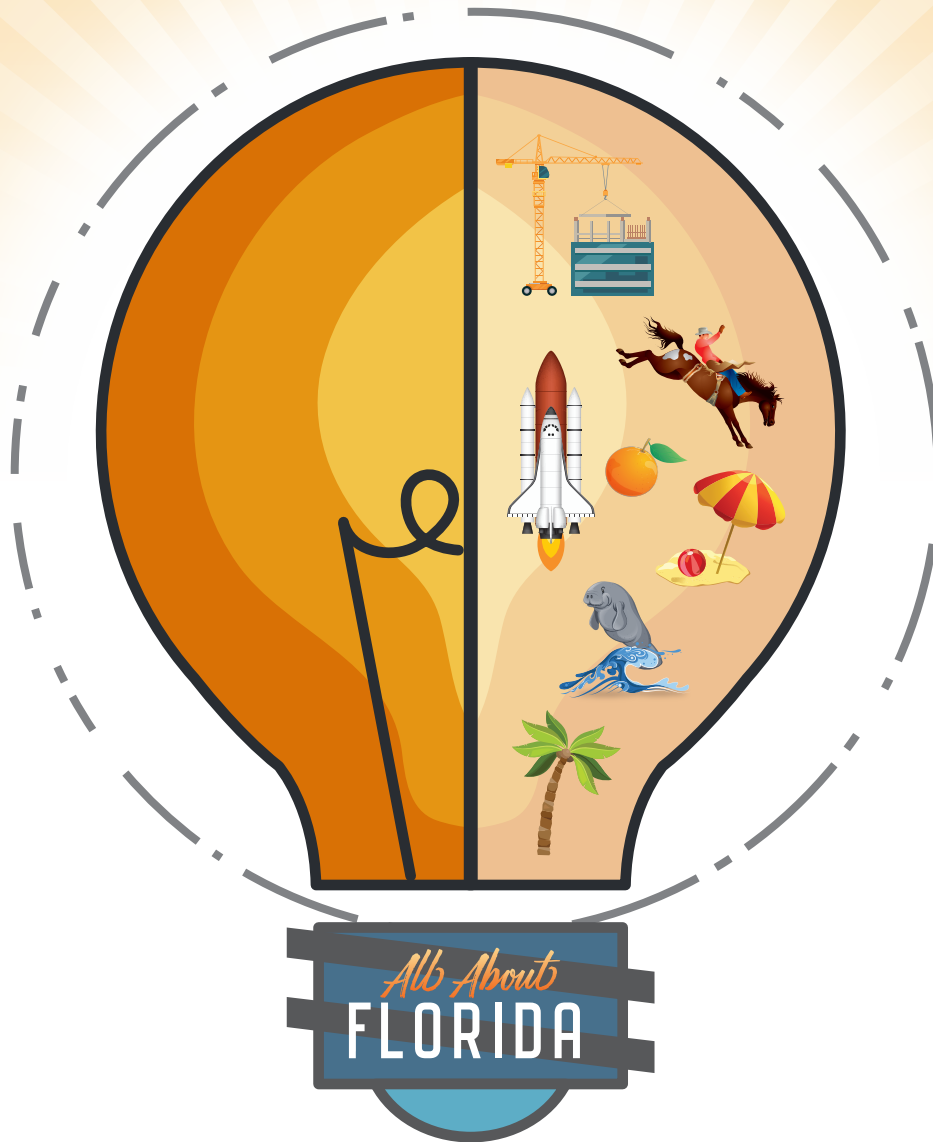


# FINANCE, TAX & ADMINISTRATION COMMITTEE



2018  
INNOVATION  
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CONFERENCE

# PUBLIC POLICY TEAM



2018  
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## **2018 INNOVATION & POLICY CONFERENCE**



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## **2018 INNOVATION & POLICY CONFERENCE**

### 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.

## **2018 INNOVATION & POLICY CONFERENCE**





## **FTA-1: Communications Services Tax**

**FAC Staff Recommendation:** Adopt.

**Proposed Policy:** **SUPPORT** modernizing the Communications Service Tax in a manner that is: revenue neutral; that simplifies administration and collection of the tax; provides for a broad and equitable tax base; provides for enhanced stability and reliability; provides the opportunity for market-based application.

