substitutes or alternative providers for these services.
- CHS 25. The Florida Association of Counties supports a dedicated state funding source for homeless programs, including but not limited to local matching programs for counties who have demonstrated an investment in homeless services.



- CHS 26. The Florida Association of Counties supports the continuation of the Medically Needy program.
- CHS 27. The Florida Association of Counties supports policies that allocate state funds to hire Veterans Services Officers in counties in order to increase services and federal benefits for Florida veterans.
- CHS 28. The Florida Association of Counties supports policies that protect the Transportation Disadvantaged (TD) trust fund, as well as dedicated state funding for the TD program, including funding to address unmet TD needs in rural areas.

#### Public Safety and Emergency Services

*Providing for public safety is one of the core functions of county governments. Counties provide for safety through support of first-responder services from sheriffs' offices, ambulance services, fire and rescue, and emergency management centers that protect the public during natural or man-made disasters, terrorism, emergencies, and public health threats.*

- CHS 29. The Florida Association of Counties supports policies that maintain and enhance established trauma care funding, including incentives for the development of new trauma centers.
- CHS 30. The Florida Association of Counties opposes policies that shift the state's financial responsibility for the trauma system to counties or divert trauma care funding for purposes other than those intended by the existing legislation.
- CHS 31. The Florida Association of Counties supports policies that protect the ability of counties to provide for coordinated, countywide systems of emergency medical services, and not limit the ability of ambulance and other emergency medical transportation providers to be reimbursed for their services.
- CHS 32. The Florida Association of Counties opposes sentencing of state inmates to county jails, but supports counties' ability to contract with the Department of Corrections for housing state inmates.
- CHS 33. The Florida Association of Counties supports funding for capital improvements to county courthouses and other court-related facilities, including jails.





- CHS 34. The Florida Association of Counties supports policies designed to prevent human trafficking, protect victims, prosecute human traffickers, and create partnerships across all levels of government, the private sector, and state agencies to provide training opportunities for local government employees and their agents to recognize the signs of human trafficking including government inspectors, law enforcement, criminal justice, health care, transportation and public transit, educational partners, and employees working with vulnerable populations.
- CHS 35. The Florida Association of Counties opposes policies that would shift funds or impede counties from building and maintaining an interoperable radio communication system as authorized by statute.
- CHS 36. The Florida Association of Counties supports increased funding for locally-operated crime analysis laboratories.
- CHS 37. The Florida Association of Counties supports policies and funding targeted at enhancing the quality of volunteer firefighting services in rural and unincorporated communities.
- CHS 38. The Florida Association of Counties supports the provision of state matching funds for all disaster-related / emergency management projects deemed eligible and approved by FEMA including, but not limited to, backup generators for facilities for elders.
- CHS 39. The Florida Association of Counties supports continued state funding for county EOCs to ensure each is able to meet the minimum structural survivability and operational space criteria established by the state and federal government.
- CHS 40. The Florida Association of Counties supports policies and funding that provide enhanced training and education opportunities for County Emergency Management employees.

### Criminal Justice System

*Florida's counties also play a critical role in state's criminal justice system, providing prevention, pre-trial, and reintegration services, juvenile programs, victims' assistance, and jail funding throughout the state. Success of such programs hinges on a comprehensive and coordinated approach across local agencies, jurisdictions, and with state and federal partners. When determining appropriate programming and funding, Florida's counties work to encourage improved outcomes for system participants and communities while also seeking cost reductions*



*and efficiencies. Public safety and criminal justice services continue to have increased funding needs, however, as counties and their public safety partners face new and evolving threats to the safety and welfare of their communities and counties must be empowered to adequately address funding of necessary services. Furthermore, considering the interconnected nature of many of these threats, increased federal and state funding is essential to ensure that effective public safety systems are provided throughout Florida.*

CHS 41. The Florida Association of Counties supports policies preserving counties' ability to provide risk assessment pretrial release services that prevent new offenses and ensures appearance as obligated.

CHS 42. The Florida Association of Counties opposes policies limiting the discretion of the first appearance judges.

CHS 43. The Florida Association of Counties opposes policies that restrict pretrial services to only indigent defendants.

CHS 44. The Florida Association of Counties supports policies that reduce county jail expenses, including juvenile and adult diversion programs.

CHS 45. The Florida Association of Counties supports policies that provide Medicaid eligibility for persons incarcerated in county jails while waiting disposition of their cases and to ensure that existing Medicaid benefits are not terminated during incarceration.

CHS 46. The Florida Association of Counties supports policies and initiatives which reduce juvenile detention through prevention, civil citation, treatment, and rehabilitation services.

CHS 47. The Florida Association of Counties supports state investments in juvenile facilities to improve the conditions of secure confinement for detained youth without such costs being shifted to the counties.

CHS 48. The Florida Association of Counties supports policies that ensure that adequate safety, supervision, and facility maintenance is provided at juvenile residential assessment centers and secure detention facilities.

CHS 49. The Florida Association of Counties supports state funding of Juvenile Assessment Centers throughout Florida to strive to achieve equal treatment of youth offenders.



CHS 50. The Florida Association of Counties supports policies that increase judicial oversight and authority for charging and sentencing juvenile defendants as adults without creating additional county service requirements.

# **2019 INNOVATION & POLICY CONFERENCE**



## **CHS-PP-1: Regulation of Smoking on Local Government Property**

**FAC Staff Recommendation:** Defer to Committee

**Proposed Policy:** SUPPORT the creation of an exemption to the state’s smoking preemption law to grant local governments the power to prohibit smoking/vaping on playgrounds under their ownership to protect the public health of children.

**Background:** Florida’s local governments are preempted by the state Legislature from most forms of smoking and vaping regulation. Chapter 386.209, F.S., “expressly preempts regulation of smoking to the state and supersedes any municipal or county ordinance on the subject; however, school districts may further restrict smoking by persons on school district property.” While smoking in enclosed workplaces is banned in Florida, it is still allowed in outdoor areas such as parks, beaches, and playgrounds. Previous bills that would have granted local governments the local control to prohibit smoking in these outdoor areas have stalled in the Legislature, including a 2014 effort by Sen. Rob Bradley—SB 342—that would have authorized local governments to restrict smoking in playground areas under their ownership. A recent change in law, however, appears to provide an opportunity for local governments to enact ordinances prohibiting vaping on playgrounds. The implementing legislation for the 2018 constitutional amendment banning vaping in enclosed workplaces revises 386.209, F.S., to include the following: “This section does not preclude the adoption of municipal or county ordinances that impose more restrictive regulation on the use of vapor-generating devices than is provided in this part.”

**Analysis:** Palm Beach County and other counties throughout Florida have an interest in managing public health concerns in outdoor areas under their jurisdiction.

**Fiscal Impact:** There may be an indeterminate cost to local governments in the enactment and enforcement of an ordinance prohibiting smoking on playgrounds; however, this cost may be partly or totally balanced by the issuance of fines to violators of the ordinance.

**Submitting County:** Palm Beach

# **2019 INNOVATION & POLICY CONFERENCE**



## **CHS-PP-2: Opportunity Zones**

**FAC Staff Recommendation:** Not Adopt

**FAC Staff Advisory:** Pursue this issue outside of the 2020 Legislative process

**Proposed Policy:** SUPPORT implementation of guidance and regulations from the Department of Economic Opportunity on the newly-created Opportunity Zones tax benefit that prevent abuse, encourage developments that provide public benefits in low-income areas within the identifiable zone, and protect local governments and stakeholders.

**Background:** Opportunity Zones were added to the tax code by the Tax Cuts and Jobs Act on December 22, 2017, designed to spur economic development by providing tax benefits to investors. An Opportunity Zone is an economically-distressed community where new investments, under certain conditions, may be eligible for preferential tax treatment. Localities qualify as Opportunity Zones if they have been nominated for that designation by the state and that nomination has been certified by the Secretary of the U.S. Treasury via his delegation of authority to the Internal Revenue Service. The Florida Opportunity Zones nominated by Governor Rick Scott were certified by the U.S. Department of the Treasury on June 14, 2018. Florida has 427 designated opportunity zones, all of which are low-income communities. Non-low-income contiguous tracts have no designation as opportunity zones. Even with these designations, business owners and local governments are confused as to what can and cannot be accomplished with opportunity zone incentives for investors. In 2019, Representative Anika Omphroy filed HB 481 – Opportunity Zones and Senator Bobby Powell filed the companion bill SB 1408. Both bills were not heard in any referenced committee.

**Analysis:** Counties across Florida benefit from having another tool in their economic development toolbox. From rural communities to urban areas, this program will allow investors to strategically invest in targeted communities. This will build on each county's economic development plan, bringing more jobs and capital investment into every county across Florida. However, even with these designations, business owners and local governments are confused as to what can and cannot be accomplished with opportunity zone incentives for investors. While, the U.S. Department of Treasury is tasked with developing guidance and regulations for this program, the state should be responsible for establishing its own guidance for local governments and businesses alike. Currently, there are only proposed regulations and no clear guidance for states, local governments, and investors. Because no real guidance has been developed, the Florida Department of Economic Development (DEO) should be responsible for establishing such guidance, as the state's leading economic entity.



**Fiscal Impact:** Indeterminate

**Submitting County:** Broward





### **CHS-PP-3: County Medicaid Cost Share Growth**

**FAC Staff Recommendation:** Defer to Committee

**Proposed Policy:** SUPPORT efforts to prevent increases in Medicaid costs and request that the provision determining the rate of overall growth of the County Medicaid cost share be maintained at 50% and not be changed to 100% of the rate of growth in the state Medicaid expenditures.

**Issue Summary:** For the period between FY 15-16 and FY 19-20 the rate of growth of the overall County Cost Share program is determined at the rate of 50% of the percentage change in the state Medicaid expenditures. However, after 2019-20 – the rate of growth in the total County Cost Share formula will increase or decrease at the same percentage as the changes in the state Medicaid expenditures. This change in percentage will effectively double to rate of growth of the County Medicaid Cost Share program thus increasing the fiscal burden on local county taxpayers.

**Background:** During the 2013 Legislative Session, the Legislature passed Senate Bill 1520 modifying the method of calculating what each county is required to pay in the State County Medicaid Cost Share program. The statutes changed the criteria for calculating each counties share from a formula based on “Utilization” to a formula based on “Enrollment”. The change in county share calculation method outlined a seven-year implementation schedule that changes the County Cost Share formula from being 100% Utilization based to 100% Enrollment Based. In addition, the statutes determined that the level of overall growth of the County Cost Share program would be based on the percentage growth of the overall state Medicaid expenditures. Specifically, for Fiscal years 2015-2016 through the 2019-2020 state fiscal year, the total amount of the counties’ annual contribution shall be the total contribution for the prior fiscal year adjusted by 50 percent of the percentage change in the state Medicaid expenditures as determined by the Social Services Estimating Conference. For each fiscal year after the 2019-2020 state fiscal year, the total amount of the counties’ annual contribution shall be the total contribution for the prior fiscal year adjusted by the percentage change in the state Medicaid expenditures as determined by the Social Services Estimating Conference.