**Issue Summary:** The Communications Services Tax (CST) was implemented in 2001 and intended to apply to all forms of communications services without respect to type of business or method of delivery service used. In 2017, the Florida Legislature considered a bill that would exempt streaming video, which includes services such as Netflix, Hulu, and Amazon Prime, from the CST. This would result in an erosion of the tax base over time and could lead consumers to choose services based on tax considerations rather than product preferences.

**Background:** The Communications Services Tax (CST) is applied to telecommunications services including voice, data, audio, video, or any other information or signals transmitted by any medium. Services subject to the tax include local and long-distance telephone service, video streaming, direct-to-home satellite, mobile communications, pager and beeper, facsimiles, telex, telegram, and teletype.

The tax is imposed on retail sales of communications services which originate and terminate in the state, or which originate and terminate in the state and are billed to an address within the state. The CST has both a local and state component. The total state rate on communications services, except direct-to-home satellite service, is 7.44 percent. Direct-to-home satellite service is taxed at a total rate of 11.44%. Counties and cities may opt to add between 1.6 percent and 5.220 percent depending on whether the county is a charter county or whether permit fees have been levied. Additionally, any local option sales tax that has been added by a county or school board pursuant to s. 212.055, F.S. is also imposed as a local CST.

The tax revenues generated from the local CST are distributed to the appropriate jurisdiction for use for any public purpose, including repayment of current or future bonded indebtedness. Any revenue raised from a local option sales tax must be used for the same purpose as the underlying local option sales tax.

The Communications Services Tax (CST) is applied to all forms of telecommunications services including video and video services through any “medium or method now in existence or hereafter

devised.”<sup>1</sup> The tax was intended to apply to cable and satellite video services and is applied to on-demand and streaming services offered as part of a cable or satellite subscription.

The Communications Services Tax Simplification Law was created by the Florida Legislature to “provide a fair, efficient, and uniform method for taxing communications sold in this state.” Chapter 2000-260, Laws of Florida combined seven different types of communications taxes and fees into a two-tiered tax composed of a state tax and local option tax on communications services. The new tax combined the sales tax on communications services, the local public services tax, and local franchise fees on telecommunications companies and cable companies, and allocated the gross receipts tax on communications services. It also provided an option for local governments to continue to charge a permit fee or adopt a higher CST rate.

In s. 202.105 F.S. “Legislative findings and intent,” the Legislature found that the new tax structure would have numerous benefits for the public and the communications industry:

- The chapter would promote increased competition by creating a competitively neutral tax policy that will free consumers to choose a provider based on tax-neutral considerations;
- It would encourage new competition by simplifying the “extremely complicated” system of state and local taxes and fees. This, in turn, would lower the cost of collecting the taxes and fees, increase service availability, and place downward pressure on price;
- The CST would foster industry growth by restructuring separate taxes and fees into a revenue-neutral tax that is centrally administered by the Department of Revenue.

In 2017, the Florida Supreme Court resolved long-running litigation regarding the differential tax rates between cable services and satellite services. The Court upheld the CST’s differential rate by determining that both services were similarly situated interstate businesses and, therefore, the dormant Commerce Clause prohibition against state discrimination on behalf of an in-state interest was not violated.<sup>2</sup>

**Analysis:** Since its initial implementation, efforts have been made to further reform the CST. In 2012, the Florida Legislature created a working group to study the tax and determine whether Florida’s communication tax laws were equitable and whether the administration was overly burdensome, including whether the laws were clear to communications service providers, retailers, customers, local government entities, and state administrators.

The working group reviewed several options but ultimately recommended repealing the CST and taxing communications services under an increased sales and use tax under Chapter 212, Florida Statutes. This would allow the tax base to include a broader range of communications services

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<sup>1</sup> Section 202.11(1)

<sup>2</sup> Florida Dep’t of Revenue, et al v. DIRECTTV, INC., etc., No. SC15-1249 (Fl. Sup. Ct. 2017)



that would be taxed at the same state and local rates as other taxable goods and services. The proposal would also streamline the administrative system by allowing the DOR to administer the tax under the existing sales and use tax structure instead of the current administration of the CST as a stand-alone tax. However, to keep the proposal revenue neutral, and compensate for the higher current CST rate, the DOR Office of Tax Research estimated that the state sales and use tax rate would have to be adjusted from 6 percent to 6.34 percent (based on 2012 CST revenue estimates and the sales and use taxes).<sup>3</sup> Though the report was submitted to the Governor and some legislative changes were considered, no action has been taken to reform the CST.