**Analysis:** At a time of limited revenues and efforts to reduce the local tax burden – counties are facing a number of state mandates that will increase county costs. Specifically, the rate of growth of the overall County Cost Share formula has been limited to 50% of the percentage change in the state Medicaid expenditures. However, for each year after 2019-20 – the rate of growth in the total County Cost Share formula will increase or decrease at the same percentage as the changes in the state Medicaid expenditures. Example - currently if the total state Medicaid expenditures grow at 5% - the rated of growth in the County Medicaid Cost Share program would



be 2.5% of 50% of the rate of growth of the state Medicaid expenditures. However, after FY 2019-20 – if the total rate of growth in the state Medicaid expenditures is 5% the rate of growth for the in the total County Cost Share formula will be 5%.

**Fiscal Impact:** If no change is made to the statutes governing the method for calculating the rate of growth in the County Medicaid Cost Share program - after FY 2019-20 – the rate of growth in the County Medicaid Cost Share will double.

**Submitted by:** Small County Coalition



## **CHS-PP-4: Prohibited Places for Weapons and Firearms**

**FAC Staff Recommendation:** Defer to Committee

**Proposed Policy:** SUPPORT the prohibition of weapons and firearms in government buildings.

**Background:** Osceola County would like to suggest, “Prohibited Places for Weapons and Firearms” Revising the locations where a licensee is prohibited from openly carrying a handgun or carrying a concealed weapon or firearm.

**Issue Summary:** The safety issue at hand is that the statute specifically states the prohibition of weapons in any “meeting of the governing body”. It prohibits weapons in Chambers during a Board of County Commissioners meeting, but not in a government building, which could be a dangerous for all government employees or any citizen at any given time. The Statute language could be an easy fix if we can make it happen.

**Analysis:** At the moment Weapons and Fire Arms are prohibited in any college or university facility but not in any government building other than any police, sheriff or highway patrol station or any detention facility, prison or jail. We believe that this change in the statute would secure the safety of government employees or any citizen visiting a government building.

**Fiscal Impact:** N/A

**Submitting County:** Osceola

# **2019 INNOVATION & POLICY CONFERENCE**



## **CHS-PP-5: COPCN – ALS Non-Transport Services**

**FAC Staff Recommendation:** Defer to Committee

### **Policy Options:**

- 1) Exemption from COPCN process for ALS Non-transport services by governmental entity
- 2) Provides optional process for the issuance of a COPCN for ALS Non-transport services by governmental entity; requires issuance of a COPCN upon receipt of request for COPCN, the governmental entity's financials and, a letter certifying that the governmental entity will follow countywide medical protocols (if instituted)
- 3) Provides an exemption from the COPCN process for ALS Non-transport services by governmental entity if it uses a countywide medical protocol (if instituted)
- 4) Provides for the issuance to a governmental entity for ALS Non-transport services without a COPCN upon receipt of an affidavit from the governmental entity's medical director that countywide medical protocols will be implemented (if instituted)
- 5) Provides that if the County denies a governmental entity a COPCN for ALS Non-transport services, then if certain requirements are met, a license may be issued by the DOH
- 6) Provides for a minimum 10-year COPCN to a governmental entity providing ALS Non-transport services; provides revocation process
- 7) Provides for a minimum 10-year COPCN to a governmental entity providing ALS Non-transport services

**Issue Summary:** Current law allows a county to prevent first responders from providing more than basic life support services even if the government entity has State certified paramedics and can meet all other state legal requirements. Paramedics have been required to only provide basic life support services while waiting for an ambulance to show up, even if it's to the detriment of the patient. Since generally there are more first responder vehicles than ambulances in a community, citizens may be negatively impacted. Although most counties allow ALS non-transport services by first responders, some counties do not or require the governmental entity to work under the county's COPCN and State license. All counties have the authority to limit governmental entities from providing ALS non-transport services. The policy change is to revise the current COPCN requirement for governmental entities ALS non-transport services. The proposed change relates only to non-transport services only. The change does not address ambulances.

**Background:** In 2018, Senator Grimsley filed SB 488 that provided an alternative process for local governments that provide first responder services to provide ALS non-transport services at an



emergency without a COPCN if the entity: (1) provides first response; (2) has fire rescue infrastructure; (3) satisfies Department of Health statutes and rules; and (4) uses a countywide common medical protocol, if one is adopted. Notwithstanding, this is not a requirement if the county prohibits the provision of ALS by a firefighter/paramedic within the protocol. The bill was passed by the Senate Health Policy Committee. Representative Pigman filed HB 285, which died without a hearing as there was insufficient time to develop compromise language that was agreeable to the applicable parties. The original proposal was developed due to a dispute that occurred in Collier County. Although resolved and currently there is no conflict, there is a desire to ensure that a similar decision cannot occur elsewhere in the state based on BOCC changes.

**Analysis:** Depending on which option is selected, there are different impacts. With some options, there will not be impacts in many counties today. In counties where there are no issues related to the provision of ALS non-transport services by governmental entities, the current statutory process related to the COPCN process and ordinances will continue. The exception may be if the 10-year COPCN options are pursued, there is a potential that a county would be required to issue a longer term COPCN (many counties already issue long termed COPCNs to governmental entities that provide ALS non-transport services). Many options provide an alternative process. All counties have the authority to limit governmental entities from providing ALS non-transport services and these changes ensure that such decisions are not arbitrary. Continuum of care of patients are addressed as the alternative process options require that the governmental entity must follow a countywide medical protocol, if one is adopted.

**Fiscal Impact:** According to the bill analysis associated with CS/SB 488, there is an indeterminate positive fiscal impact on governmental entities that are able to provide ALS non-transport services without obtaining a COPCN from not being required to proceed through the COPCN process. There is an indeterminate negative fiscal impact on local governmental with entities that are exempt from the COPCN process from a reduction in fees collected related to COPCN applications. To address questions raised by some small counties during the 2018 session, many of the alternative process options are not applicable to a governmental entity that receives funds from the county government to provide the ALS non-transport services.

**Submitted by:** FAC Staff



## **CHS-PP-6: Funding for Historical Initiatives**

**FAC Staff Recommendation:** Pursue through Guiding Principles in November

**Proposed Policy:** SUPPORT funding projects related to Florida's historic resources

**Background:** It is important to promote historic locations and events with regional significance and Marion County requests the Legislature encourage extramural initiatives between counties to develop a statewide historic network. Marion County's history dates back thousands of years and that heritage and history is reflected in many areas within the destination, namely at sites such as the Fort King National Historic Landmark or other such venues.

**Analysis:** Through the use of partnerships and technology, local historic sites, features and projects, such as the creation of Historic Trails, can benefit tourism efforts across Florida.

**Fiscal Impact:** Visitor spending from Marion County guests has created over a billion dollars in economic impact to Marion County annually (\$1,014,266,100) and out-of-town visitor spending in Marion County continues to increase year-over-year to \$667,280,300, an increase of 1.3 percent over the same time period.

Additionally, visitors to Marion County spend approximately \$1,311 in direct expenditures during each trip that span an average of 4.1 nights and visitor spending supported 11,937 Marion County jobs and generated a property tax cost savings of \$542 to local residents.

The creation and promotion of a statewide historic network will work to both advance the tourism economic engine while creating educational and historical opportunities for generations to come.

**Submitting County:** Marion

# **2019 INNOVATION & POLICY CONFERENCE**





## **CHS-PP-7: Inmate Health Care Costs**

**FAC Staff Recommendation:** Defer to Committee

**Proposed Policy:** SUPPORT legislation or special funding that addresses Inmate Medical Costs when the inmate is without the means to pay for costs and does not have insurance or other assets that can be recovered.

**Issue Summary:** Health related costs have substantial impact when local communities are required to provide for extensive health care needs while individuals are incarcerated. Although F.S. 951.032 provides methods for recovering costs from prisoners – also if a prisoner is eligible for Federal Government Benefits (e.g. Veterans Check, Social Security, Disability, Medicaid, Medicare, etc.) citizen those benefits are stopped with said person is incarcerated, at that time the county picks up the cost.

**Background:** Current law – F.S. 951.032 requires counties to provide medical care, treatment, hospitalization, and transportation to said treatments. Counties may seek reimbursement from the prisoner or person receiving medical services by deducting payment from the prisoners account at the facility; by assigning a lien against prisoners’ assets; by seeking payment from the prisoner’s insurance company, health care provider or other source. When a prisoner cannot meet any of these payment methods – the county is charged with the cost of medical care.

**Analysis:** 951.032 - Financial responsibility for medical expenses.

(1) A county detention facility or municipal detention facility incurring expenses for providing medical care, treatment, hospitalization, or transportation may seek reimbursement for the expenses incurred in the following order:

- A. From the prisoner or person receiving medical care, treatment, hospitalization, or transportation by deducting the cost from the prisoner’s cash account on deposit with the detention facility. If the prisoner’s cash account does not contain sufficient funds to cover medical care, treatment, hospitalization, or transportation, then the detention facility may place a lien against the prisoner’s cash account or other personal property, to provide payment in the event sufficient funds become available at a later time. Any existing lien may be carried over to future incarceration of the same prisoner as long as the future incarceration takes place within the county originating the lien and the future incarceration takes place within 3 years of the date the lien was placed against the prisoner’s account or other personal property.



B. From an insurance company, health care corporation, or other source if the prisoner or person is covered by an insurance policy or subscribes to a health care corporation or other source for those expenses.

(2) A prisoner who receives medical care, treatment, hospitalization, or transportation shall cooperate with the county detention facility or municipal detention facility in seeking reimbursement under paragraphs (1)(a) and (b) for expenses incurred by the facility for the prisoner. A prisoner who willfully refuses to cooperate with the reimbursement efforts of the detention facility may have a lien placed against the prisoner's cash account or other personal property and may not receive gain-time as provided by S. 951.21.


History. —S. 2, Ch. 83-189; S. 45, Ch. 95-283.


**Fiscal Impact:** Indeterminate – based on individual circumstances.


**Submitted by:** Small County Coalition

# **2019 INNOVATION & POLICY CONFERENCE**



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# **2019 INNOVATION & POLICY CONFERENCE**



# **Growth, Agriculture, Transportation, & Environment Policy Book**

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# **2019 INNOVATION & POLICY CONFERENCE**

## **GROWTH MANAGEMENT, AGRICULTURE, TRANSPORTATION, & ENVIRONMENT** **PROPOSED GUIDING PRINCIPLES**

### **Growth Management**

*The impact of growth and development in Florida during the last 30 years has brought significant benefits and costs to county government. Given Florida's expected future growth and because Florida's communities are remarkably diverse, Florida's counties must have flexibility in planning decisions to address unique local concerns and conditions. County officials must have the ability to make reasonable decisions for the advancement of the local community on zoning, comprehensive planning, transportation, and infrastructure issues without being subjected to prohibitive claims for damages for infringement on private property rights.*

1. The Florida Association of Counties supports comprehensive policies that reduce a county's risk to the impacts of coastal and inland flooding.
2. The Florida Association of Counties recognizes and supports the critical role Regional Planning Councils play in supporting communities by coordinating intergovernmental solutions to growth problems on greater-than-local issues, providing technical assistance to local governments.
3. The Florida Association of Counties supports policies that provide a mechanism to ensure the extra-jurisdictional impacts from large-scale development projects are adequately addressed within the impacted counties prior to development approval.
4. The Florida Association of Counties supports retaining the full amount of dedicated documentary tax revenues to fund state and local affordable housing programs.
5. The Florida Association of Counties supports the development and maintenance of dedicated funding of the Florida Forever Grant Program and Florida Communities Trust which provide recreational opportunities for parks, open space, greenways and trails to help meet growth challenges and protect natural resources.
6. The Florida Association of Counties supports the development and maintenance of dedicated funding the Rural and Family Lands Protection Act to allow for the purchase of rural easements to prevent the subdivision and conversion of such land into other uses.
7. The Florida Association of Counties supports the distribution of land management appropriations to local governments in proportion to the percentage of public conservation lands managed within local jurisdictions.

8. The Florida Association of Counties supports broad county authority to regulate the location and number of medical marijuana facilities within county boundaries.

### **Transportation**

*FAC believes that Florida's transportation system is a vital component in building and sustaining communities, moving people and goods, and developing competition at local and regional levels, and on a national scale. Florida's counties play a critical role in the state's transportation system. Florida's counties should be recognized as major partners in the maintenance and development of Florida's transportation infrastructure and provided levels of funding and authority that adequately reflect their role in the state's transportation system.*

9. The Florida Association of Counties supports funding for all modes of the state and local transportation infrastructure network.
10. The Florida Association of Counties supports policies and funding that encourage and facilitate more efficient and effective use of regional transportation solutions.
11. The Florida Association of Counties supports critical state funding for the Small County Road Assistance program (SCRAP).
12. The Florida Association of Counties supports continuing enhanced state funding for the Small County Outreach Program (SCOP).
13. The Florida Association of Counties supports policies providing for Strategic Intermodal System funds to be used on roads and other transportation facilities not designated on the SIS network if the improvement relieves congestion on the SIS.
14. The Florida Association of Counties opposes any effort to divert revenues from the state transportation trust fund for non-transportation purposes.

### **Environment**

*Conservation and protection of Florida's natural resources is critical to managing growth, promoting economic development, and maintaining a healthy environment to ensure a high quality of life for Floridians.*

15. The Florida Association of Counties supports the allocation of matching funds to county governments to purchase environmentally sensitive and endangered lands.
16. The Florida Association of Counties supports a comprehensive state climate change action plan, with energy policies and other initiatives to reduce greenhouse gases and to address ecosystem sustainability, long term water supply, flood protection, public health and safety, and economic prosperity.

17. The Florida Association of Counties supports state and federal recognition of adaptation and mitigation as critical to any climate change plan, and the funding necessary to assist local governments in developing and implementing these initiatives.
18. The Florida Association of Counties supports collaboration among regional coalitions focused on resiliency and climate change in order to maximize resources, share information, analysis, and best practices, and foster useful collaboration.
19. The Florida Association of Counties supports streamlining the permitting and regulatory processes for solar product manufacturers, installers, and consumers, and further supports reducing burdensome regulations that hinder solar market penetration.
20. The Florida Association of Counties supports the ability of counties to utilize electricity produced at county-owned facilities at other adjacent and non-contiguous county-owned properties without penalty, or in the alternative, be able to sell surplus power at market rate.
21. The Florida Association of Counties supports state designation of the Southeast Florida Coral Reef Conservation Area.
22. The Florida Association of Counties supports maintaining funding of the Small County Consolidated Grant Program and maintaining the waste tire fee as a dedicated revenue source for funding mosquito control, solid waste and recycling programs.
23. The Florida Association of Counties supports policies that provide appropriate resources and incentives to local governments to achieve statewide recycling goals, and further supports comprehensive recycling initiatives that encourage increased participation of the residential, commercial, and industrial sectors.
24. Support the modification of the 75% Recycling Goal by 2020 from Section 403.7032, Florida Statutes.
25. The Florida Association of Counties supports the creation of a new dedicated and recurring statutory funding source for beach renourishment projects. ~~and supports the revision of statutory criteria for the annual ranking of beach projects for state cost sharing; specifically, the inclusion of criteria that prioritizes dune restoration, where feasible, as an investment in beach protection and preservation, and also recognizes economic benefits and cost effectiveness, the reduction in storm damage, and the ability to leverage federal dollars.~~

# **2019 INNOVATION & POLICY CONFERENCE**

**GROWTH MANAGEMENT, AGRICULTURE,**  
**TRANSPORTATION, & ENVIRONMENT**  
**PROPOSED POLICY STATEMENTS**

# **2019 INNOVATION & POLICY CONFERENCE**



## **GATE-PP-1: Coastal Resiliency/Sea Level Rise**

**FAC Staff Recommendation:** Pursue through Guiding Principles (see GATE 17)

**Proposed Policy:** SUPPORT urging the state to provide funding for local efforts to address the threat posed by rising sea levels to the built environments of coastal communities across the state.

**Background:** Sea level rise increases at a rate of about one-eighth of an inch per year. Higher sea levels mean that deadly and destructive storm surges push farther inland than they once did, which also means more frequent nuisance flooding. With continued ocean and atmospheric warming, sea levels will likely continue to rise. It is a measurable, trackable and relentless reality. A small increase can have devastating effects such as destructive erosion, wetland flooding, aquifer and agricultural soil contamination with salt, and lost habitat for fish, birds, and plants.

**Analysis:** Unaddressed sea level rise could have catastrophic consequences on local economies in across the state.

**Fiscal Impact:** Indeterminate.

**Submitting County:** Broward

## **2019 INNOVATION & POLICY CONFERENCE**

## **GATE-PP-2: 2020 Recycling Goal**

**FAC Staff Recommendation:** Incorporate into Guiding Principles (see GATE 24)

**Proposed Policy:** Support the modification of the 75% Recycling Goal by 2020 from Section 403.7032, Florida Statutes.

**Background:** The Energy, Climate Change and Economic Security Act of 2008 (“Act”) established a statewide weight-based recycling goal of 75% by 2020. The Act directed the Florida Department of Environmental Protection (DEP) to establish a reporting protocol and directed counties to report annually. The Legislature also established interim recycling goals: 40% by 2012, 50% by 2014, 60% by 2016 and 70% by 2018. The legislation also provided that large counties (counties over 100,000 in population) not achieving the recycling goals could be directed to develop a plan to expand recycling programs. No one can deny that the program has the best of intentions, but all indications point towards the goal not being met by the year 2020. Specifically, DEP issued a 2018 report where DEP acknowledged that the goal is “aspirational” and without significant changes to the current approach, Florida’s recycling rate will likely fall short of the 2020 goal of 75%. This is because there have been many challenges that inhibit the State of Florida from being able to obtain and sustain the 75% recycling goal including, but not limited to, collection methods, shifts in recycling markets, and new and lighter weight packaging. It is important to note that there has actually been a decrease in Florida’s recycling rate from 56% in 2017. In addition to the declining recycling rate, there is a significant new challenge that concerns a decline in the global demand for recycled materials. In January of 2018, China restricted its receipt of recycling materials. The referenced restrictions make it no longer financially viable to send recyclable goods to China from the United States. DEP is currently discussing ideas with industry stake holders and scientists to come up with a new program that could lead to improvement to Florida’s recycling efforts at the state and local level. One of the top suggestions is to shift the focus from weight to energy efficiency.

**Analysis:** Indian River County has gone to great lengths to try and meet the recycling goal of 75% by 2020. Specifically, Indian River County implemented a single stream recycling program and expanded our education and outreach program in 2015. This along with recycling data from private industry resulted in an increase in the recycling rate from 34% in 2015 to 64% in 2017 and 66% in 2018. However, Indian River County finds the goal unachievable as heavy glass is being phased out and the global demand is diminishing. Please note that this is a statewide issue. Every county in the State of Florida is dealing with the same impossible goal and the same diminishing global demand. As DEP creates a new recycling plan for the future of the State of Florida, the 67 counties should not be required to continue spending public dollars trying to achieve an unobtainable goal

**Fiscal Impact:** FDEP acknowledges the only path to obtaining the 75% goal would require a huge capital expenditure for local governments something neither FDEP nor the legislature originally anticipated.

**Submitting County:** Indian River

### **GATE-PP-3: Recycling Contamination**

**FAC Staff Recommendation:** Adopt

**Proposed Policy:** SUPPORT legislation related to recycling contamination that allows counties to address the contamination of recyclable material in contracts for the collection, transportation, and processing of residential recyclable material, that includes language taking into account market availability when defining contaminated materials and that does not include statutorily defined contamination percentage thresholds or penalties on local governments.

**Background:** The Energy, Climate Change and Economic Security Act of 2008 (“Act”) established a statewide weight-based recycling goal of 75% by 2020. To further this aspiration, many counties implemented single stream recycling programs. While this has helped increase recycling percentages, it has also had the unintended consequence of increasing recycling contamination, or more specifically, the increased inclusion of non-recyclable materials in the recycling stream. In the past, residential recycling programs focused on aluminum, corrugated cardboard and glass, and usually required customers to separate the materials. That was easy for customers to comprehend, but the addition of new materials over the years has caused growing confusion, especially because local governments can accept different materials.

The issue of recycling contamination was been addressed by the legislature in 2018 (HB 1149/SB 1308) and 2019 (HB771). These bills were ultimately vetoed (for reasons unrelated to the recycling contamination language) but the issue of contamination and how to best address it continues to be a top priority for the waste industry and a topic of concern for local governments. Including contractual language to address how contamination should be handled is an appropriate method to address both industry and local governments concerns; however, there is not one solution or specific language that will universally address these issues statewide. Specific language should be negotiated and agreed upon on a contract by contract basis to better address the conditions of each locality and situation.

Punitive enforcement mechanisms have been included in past bills which has added to the need to seek a more collaborative approach to recycling contamination in partnership with industry while protecting local government’s right to home rule. The average statewide contamination rate for recycling loads is approximately 19 percent with some communities facing as high as a 40 percent contamination rate. This has led to local governments making the decision to stop their recycling programs due to the high cost of contamination. The shrinking recyclable market, and the need to recycle correctly, will make it difficult to meet the state mandate passed six years ago to increase recycling rates to 75 percent by 2020 in Florida. Defining contamination is an extra step local government and private companies will have to agree on, which could draw out any potential agreement. And, while the aim is to improve bale

quality by tackling contamination, it could lead to haulers leaving more recycling by the curbside because of perceived contamination.

**Analysis:** Indian River County has gone to great lengths to address contamination of our recycling stream through education and other public initiatives as well as contractually with our hauler and processor.

**Fiscal Impact:** Addressing the issues of recycling contamination on a local contractual basis should have a positive fiscal impact on counties by clarifying duties, roles and responsibilities of each party.

**Submitting County:** Indian River

## **GATE-PP-4: Affirmation of Customary Use**

**FAC Staff Recommendation:** Defer to Committee

**Proposed Policy:** SUPPORT amending section 163.035(3), F.S., to eliminate the judicial determination requirements set forth in sec. 163.035(3)(b) while maintaining the local government public hearing process established in sec. 163.035(3)(a).

**Background:** In 2018, the Florida Legislature created section 163.035, Florida Statutes, establishing a two-step process for local governments to follow when considering affirming the existence of customary use.

The first step requires the local government to conduct a public hearing. The local government must provide notice of the public hearing by certified mail to each property owner, by newspaper and posting on the local government's website. At the public hearing the local governing board considers whether to adopt a formal notice of intent to affirm the existence of a recreational customary use on private property. The notice of intent must specifically identify the following:

1. The specific parcels of property, or the specific portions thereof, upon which a customary use affirmation is sought;
2. The detailed, specific, and individual use or uses of the parcels of property to which a customary use affirmation is sought; and
3. Each source of evidence that the governmental entity would rely upon to prove a recreational customary use has been ancient, reasonable, without interruption, and free from dispute.

After the public hearing, the statute requires that the local government then file a lawsuit within 60 days. The local government provides notice to the property owners again and the court conducts a de novo review of the local government determination.

A bill filed during the 2019 session (SB 54) proposed eliminating the entire statute. It did not pass.

**Analysis:** The request is that the Florida Association of Counties consider supporting a change to the statute that maintains the local government public hearing process as set forth in section 163.035(3)(a) but eliminates the judicial determination requirements set forth in section 163.035(3)(b). Thus, the local government would still be required to meet the public hearing and evidentiary requirements set forth in the statute. Instead of repeating the entire public hearing in court, if there is an aggrieved party, that party would still have the ability to appeal the decision in court.

The issue impacts coastal counties by potentially limiting the public's access to the beach. This impacts the use of the beach by residents, visitors and could even limit a county's ability to perform beach renourishment projects. If property owners refuse to grant rights to the public for use of the beach or counties are unable to meet all of the requirements under the statute, long standing public access to the beach could be restricted. Public dollars from the state and the federal government could be limited due to a lack of public access to the beach.

**Fiscal Impact:** The current statute could have a fiscal impact of harming tourism to coastal communities and the ability of the counties to partner with state and federal partners for beach renourishment funding. For most coastal counties in Florida, tourism makes up a significant portion of the local economy. Any negative impact on tourism could be disruptive to the overall economy of counties and the state as a whole.

**Submitting Counties:** Indian River; St. Lucie



## **GATE-PP-5: Plastic Bag/Styrofoam Preemption**

**FAC Staff Recommendation:** Defer to Committee

**Proposed Policy:** SUPPORT repealing the preemptions on the local plastic bag and Styrofoam regulations.

**Background:**

In 2008, Florida became the first state to preempt local governments from regulating plastic bags, and 2016 Section 500.90 Florida Statutes preempted “regulation of the use or sale of polystyrene products.” Recently the Third District Court of Appeals struck down a Coral Gables ordinance to ban Styrofoam containers from restaurants, supermarkets and other food establishments.

Plastic pollution is a growing global concern and considered by many in the science community a persistent marine pollutant. According to Boris Worm of Dalhousie University, by 2015 global production of plastic approaches the total weight of the entire human population annually. Of that total, about half of it is used for disposable products and packaging. Tons of plastic debris enters the marine ecosystem every year, some in the form of micro particles that can bioaccumulate in sea life. Plastics in the marine environment is also believed to leach chemicals harmful to the ecosystem. And, of course, persistent plastic debris sullies beaches, parks and roadsides creating a visual blight that can impact tourism.

<https://www.epa.gov/trash-free-waters/toxicological-threats-plastic>

**Analysis:**

Since local governments deal directly with the responsibility of collection, disposal, and prevention of solid waste pollution, many counties have sought to restrict the use or eliminate the source of this pollution. Tourism is a major economic engine for Florida Counties. State laws preventing local home-rule control over the way in which such plastic pollution is managed impacts county economies and our residents’ quality of life.

**Fiscal Impact:** Not Applicable

**Submitting County:** Miami-Dade

## **2019 INNOVATION & POLICY CONFERENCE**

## GATE-PP-6: SCOP/SCRAP

**FAC Recommendation:** Pursue through Guiding Principles (see GATE 11 and 12)

**Proposed Policy:** Support funding increases to accommodate increased cost of construction, increased costs relating to regulatory requirements and increased number of counties eligible to receive small county road funds.

**Background:**

The Small County Resurfacing Assistance Program (SCRAP) provides funding to assist small county governments in resurfacing and reconstructing county roads. Available funds are allocated to the districts based on the number of eligible counties (ss. 339.2816, 336.025(1)(a), and 218.67(1), F.S.). The Small County Outreach Program (SCOP) provides assistance to small county governments in repairing or rehabilitating county bridges, paving unpaved roads, addressing road-related drainage improvements, resurfacing or reconstructing county roads, or constructing capacity or safety improvements to county roads (s. 339.2818(2), F.S.).

SCOP and the SCRAP are two of the most significant funding programs to assist smaller counties resurface and address capacity issues in Florida's rural counties. In recent years, needs have outpaced funding while at the same time the programs requirements have increased cost (CEI and Green Book). In addition, the impact of Hurricane Michael resulted in some of the program funds being directed to be spent in impacted counties. Finally, during the 2018 Legislative Session, the SCOP program eligibility was increased from 170,000 to 200,000 allowing participation of additional counties creating increased usage and need.

**Analysis:** Increased funding is needed for small county road programs to accommodate the needs of major state industries located in rural areas, increased regulatory requirements, needed repairs, and expanded participation. SB 905 passed during the 2019 Legislative Session allowed five counties (Okaloosa, Hernando, Bay, Charlotte, and Santa Rosa) with populations between 170,000 and 200,000 to compete for SCOP funding. In addition, SB 905 requires specifies that the entity performing design and construction engineering and inspection services may not be the same entity thus increasing costs associated with road design.

**Fiscal Impact:**

Year	Small County Road Assistance Program – SCRAP	Small County Outreach Program- SCOP	Total Funding SCRAP and SCOP
2019-20	29,311,932	71,253,128	100,565,060
	In addition, pursuant to SB 7068 passed during the 2019 legislative session, the Small County Road Assistance Program will receive an	From the funds in Specific Appropriation 1975, \$9,000,000 is appropriated for transportation projects within a rural area of opportunity designated by the Governor pursuant to section 288.0656(7), Florida Statutes. From the funds in Specific Appropriation 1975,	

	additional \$10 million, to be used with preference to projects in counties impacted by hurricanes;	\$15,000,000 is appropriated for transportation projects within counties designated in FEMA declaration DR-4399.  In addition, pursuant to SB 7068 passed during the 2019 legislative session, the Small County Outreach Program will receive an additional \$10 million, to be used, with preference to projects in counties impacted by hurricanes	
2018-19	29,844,769	72,800,454 From the funds in Specific Appropriation 1892, \$15,000,000 is appropriated for transportation projects within a rural area of opportunity designated by the Governor pursuant to section 288.0656(7), Florida Statutes.	102,645,223
2017-18	29,844,769	72,800,454 From the funds in Specific Appropriation 1892, \$15,000,000 is appropriated for transportation projects within a rural area of opportunity designated by the Governor pursuant to section 288.0656(7),	102,645,223
2016-17	43,307,130	68,128,618 From the funds in Specific Appropriation 1890, \$9,000,000 is appropriated for transportation projects within a rural area of opportunity designated pursuant to section 288.0656(7), Florida Statutes.	111,432,748
2015-16	50,591,154	74,340,902 From the funds in Specific Appropriation 1911, \$9,000,000 is appropriated for transportation projects within a rural area of opportunity designated pursuant to section 288.0656(7), Florida Statutes.	124,932,056
2014-15	26,257,065	82,703,857 From the funds in Specific Appropriation 1907, \$9,000,000 is appropriated for transportation projects within a rural area of critical economic concern community designated under section 288.0656(7)(a), Florida Statutes, contingent on the provisions of CS/CS/SB 218 or similar legislation becoming law.	108,960,922
2013-14	27,661,567	49,205,899	76,867,466
2012-13	25,685,535	26,840,778	52,526,313
2011-12	10,000,000	21,362,190	31,362,190
2010-11	10,000,000	21,362,190	31,362,190
2009-10	25,313,783	23,451,468	48,765,251
2008-09	25,000,248	43,076,249	68,076,497
2007-08	25,370,368	47,447,058	72,817,426
2006-07	25,000,000	45,465,081	70,465,081
2005-06	25,000,000	45,465,081	70,465,081
2004-05	25,000,000	5,440,430	30,440,430
2003-04	25,000,000	20,000,000	45,000,000

**Submitting Entity:** Small County Coalition

## **GATE-PP-7: Building Code Enforcement**

**FAC Staff Recommendation:** Defer to Committee

**Proposed Policy:** SUPPORT an exemption for those counties with reserves of less than \$5 million a year, as it relates to the enforcement of the Florida Building Code (F.S. 553.80). In addition, SUPPORT allowing zoning technicians to be funded with fees adopted for enforcing the Florida Building Code.

**Background:** Currently, F.S. 553.80 the Building Construction Standards Enforcement, does not provide for an exemption for county building departments with comparatively lower reserves. Planning and zoning or other governmental activities may not be funded with fees adopted for enforcing the Florida Building Code.

**Analysis:** The exemption for those Counties with building department reserves at less than \$5 million a year would allow them to be more resilient during economic downturns and most importantly after a natural disaster. Additionally, allowing the county to fund zoning services with fees adopted for enforcing the Florida Building Code would provide for a revenue stream that supports the enforcement of the code itself.

**Fiscal Impact:** Indeterminate

**Submitting County:** St. Lucie

## **2019 INNOVATION & POLICY CONFERENCE**

## **GATE-PP-8: Medical Marijuana Facilities**

**FAC Staff Recommendation:** Incorporate into Guiding Principles (See GATE 8)

**Proposed Policy:** SUPPORT broad county authority to regulate the location and number of medical marijuana facilities within county boundaries.

**Background:** After the approval of Amendment 2 in 2016, the Florida Legislature passed a bill establishing a regulatory framework for the production and distribution of medical marijuana. The legislation included a section preempting the regulation of medical marijuana cultivation, processing, and delivery to the state. Counties and cities are permitted to ban medical marijuana dispensing facilities within their boundaries; however, local regulations on the location of dispensing facilities may not be any more restrictive than regulations for pharmacies. Additionally, the law states medical marijuana cultivation, processing, and dispensing facilities not be located within 500 feet of school property; a local government may override this provision for dispensing facilities by determining that a particular location promotes the health, safety, and welfare of the community and approves such location through a formal public proceeding.

**Analysis:** Current law only affords a county one of two limited options when it comes to allowing for medical marijuana dispensaries. Generally, pharmacies are not limited in number per local ordinances, so a county opting to allow for dispensaries has no authority to limit the number of dispensaries without imposing a similar restriction on the number of traditional pharmacies within its boundaries. Additional flexibility at the local level is necessary to allow a county to permit dispensaries in a manner that balances the interests of the community with those of individuals seeking access to medical marijuana products.

**Fiscal Impact:** N/A

**Submitting Entity:** FAC

## **2019 INNOVATION & POLICY CONFERENCE**



## **GATE-PP-9: Rental Car Surcharge**

**FAC Staff Recommendation:** Adopt

**Proposed Policy:** Support amending section 212.0606, F.S., (Rental Car Surcharge), to ensure that peer-to-peer car rental companies that are facilitating rentals in the state collect and remit the rental car surcharge.

**Background:**

Florida Statutes impose a \$2 per day surcharge on every car rental in Florida. The only exception are rentals made by not-for-profit organizations or rentals related to a vehicle repair. The surcharge must be listed separately and sales tax is collected on it. The surcharge was established to ensure vehicles using roads help pay for building and maintaining the roads. While the renter of a car pays the surcharge, rental car companies, as facilitators of the rentals, collect and remit the funds to the state. Proceeds from the rental car surcharge fund the three important activities in the state:

- 80% to the State Transportation Trust Fund, returned to the FDOT district where the surcharge was collected
- 15.25% to Visit Florida operations through the Tourism Promotional Trust Fund
- 4.25% to Enterprise Florida for use in its international operations

Peer-to-Peer (P2P) car rental companies are an emerging business model through which vehicles owned by private individuals are rented to members of the public through a digital application. P2P companies rent cars in the same manner as traditional rental car companies by taking and confirming reservations online, offering delivery service, providing ancillary products such as insurance and roadside assistance. The renter of a car enters into an agreement with and pays the P2P company for the rental and the company keeps 25-30% of the payment.

**Analysis:**

P2P companies do not collect the state-mandated rental car surcharge or sales tax on their rentals. These companies profit by renting cars owned by others; however, these businesses, do not incur any costs, such as vehicle registration, maintenance, and repairs. Those costs are borne by the car owner. Further, there is no responsibility to ensure rented cars comply with safety recall requirements, which is required of rental car companies.

Local communities receive important infrastructure funding from the renting of cars in their area. The emergence of peer-to-peer car rental companies has resulted in an unfair tax advantage between these entities and rental car companies as well as car sharing organizations.

**Fiscal Impact:**

**Total Rental Car Surcharge Collected - 2016-2019**

Fiscal Year	Total Collections	Annual Change	State Transportation Trust Fund	FL International Trade & Promotion Trust Fund*	Tourism Promotional Trust Fund**
2015-16	\$176,001,151	6.37%	\$140,800,921	\$7,468,549	\$27,731,681
2016-17	\$174,367,779	-0.93%	\$139,492,736	7,410,947	\$27,464,097
2017-18	\$172,983,927	-0.79%	\$138,387,142	\$7,351,817	\$27,244,969
2018-19 Projected	\$178,200,000	3.02%	\$142,500,000	\$7,600,000	\$28,100,000
2019-20 Projected	\$182,800,000	2.58%	\$146,200,000	\$7,800,000	\$28,800,000

\*Funds Enterprise Florida's international operations

\*\*Funds VisitFlorida operations

**Rental Car Surcharge Revenue from STTF to DOT Districts**


Dist #	Counties in District	2016 Actual	2017 Actual	2018 Actual	2019 Projected	2020 Projected	2021 Projected
1	Charlotte, Collier, DeSoto, Glades, Hardee, Hendry, Highlands, Lee, Manatee, Okeechobee, Polk, Sarasota	15,065,600	14,926,500	14,808,800	15,340,063	15,595,806	15,986,868
2	Alachua, Baker, Bradford, Clay, Columbia, Dixie, Duval, Gilchrist, Hamilton, Lafayette, Levy, Madison, Nassau, Putnam, St. Johns, Suwannee, Taylor, Union	7,321,600	7,254,000	7,196,800	7,502,434	7,676,419	7,818,770
3	Bay, Calhoun, Escambia, Franklin, Gadsden, Gulf, Holmes, Jackson, Jefferson, Leon, Liberty, Okaloosa, Santa Rosa, Wakulla, Walton, Washington	5,350,400	5,301,000	5,259,200	5,488,976	5,614,221	5,718,331
4	Broward, Indian River, Martin, Palm Beach, St. Lucie	31,961,600	31,666,500	31,416,800	32,419,088	33,170,901	33,786,021
5	Brevard, Flagler, Lake, Marion, Orange, Osceola, Seminole, Sumter, Volusia	37,030,400	36,688,500	36,399,200	37,440,874	38,309,144	39,019,547
6	Miami-Dade, Monroe	25,344,000	25,110,000	24,912,000	25,614,628	26,208,642	26,694,654
7	Citrus, Hernando, Hillsborough, Pasco, Pinellas	18,163,200	17,995,500	17,853,600	18,495,937	18,924,866	19,275,808
<b>Total</b>		<b>140,236,800</b>	<b>138,942,000</b>	<b>137,846,400</b>	<b>142,302,000</b>	<b>145,499,999</b>	<b>148,299,999</b>


**Submitting Entity: FAC**


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**Water Policy**

# **2019 INNOVATION & POLICY CONFERENCE**



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**Chair**

Doug Smith  
Martin

**Policy Leaders**

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Keith Baker, Bay  
Beam Furr, Broward  
Bill Truex, Charlotte  
Ken Doherty, Charlotte  
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# **2019 INNOVATION & POLICY CONFERENCE**

# Water Policy Committee Policy Book

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# **2019 INNOVATION & POLICY CONFERENCE**



## **WATER POLICY COMMITTEE** **PROPOSED GUIDING PRINCIPLES**

*Increased demands on Florida's water supply are forcing many diverse interests to work with county government to plan the future of water policy in Florida. In an effort to achieve the best possible result, county government should continue to expand partnerships with the agricultural community, urban water users, regional government agencies, and environmental organizations to encourage water conservation, water resource, and water supply development projects. The primary goal of such water resource planning efforts should be ensuring resource availability for all reasonable beneficial uses, consistent with the protection of water and related natural resources.*

1. The Florida Association of Counties supports the allocation of matching funds to county governments to restore impaired springs, estuaries, lagoons and other waterbodies in accordance with state policy and local needs.
2. The Florida Association of Counties supports state funding for water quality improvement projects designed to reduce nutrient pollution in Florida's impaired waterbodies, recognizing that multiple sources contribute to nutrient loading, including, but not limited to, wastewater and septic systems, industrial, agricultural, and residential water use.
3. The Florida Association of Counties supports efforts of the Water Management Districts to facilitate regional partnerships and prescribe regional resolutions to address the need of finding alternative water sources to accommodate the state's growing population; additionally, support state policies allowing for local governments to establish local Water Planning Organizations.
4. The Florida Association of Counties supports policies that enhance regional and local financial capacity to address water supply development with allocation flexibility in all available funding sources.
5. The Florida Association of Counties supports the funding of the Water Protection and Sustainability Program within the Department of Environmental Protection for the development of alternative water supplies, water quality improvement projects, and comprehensive water infrastructure needs.
6. The Florida Association of Counties supports the "Florida Green Industries Best Management Practices" as a basic level of water quality protection, with more stringent protections authorized to address water bodies in need.



7. The Florida Association of Counties supports the establishment of legislative and budget policies that better recognize the return on investment in Green Infrastructure funding projects in response to nuisance flooding, water quality degradation, extreme weather, sea level rise, and climate change.
8. The Florida Association of Counties supports the economically, technically and environmentally feasible use of reclaimed water and support state legislation authorizing local utilities to develop reclaimed water sources.
9. The Florida Association of Counties supports state legislation to prohibit new well stimulation activities, including hydraulic fracturing (fracking).
10. The Florida Association of Counties opposes efforts to increase offshore drilling activities.
11. The Florida Association of Counties supports state funding to end the ocean outfalls in south Florida by the legislature's deadline of 2025.
12. The Florida Association of Counties supports prioritizing the reduction of the land application of human wastewater biosolids; and supports establishing a pilot project program for funding new state of the art wastewater technologies to improve recovery and afford more efficient use of human wastewater biosolids.
13. The Florida Association of Counties supports continued funding for research and mitigation for harmful algal blooms (HABs), including blue green algae, and red tide.



**WATER POLICY COMMITTEE**  
**2019-20 PROPOSED POLICIES**

# **2019 INNOVATION & POLICY CONFERENCE**



## **WPC-PP-1: Water Infrastructure Assessment and Long-Term Funding**

**FAC Staff Recommendation:** Adopt

**Proposed Policy:** SUPPORT legislation intended to assess and regularly report the financial need to address Florida's water infrastructure relating to water supply including conservation, the protection of water quality, stormwater, flood control and environmental resource protection and restoration. SUPPORT legislation that promotes the identification of potential sources of funding sufficient to address the documented need and establishes a predictable and consistent funding program. SUPPORT the development of priority and science-based grant programs for the implementation of projects identified by local governments, the water management districts and state agencies.

**Background:** The Florida Section of the American Society of Civil Engineers' 2016 Report Card for Florida's Infrastructure gave Florida low marks for water infrastructure. The assessment pointed to a U.S. Environmental Protection Agency report that estimated that Florida will need to spend about \$16.5 billion in drinking water infrastructure improvements over the next 20 years to ensure that drinking water systems in Florida continue to provide safe and reliable drinking water to the public. Concerns related to both drinking water and wastewater infrastructure focused on the significant needs posed by high population growth, aging infrastructure, and sensitive ecological environments. For wastewater, the report highlighted the number of impaired waterbodies and emphasized the importance of improving wastewater standards in addressing those impairments. The report did not directly address flood control, but for stormwater, the report stated the following: Florida's capital improvement needs for stormwater management are estimated to be \$1.1 billion through 2019, yet utility fees to upkeep the systems have declined since 2011 while needs will double over the decade. More than half of Florida's stormwater entities revealed an inability to address all capital improvement needs, and only in stormwater utilities stated that today's operation and maintenance capabilities were adequate only to meet the most urgent needs.

In 2019, Senator Albritton introduced SB 628 and Representative Jacobs introduced HB 1199 which recognized the necessity of a long-term approach to our state's needs for ample supply and quality to meet our growing population. The bills would have required FDEP to conduct a comprehensive study on statewide needs and quantify appropriate funding amounts and sources. Both bills died in committee.

**Analysis:** Florida has a water infrastructure funding need for a myriad of issues from blue-green algae to red tide mitigation, septic-to-sewer conversions and stormwater management. The state requires a dedicated funding source and a plan for implementing water projects in order to benefit our fragile ecosystem and meet the needs of our waterways. County staffs need a consistent and predictable program as they prepare one-year and five-year forecasts for capital projects which may qualify for funding through the FDEP.

**Fiscal Impact:** Indeterminate.

**Submitting County and Contact:** Broward; Collier; Volusia; Polk; St. Lucie



# **2019 INNOVATION & POLICY CONFERENCE**



## **WPC-PP-2: Water Infrastructure Funding**

**FAC Staff Recommendation:** Incorporate into Guiding Principles (see Water GP 13); remaining issues covered in Water Infrastructure proposal

**Proposed Policy:** Support continued funding for research and mitigation for harmful algal blooms (HABs), including blue green algae, and red tide.

**Issue Summary:** Support legislation intended to assess and regularly report the financial need to address Florida's water infrastructure relating to water supply including conservation, the protection of water quality, stormwater, wastewater, water reuse, flood control and environmental resource protection and restoration. Support legislation that promotes the identification of potential sources of sufficient funding to address the documented need, as well as, the development of priority and science-based grant programs for the implementation of projects, programs, and studies identified by local governments, the water management districts and state agencies. Support legislation requiring the assessment and evaluation of state agency efforts to address sea level rise and other weather impacts on the County. Support continued funding for research and mitigation for harmful algal blooms (HABs), including blue green algae, and red tide

**Background:** Historically, Florida has failed to address water issues effectively thus creating the current need for comprehensive water reform.

**Analysis:** Water quality issues directly impact public health, the environment, and local economies.

**Fiscal Impact:** Indeterminate

**Submitting County and Contact:** St. Lucie

## **2019 INNOVATION & POLICY CONFERENCE**



## **WPC-PP-3: Local Water Planning Organizations**

**FAC Staff Recommendation:** Incorporate into Guiding Principles (see Water GP 3)

**Issue Summary:**

SUPPORT state policies allowing for local governments to establish local Water Planning Organizations (WPOs).

**Background:**

Local governments need a framework for improving coordination and prioritization of funding for local and regional water projects similar to the Metropolitan Planning Organization (MPO) coordinating framework that has proven successful for transportation planning. A more effective comprehensive framework for coordinating and prioritizing funding for local water projects to address challenges such as algal blooms, water conservation, minimum flows and levels, stormwater management, and climate change adaptation and resiliency.

The Metropolitan Planning Organization (MPO) transportation framework, successfully used for decades to coordinate local government efforts regarding transportation planning and funding, has been identified as a model that could be readily adopted for better coordinating similar inter-local government planning and funding for water issues (e.g. Water Planning Organization (WPO)). Because the MPO framework is federally established, the implementation of a similar “WPO” framework would be better suited to be established by state legislation.

**Analysis:**

Improve coordination of local water projects planning and funding. Proposed framework would supplement regional water management district and state water planning efforts

**Fiscal Impact:**

Staffing and facilities for meetings would be provided by host local governments.

**Submitting County:** Alachua

## **2019 INNOVATION & POLICY CONFERENCE**



## **WPC-PP-4: Upper Kissimmee Basin Water Storage Projects**

**FAC Staff Recommendation:** Adopt

**Proposed Policy:** SUPPORT funding for studies and implementation of water storage projects within the Upper Kissimmee Basin to reduce harmful discharges, enhance central Florida water supply, and to mitigate negative economic impacts on communities surrounding Lake Okeechobee.

### **Background:**

The Comprehensive Everglades Restoration Act that adopted measures recommended under the Comprehensive Everglades Restoration Plan (Plan) was authorized by Congress in Title VI as a part of the Water Resources Development Act of 2000. This approval included a clause which prohibited the plan from reducing current flood protection goals and projected a net load increase of pollutants but did not consider future flood protection from ever increasing storm intensities and rapid urbanization. Additionally, the plan did not contemplate the water supply need for the Upper Kissimmee Basin since a water supply plan hadn't been formalized for the Upper Kissimmee Basin at the time of the Plan's adoption. No projects were submitted as a part of the Plan which addressed storage and supply in the Upper Kissimmee Basin. This has proven to be a major flaw within the Plan as water supply needs for the Upper Kissimmee Basin are targeted to outstrip supply within the next 20 years (Central Florida Water Initiative Regional Water Supply Plan 2015) and flood intensity and occurrence has increased in the past 10 years resulting in increased harmful flows to the coastal estuaries.

The Lake Okeechobee Basin Management Action Plan (BMAP) (2014), the document designed to guide reduction of pollutant loadings to meet allowable loading established in a Total Maximum Daily Load for Lake Okeechobee as required by the USEPA Clean Water Act (1972), characterized the Upper Kissimmee Basin as contributing 35% of all water and 17% of all Total Phosphorus entering Lake Okeechobee for water years 2001-2012. While Total Phosphorus as measured as milligrams per liter to Lake Okeechobee has decreased through the efforts outlined in the BMAP, total input of water has not and the total phosphorus load based on metric tonnes per year has not been reduced, resulting in ongoing harmful discharges to coastal estuaries to reduce flooding around Lake Okeechobee and/or potential overtopping or failure of the Herbert Hoover Dike around Lake Okeechobee.

Additionally, in comparison to developing solutions south of Lake Okeechobee, very little attention has been given to slowing the flow of water from the Orlando area to Lake Okeechobee over the past years. Cleaning the water prior to entering the Lake should be paramount on any agenda associated with reducing discharges to both coasts. By artificially lowering of the lake levels does not fix the overall problem. Water storage north of Okeechobee County will play a significant in resolving slowing the flow from the Kissimmee River and Shingle Creek basins. Establishing funding to develop solutions for storing water flowing from the Shingle Creek and Kissimmee River basins would assist in the revitalization of Lake Okeechobee and begin to assist in reducing discharges to both coasts.

### **Analysis:**

Osceola County is facing acute water supply shortfalls within 20 years while excess water is flushed to tide via the Central and South Florida Flood Project due to a lack of regional water storage ability. This



lack of storage affects the entire Lake Okeechobee Basin as flood water is the largest phosphorus load contributor based on metric tonnes per year. The Lake Okeechobee Water Restoration Project will reduce these flows and levels but will not address all of the flows and will not assist in addressing Central Florida's near future water supply needs.

Additionally, the negative press coverage about Lake Okeechobee has significantly impacted the tourist trade in Okeechobee County as it relates to our out of state visitors. This issue not only affects Okeechobee County, but any County bordering Lake Okeechobee. Counties and cities (Okeechobee, Glades, Hendry, Belle Glade, Pahokee and South Bay) are designated as fiscally constrained by the State of Florida because of the small tax base. The communities rely on tourist trade for businesses to survive during the summer months.

**Fiscal Impact:**

The fiscal impact of additional storage projects is unknown as no scoping studies or projects have been considered.

Regarding the direct economic impact, when the Lake level was at the 11 foot level in 2008, the fishing and tourist industries estimated the loss of business was between 20% to 50%. By allocating a funding source to assist with the creation of water storage north of Okeechobee County, the lake level could be effectively managed and businesses would not susceptible to unusual swings in revenues.

**Submitting County and Contact:** Okeechobee; Osceola



## **WPC-PP-5: Green Infrastructure Investment Policies for Climate Change Resiliency**

**FAC Staff Recommendation:** Incorporate into Guiding Principles (see Water GP 7)

**Proposed Policy:** Establish legislative and budget policies that better recognize the return on investment in Green Infrastructure funding projects in response to nuisance flooding, water quality degradation, extreme weather, sea level rise, and climate change.

**Background:**

Public and private investments in green infrastructure are cost effective strategies for improving water quality and increasing resiliency to nuisance flooding, extreme weather, and climate change. Compared to conventional gray infrastructure projects (e.g. pipes, pumps, and containment walls), green infrastructure projects tend to be more durable often having a useful life of more than 50 years. Because green infrastructure incorporates or mimics natural systems, over time these projects are more resilient to changes in hydrologic or climatic conditions.

At the local government and regional scale, green infrastructure is protecting or restoring patchworks of natural areas, such as wetlands, floodplains, and coastal mangroves to increase capacity to withstand the impacts of extreme weather, population growth, and climate change. At the land development site and neighborhood scale, green infrastructure is stormwater management systems that mimic nature by soaking up, storing, and treating polluted stormwater. Local governments need to establish a better comprehensive framework for coordinating on increasing local capacities to address local water challenges such as algal blooms, water conservation, minimum flows and levels, stormwater management, and climate resiliency and green infrastructure.

The Florida Legislature and Governor DeSantis have recently recognized the need to invest more in resilient water projects. Through the water management districts and Florida Department of Environmental Protection, the state is providing cost share opportunities for local governments.

**Analysis:**

Cost analysis indicates that Green infrastructure water projects are more cost effective, durable, lower maintenance compared to gray infrastructure alternatives. Green infrastructure projects typically have additional quality of life, fish and wildlife, and recreational benefits compare to gray infrastructure projects.

**Fiscal Impact:**

Because of their durability over a longer time period (50-100 years for green infrastructure compared to 20 years for gray infrastructure), a full cost accounting indicates that green infrastructure projects have a lower annual costs for initial capital and recurring operation and maintenance.

**Submitting County:** Alachua



## **2019 INNOVATION & POLICY CONFERENCE**



## **WPC-PP-6: Reclaimed Water Sources**

**FAC Staff Recommendation:** Incorporate into Guiding Principles (see Water GP 8)

**Policy Statement:** SUPPORT state legislation authorizing local utilities to develop reclaimed water sources.

**Background:** Tampa Bay Water, the regional utility for three counties, has been studying this issue for two years. FAC should support establishing a state policy that gives authority to local utilities to develop reclaimed water sources.

**Analysis:** Growth has been substantial in the Tampa Bay area and the area will not be able to continue to supply water in the future unless reclaimed sources are developed.

**Fiscal Impact:** Unknown

**Submitting County:** Hillsborough

## **2019 INNOVATION & POLICY CONFERENCE**



## **WPC-PP-7: Septic-to-Sewer: Areas Vulnerable to Flooding**

**FAC Staff Recommendation:** Adopt; combine into comprehensive septic-to-sewer proposal

**Issue Summary:** SUPPORT state funding for septic-to-sewer conversions in areas vulnerable to flooding.

### **Background:**

As a low-elevation state, Florida has many cities and counties vulnerable to flooding. One of the more latent but nevertheless significant risks posed by flooding is the risk that septic tanks in flooded areas pose to public health and the environment.

As a wastewater system, septic tanks are less preferred than centralized systems for a number of reasons, but septic tanks are certainly present throughout Florida, including in areas vulnerable to flooding. Septic tanks function properly only if the septic tank drain field is located in unsaturated soil that is adequately above the groundwater table. In areas prone to flooding, however, groundwater levels are more likely to rise. In some areas, groundwater levels can rise so much during times of flooding that the groundwater gets too close to septic tank drain field or even saturates the drain field. Once the groundwater table gets too close to a septic tank drain field, the soil and associated bacteria needed to break down sewage no longer function properly leading to sewage pollution of the groundwater and soil. Failing septic systems pose a serious public health and environmental risk to both groundwater and surface waters.

### **Analysis:**

To protect public health and the environment, it is critical to extend centralized sewer services to areas in Florida that are vulnerable to flooding so that septic system usage can be discontinued. While a number of financial tools can be utilized to work toward this goal, the costs of doing so will be significant for both public entities and the private parties who would undertake septic-to-sewer conversions.

One potentially helpful financial tool would be a State of Florida grant program available to counties and cities vulnerable to flooding. Indeed, a number of federal agencies have grant programs designed to mitigate septic-system risks, including the U.S. Environmental Protection Agency, the U.S. Department of Agriculture, and the U.S. Department of Housing and Urban Development.

### **Fiscal Impact:**

\$10 million recommended for a statewide small grants program to help residents and water utilities in the transition from septic tanks to central sewer.

**Submitting County:** Miami-Dade

## **2019 INNOVATION & POLICY CONFERENCE**



## **WPC-PP-8: Septic-to-Sewer: Lake Okeechobee**

**FAC Staff Recommendation:** Adopt; combine into comprehensive septic-to-sewer proposal

**Proposed Policy:** SUPPORT state funding for development of wastewater infrastructure in counties and cities surrounding Lake Okeechobee.

### **Background:**

Counties and cities around Lake Okeechobee have a significant number of septic tank systems bordering tributaries feeding directly into Lake Okeechobee. Given these counties and cities have been designated as fiscally constrained by the State of Florida, they have limited resources to be allocated for the development of waste water infrastructure without assistance from the State. This proposal is to develop a grant fund managed by DEP to assist in the development of waste water infrastructure in counties and cities surrounding Lake Okeechobee.

Every year individual counties and cities develop legislative appropriation proposals to address their respective issues associated with septic tank removal. However, very little dollars are allocated to these counties for this purpose. By creating a grant fund for fiscally constrained counties around Lake Okeechobee would be helpful in promoting not only economic growth, but clean water entering into Lake Okeechobee.

### **Analysis:**

By not having enough grant dollars allocated to this purpose for fiscally constrained counties/cities surrounding Lake Okeechobee, relative economic growth due will continue to slow down to the lack of infrastructure to accommodate industrial or commercial growth.

### **Fiscal Impact:**

In 2008 when the Lake level was at the 11 foot level, the fishing and tourist industries estimated the loss of business between 20% to 50%. By allocating a funding source to assist with the creation of water storage north of Okeechobee County, the lake level could be effectively managed and businesses would not susceptible to unusual swings in revenues.

**Submitting County:** Okeechobee

## **2019 INNOVATION & POLICY CONFERENCE**



## **WPC-PP-9: Septic-to-Sewer: New Development**

**FAC Staff Recommendation:** Adopt; combine into comprehensive septic-to-sewer proposal

**Proposed Policy:** Support requirements that new development be connected to sewer or an enhanced septic system.

### **Background:**

The awareness of nitrogen as one of the biggest contributors to alga blooms, which are catastrophic to Florida's economy and environment, is clear.

Significant scientific research by the state has been completed on nitrogen loading in our springs, which is quantified in the Basin Management Action Plans. In fact, these loading factors apply to all standard septic tanks throughout Florida. Evidence that septic tanks are a large contributor to nitrogen loading is well documented and the state is currently investing significant funds to replace standard septic tanks with enhanced septic tanks.

The ecological service that open lands has long provided in filtering and removing nutrients is being overwhelmed by the increasing volume of nutrients emanating from our growing population and will soon overwhelm the ability of our water systems to recover. Should Florida move from a water-based recreation destination, our tourist and sales tax-based economy may fail, leaving us forced to consider income taxes to fund government services.

The adage "if you find yourself in a hole, stop digging" certainly applies here. It is estimated that 300-400 thousand people move to Florida yearly. Given the housing needs for this increase, we need a state-wide policy that requires all new development be placed on enhanced septic tanks or connected to sewer. Several counties have made this move, the rest of the state needs to step up and follow their lead.

### **Analysis:**

This is statewide problem, and while there may be resistance to this proposal from more rural counties, we must all work together to protect our waters and economies to ensure that we are all part of the solution. Every pound of nitrogen added to ground water must be considered. In rural areas on confined soils much of the nitrogen is taken up by the plants as the ground water moves laterally, but as more and more septic systems are added the ability of the plants to remove the nitrogen is reduced. A standard septic tank transfers approximately 10 pounds of nitrogen to the ground water for every individual living on the system. As the number of people contributing increases, the amount of nitrogen making its way into local drainage systems, whether ditch, stream or river, increases.

Heard often is the comment that failing septic tanks are the problem; while these tanks are important to address as a public health issue, this is not the issue with nutrient pollution. A septic tank that works perfectly still contributes about 10 pounds per person of nitrogen to the ground water. Septic tanks were developed to handle public health problems created by exposure to human waste, and they still work adequately for that, but standard septic tanks were never designed to remove nutrients from the outflow as the enhanced septic systems do now.





As Florida developed, we have created a backlog infrastructure needs that must be addressed to clean up or even simply maintain the current status of our waters. It is estimated that 30% of Florida homes are on septic tanks, meaning close to 2.5 million septic tanks that need to be upgraded to clean up our waters. We have created quite a large hole and must stop digging, by requiring enhanced septic systems or sewer connection for all new development.

**Fiscal Impact:**

While there is no direct cost to the state or counties by implementing this proposal, the cost to clean up after the fact is enormous. Considering the estimated influx of new residents, if distributed randomly across the state, approximately 30% or a 100,000 may be on standard septic tanks. To reduce their contribution to the nitrogen loading at a future date will cost between 400 million to 800 million dollars. We need to step up to ensure that this future infrastructure debt is not a can we kick down the road.

**Submitting County:** Wakulla



## **WPC-PP-10: Address Landscape Irrigation Inefficiencies**

**FAC Staff Recommendation:** Defer to Committee

### **Issue Summary:**

Support improving the efficiency of landscape irrigation by 1) requiring state irrigation licensing and 2) adding irrigation standards to the Florida Building Code, 3) limiting the installation of new landscape irrigation wells, and 4) reducing overuse of reclaimed water on landscapes would be pivotal in reaching water conservation and springs protection goals.

### **Background:**

Landscape irrigation is one of the largest uses of water in the state. However, the irrigation industry is currently not regulated by the state. The Florida Irrigation Society has encouraged state licensing, in part due to the challenge of complying with regulations of various local governments that are adopting local regulations in the absence of state regulation. The Florida Senate published a Review Regulation of Irrigation Contractors in October 2011 at the request of the irrigation industry and concluded that the industry should start a voluntary licensing program. The resulting voluntary state license program has experienced limited success, as there is no incentive for irrigation professionals to pursue the license. Requiring a state irrigation license will raise the professionalism of the industry and will lead to more efficient irrigation systems, especially if combined with adding Irrigation standards to the State Building Code.

Currently, irrigation is addressed in the State Building Code through a voluntary appendix (F) of the Plumbing Code. Adopting this appendix, or a version of it, into the Plumbing Code would add efficiency and design standards for new irrigation systems. If this was in place, it is likely that local design codes would no longer be needed and local Building Departments would inspect irrigation as they inspect the other components of new construction, as dictated by the Building Code.

Additionally, legislation is needed to prohibit the installation of new landscape irrigation wells when potable water is available. This becomes increasingly important when water rates are increased, as high-water users will install an irrigation well to offset water costs. Tiered water rates have been a very successful strategy for utilities, but the risk of customers switching to irrigation wells limits their use. High water users that convert to irrigation wells, no longer have the price pressure of utility bills to keep water use low. Also, there is the wide spread belief that well users are exempt from state irrigation restrictions. Finally, water use from Irrigation wells is not accounted for in water use projections used by federal, state, and local agencies. There is growing concern that recent decreases in per capita water use, are actually a result of an increasing number of people switching to a water source that is no longer accounted for in water use projections. To improve water use accounting, water management districts should require metering and reporting of water use from landscape irrigation wells.

The final prong is to reduce wasteful use of reclaimed water resources. Reclaimed water is becoming a more valued water source and there are higher uses than unlimited landscape irrigation, such as industrial re-use and aquifer recharge. State Irrigation restrictions currently do not apply to reclaimed



water, which leads to overuse of this water resource. Phasing in the application of irrigation restrictions to include reclaimed water will limit waste and create alternative uses of this valuable water resource.

**Analysis:**

Landscape irrigation accounts for almost 60% of residential water use. The Water 2070 report (a joint project of 1,000 Friends of Florida, the University of Florida, and the Florida Department of Agriculture and Consumer Services) concluded that, “The single most effective strategy to reduce water demand in Florida is to significantly reduce the amount of water used for landscape irrigation.” Reducing this discretionary water use locally and statewide will reduce groundwater pumping and protect springs, rivers, lakes, and wetlands.

**Fiscal Impact:**

The fiscal impacts of this pronged approach would be minimal. Adding irrigation systems to the State Building Code would have a minor fiscal impact on local Building Officials, as they would have to add irrigation inspections to their current workloads. The cost of installing new irrigation systems would have an increase in up-front costs, but would quickly be offset by water savings to the homeowners. Prohibiting irrigation wells would not have a fiscal impact and metering of existing irrigation wells would have a minimal fiscal impact. Applying irrigation systems to reclaimed water, would require utilities to invest in alternative “disposal” methods of this resource.

**Submitting County:** Alachua



## **WPC-PP-11: Biosolids**

**FAC Staff Recommendation:** Defer to Committee

**Issue Summary:** SUPPORT prohibiting any application of phosphorus unless soil testing shows a significant phosphorus deficiency, and then only the minimum amount of phosphorus needed for crop production.

**Background:**

Currently DEP is in rule making for new rules for biosolid applications. The proposed rules would still allow the application of phosphorus even when the soils are saturated with phosphorus and there is a high likelihood of phosphorus leaching into the groundwater.

The last legislative session failed to pass a comprehensive water quality bill and the current DEP rule making process seems skewed to continue to allow phosphorus application even if the soil is phosphorus saturated. There is a huge load of legacy phosphorus which is still negatively impacting our water bodies and contributing to toxic algae outbreaks and red tide. The idea that we would still allow phosphorus applications is ludicrous.

**Analysis:**

Excess nutrients are having a negative impact statewide, from the gulf coastal counties, down the west coast, Florida Bay, and up the east coast and inland including spring's areas. While many counties and municipalities have adopted "no phosphorus" fertilizer ordinances, we continue to allow application of phosphorus on Ag and cattle lands. We will never reduce the legacy load of phosphorus if we continue to add more new phosphorus.

**Fiscal Impact:**

There will probably be additional cost to those counties that currently land apply their biosolids, but the general axiom has always been "it's cheaper to prevent a pound of nutrients from getting into our water as compared to removing a pound of nutrients once it's in the water."

**Submitting County:** Indian River

## **2019 INNOVATION & POLICY CONFERENCE**



## **WPC-PP-12: Biosolids**

**FAC Staff Recommendation:** Pursue through Guiding Principles

**Proposed Policy:** Support the efforts of the state and local governments to prioritize the reduction and eventual elimination of the land application, and most importantly the composting of Class B and AA Biosolids. This includes efforts to immediately establish standard protocols and funding for the identification, tracking and monitoring of Biosolids, to include class AA Biosolids, application. Fund and promote emerging and innovative wastewater treatment technologies to improve Biosolids resource, recovery and management options.

**Background:** Currently, F.S. 373.4595 the Northern Everglades and Estuaries Protection Program, provides Florida Department of Environmental Protection the authority to deny the land application of domestic wastewater Biosolids within the St. Lucie River and Caloosahatchee Watershed, however the department is not given the authority on the composting to create class AA and/or land application of class AA Biosolids. Unfortunately, those areas located within the St. Johns Upper and Lower Basins do not have any regulation as it relates to composting, land application and disposal of class B or AA. The last legislative session failed to pass a comprehensive water quality bill and the current DEP rule making process seems unlikely to prevent additional nutrient loading to the water resources of the state. There is demonstrated legacy phosphorus which continues to negatively impact our water bodies and drives harmful algal blooms (HABs), to include toxic algae outbreaks and red tide. The continuance of phosphorus application in areas that are saturated is contrary to the goals of protecting the water resources of the local and state governments.

**Analysis:** Both Class B and AA Biosolids contain high amounts of nitrogen and phosphorus. Biosolids provide an inefficient form of fertilization, as only a fraction of nutrients are plant available. This results in over fertilization, which runs off into surface waters or migrates into groundwater, leading to negative outcomes that affect surface and other water resources.

**Fiscal Impact:** Indeterminate

**Submitting County and Contact:** St. Lucie

## **2019 INNOVATION & POLICY CONFERENCE**



## **WPC-PP-13: BMAP Activities**

**FAC Staff Recommendation:** Defer to Committee

**Proposed Policy:** Support the efforts in crediting new activities and simplifying the process for existing activities to obtain nutrient removal credits towards a Basin Management Action Plans (BMAP).

**Background:** A Basin Management Action Plans (BMAP) is the "blueprint" for restoring impaired waters by reducing pollutant loadings to meet the allowable loadings established in a Total Maximum Daily Load (TMDL). It represents a comprehensive set of strategies: permit limits on wastewater facilities; urban and agricultural best management practices; conservation programs; financial assistance and revenue generating activities, etc. designed to implement the pollutant reductions established by the TMDL. These broad-based plans are developed with local stakeholders: they rely on local input and local commitment and are adopted by Secretarial Order to be enforceable. The FDEP credits structural and non-structural best management practices (BMPs) for nutrient removal credits. Some structural examples are wet detention, dry retention, and baffle boxes. These projects require land, engineering design, and substantial capital to construct. Critical maintenance activities such as vegetation removal from a wet pond and roadway swale material removal do not receive credit, even though they remove biomass (and nutrients) from the BMPs as well as aid in flood prevention. FDEP does not credit retrofit projects for floodplain restoration (natural land storage projects) even though the projects retain water, similar to a wet pond. FDEP has not provided clarity on dispersed water storage credits.

Muck removal and restoration calculations are complex and require much after-the-fact monitoring for credits. Consider to allow the following activities to be as reducing pollutant loadings to meet the allowable loadings (TMDLs) in a BMAP. 1. Aquatic Vegetation Removal 2. Grassed Swale Material Removal 3. Dispersed Water Storage 4. Natural Land Storage

**Analysis:** FDEP has substantially increased the required reduction goals for stakeholders within the St. Lucie Estuary BMAP. These increases will force the County to seek alternative projects that provide for efficient nutrient reduction. By including these additional activities to the approved list for consideration, the FDEP will better assist Counties and Municipalities to meet the required reductions.

**Fiscal Impact:** Indeterminate

**Submitting County:** St. Lucie



## **2019 INNOVATION & POLICY CONFERENCE**



## **WPC-PP-14: Fertilizer**

**FAC Staff Recommendation:** Defer to Committee

**Proposed Policy:** Repeal or modify the preemption on local fertilizer ordinances in sec. 576.181, F.S.

### **Issue Summary:**

The science unquestionably proves nutrient pollution affects surface and ground waters in our state. Many counties have successfully adopted fertilizer restrictions to protect water quality, but no longer have the authority to require retailers to remove non-compliant fertilizer from their shelves. In addition, local governments spend taxpayer dollars to educate our residents about the deleterious affect fertilizer can have when misapplied either by formula, amount, or time of year applied; yet consumers still purchase these products at will. The year-round ability to sell fertilizer, especially those containing nitrogen, significantly hinders local governments to reduce nutrients entering water bodies.

### **Background:**

In 2011, the legislature approved changes to Florida Statute 576.181 which preempted the sale of fertilizer adopted by local ordinances. Repeal or modification is required to allow local jurisdictions to pursue common sense means to address this state-wide problem.

### **Analysis:**

Florida is the home to over 30,000 lakes, over 100 first and second magnitude springs, dozens of rivers, untold creeks, is bordered by the Atlantic Ocean, the Straits of Florida, and the Gulf of Mexico; cleaner water is vital to our health, ability to maintain a vigorous tourist economy, and provide recreational opportunities to our residents. Algal blooms are no stranger to bodies of water, but the science indicates the application of fertilizers enhances the algal bloom cycles we have encountered in the past 10 years. For example, the Department of Environmental Protection estimates urban fertilizers are responsible as much as 46% of the nitrogen seeping into Gemini Springs; one of three Outstanding Florida Springs in Volusia County.

### **Fiscal Impact:**

Please note state and local communities must potentially fund tens of millions of dollars in sanitary sewer extensions and retrofits to reduce nitrogen in our springs and surface waters. Eliminating the sale of nitrogen fertilizers to the manufacturers will cost zero dollars as new nitrogen free fertilizers have already been introduced in the marketplace as an ordinance-compliant alternatives. Any decrease in sales tax revenue would be negligible in nature.

**Submitting County:** Volusia

## **2019 INNOVATION & POLICY CONFERENCE**



## **WPC-PP-15: Estuary Programs**

**FAC Staff Recommendation:** Adopt

**Proposed Policy:** SUPPORT developing strategies and prioritizing funding for regional efforts to protect Florida Estuaries.

### **Background:**

Conservation and protection of Florida's natural resources is critical to managing growth, promoting economic development, and maintaining a healthy environment to ensure a high quality of life for Floridians. Northwest Florida is lush with unique ecosystems including springs and coastal dune lakes.

Northwest Florida Estuaries and their associated natural resources provide boating, fishing, tourism, and other outdoor recreational and economic opportunities for citizens and visitors of Florida. Mismanagement of Northwest Florida Estuaries may exacerbate flooding and property loss, negatively impact water quality and estuarine habitat, negatively affect the local economy and tourism, and threaten the health, safety and welfare of Florida's citizens and visitors.

In 2015, the prospective counties supported the efforts to establish Estuary Programs among the Estuaries and their waters throughout Northwest Florida for the comprehensive management, restoration, and protection of these valuable ecosystems. It is the goal of these programs to comprehensively manage and improve water quality, habitat, natural resources, and economic benefits throughout the region.

The proposed Estuary Programs within the Northwest Florida will mimic the National Estuary Program by creating a non-regulatory place-based program to protect and restore the water quality and ecological integrity of estuaries. The Northwest Florida Estuary programs will develop and implement Comprehensive Conservation and Management Plans, which are long-term plans that contain actions to address water quality and living resource challenges and priorities. The Programs will also have Management Conferences that consists of diverse stakeholders and uses a collaborative, consensus-building approach to implement the comprehensive conservation and management plan. The Management Conference ensures that the comprehensive conservation and management plan is tailored to the local environmental conditions and is based on local input, thereby supporting local priorities.

The proposed project will develop comprehensive conservation and management plans for each of the Northwest Florida Estuaries (Peridido/Pensacola, Choctawhatchee, St. Andrew/St. Joe). These plans will be the basis for establishing projects that will meet the individual estuary goals for conservation and management and improve water quality throughout the Northwest Florida region.

### **Analysis:**

Estuary Programs are currently being developed in the three (3) areas in Northwest Florida. Each Estuary program is at a different stage of development; however, the goal of these programs is to develop a Comprehensive Conservation Management Plan to guide the restoration and conservation efforts within



the Pensacola/Peridido Bays, Choctawhatchee Bay, and the St. Andrew/St. Joe Bays. Initial funding sources have been obtained for each of these programs including Gulf Restoration funds, Local RESTORE Act funds, and Not-for-Profits (The Nature Conservancy). Dedicated state funding will help implement projects and ensure dedicated efforts to protecting the estuaries in the Northwest Florida Panhandle.

**Fiscal Impact:**

In most recent years, Northwest Florida has several areas including Walton County, Bay County, Okaloosa County, and Escambia who all have ranked within the Top 20 of Florida Counties in the amount of Tourist Development Tax collected. For example, the economic impact of the Choctawhatchee Bay has \$1.6 billion spent by tourist, \$2.9 billion in local sales annually, and over 36,000 jobs are created. Investing in Florida's Estuaries may bring a net positive impact on Florida's tourism industry due to improved water quality and land conservation improvements, improving recreation and quality of life improvements.

Chapter 373, F.S. incorporates a funding mechanism for restoration projects associated with the Florida Everglades called the Everglades Trust Fund. The State of Florida should create a Trust Fund dedicated to restoring and protecting Florida's Estuaries.

**Submitting County:** Walton



## **WPC-PP-16: Estuary Designation**

**FAC Staff Recommendation:** Incorporate into Guiding Principles OR pursue through the Estuary Programs proposal.

**Proposed Policy:** Support development of special state designation (similar to the Outstanding Florida Water or Aquatic Preserves) that could assist Estuaries and their watersheds in getting funding for water quality and resiliency projects.

### **Background:**

Much of Florida's distinctive character lies in the beauty of its coastline. The best of our coastal landscapes have been set aside for protection as aquatic preserves. Florida's natural beauty has been a major attraction for both tourists and residents. Ironically, the very features that draw people to Florida are potential endangered by the increase population pressures. Aquatic preserves protect Florida's living water to ensure they will always be home for bird rookeries and fish nurseries, freshwater springs and salt marshes, and seagrass meadows and mangrove forests. Florida enacted the Aquatic Preserve Act in 1975. There are currently 41 aquatic preserves in the State of Florida, encompassing 2.2 million acres. These areas are dedicated through legislative action.

The Outstanding Florida Water designation is a water designation worthy of special protection because of its natural attributes. This special designation is applied to certain waters and is intended to protect existing good water quality. This designation goes through a public process for designation. Estuaries and their surrounding wetlands are bodies of water usually found where rivers meet the sea connecting freshwater and saltwater. They are home to unique plant and animal communities that adapted to brackish water. They are among the most productive ecosystems in the world. Many animals rely on estuaries for food, places to bred, and migration stopovers. Estuaries are delicate ecosystems.

### **Analysis:**

Congress created the National Estuarine Research Reserve System to protect more than one million acres of estuarine land and water. These estuarine reserves provide essential habitat for wildlife, offer educational opportunities for students, and serve as living laboratories for scientists.

The State of Florida should develop a specialist designation similar to the Outstanding Florida Waters and Aquatic Preserve. The designation should include special protection measures as well valued ecosystem for restoration and preservation efforts.

### **Fiscal Impact:**

Florida Estuaries are popular to both locals and tourist of Florida. It is important to keep these valuable ecosystems healthy for generations to come. The process of the designation should not have a negative fiscal impact to the State of Florida. However, by providing these areas an added designation, the efforts to restore and preserve estuaries will increase the value of Florida's economy as a whole. For example, Northwest Florida has several areas including Walton County, Bay County, Okaloosa County, and Escambia who all have ranked within the Top 20 of Florida Counties in the amount of Tourist Development Tax collected. The economic impact of the Choctawhatchee Bay has \$1.6 billion spent by tourist, \$2.9 billion in local sales annually, and over 36,000 jobs are created. Investing in Florida's




Estuaries may bring a net positive impact on Florida's tourism industry due to improved water quality and land conservation improvements, improving recreation and quality of life improvements.


**Submitting County:** Walton


## **2019 INNOVATION & POLICY CONFERENCE**





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