The CST is an important source of revenue for both State and Local governments and legislative action is needed to improve certain facets of the revenue stream to ensure long-term viability as technology continues to change. The final form of this modernization effort may take one of several forms, but the resulting structure should reform the Communications Service Tax in a manner that is: revenue neutral; that simplifies administration and collection of the tax; provides for a broad and equitable tax base; provides for enhanced stability and reliability; provides the opportunity for market-based application.

**Fiscal Impact:** As provided in the policy statement, the FAC's goal would be for any reform have neutral fiscal impact on county revenues.

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<sup>3</sup> Communications Services Tax Working Group Report

## **2018 INNOVATION & POLICY CONFERENCE**

## **FTA-2: Courthouse Security**

**FAC Staff Recommendation:** Adopt.

**Proposed Policy:** **SUPPORT** legislation that clarifies the responsibilities of the sheriffs, judges, and counties in securing courthouse facilities, and which requires coordination with the county's governing body to develop any comprehensive plan for courthouse security.

**Issue Summary:** In most counties, sheriff's deputies or bailiffs provide security for courtrooms and court facilities. The allocation of authority for security-related decisions is not presently established in statute.

**Background:** The issue arose between the Sarasota Sheriff and the Chief Judge of Florida's Twelfth Judicial Circuit when the Chief Judge issued an administrative order directing the Sheriff to secure court facilities. The Chief Judge issues the order after the Sheriff had ceased providing security for the clerk of court's office because of the Sheriff's concerns about the conflict between Sec. 790.33, Florida Statutes, which nullified local regulations on firearms, and the Sheriff's policy of prohibiting weapons on government property.

**Analysis:** The Sheriff subsequently sued the Chief Judge in the 2<sup>nd</sup> District Court of Appeals, challenging the substance of the Chief Judge's administrative order. While the Sheriff acknowledged that the Chief Judge had the authority to order security for court facilities, he argued that the Judge had exceeded that authority by requiring the Sheriff to provide the security exclusively. The 2<sup>nd</sup> DCA ruled against the Sheriff, finding that the Court did have the authority to require the Sheriff to provide security. In its decision, the 2<sup>nd</sup> DCA also addressed funding for the services, noting that Art. V, Sec.14(c), Florida Constitution, requires that counties fund the cost of security for trial courts, public defenders, state attorneys, and offices of clerks of court performing court-related functions. Based on this constitutional provision, the 2<sup>nd</sup> DCA rejected the Sheriff's argument that the Chief Judge's order required the Sheriff to expend his own funds, noting that the plain language of the Florida Constitution explains that the County, not the Sheriff was responsible for funding security related to the challenged order.

Since the 2<sup>nd</sup> DCA's decision, the sheriffs have pursued legislation seeking statutory clarification on the allocation of responsibilities between the participants, including the counties. The proposed legislation would obligate a sheriff to coordinate with the county's governing body and the chief judge of the circuit to develop a comprehensive plan for court facility security. The sheriffs would retain operational control for the provisions of law enforcement associated with the plan and the chief judge would retain decision-making authority to oversee the scheduling of trial and other judicial proceedings.

**Fiscal Impact:**

The goal of any proposal would be to limit additional fiscal impact to the counties.



## **2018 INNOVATION & POLICY CONFERENCE**

### **FTA 3: Local Option High Tourism Impact Tax**

**FAC Staff Recommendation:** Defer to committee.

**Proposed Policy:** **SUPPORT** expanding the ability to levy Local Option High Impact Tourist Development Tax authorized pursuant to s. 125.0104(3)(m)(2).

**Issue Summary:** Section 125.0104, F.S., authorizes five separate tourist development taxes that county governments may levy. Depending on a county's eligibility to levy, the tax rate applied to transient rental transactions varies from a minimum of two percent to a maximum of six percent. Proceeds from these levies are generally used by local governments to build tourist-related facilities and to promote and market tourism. One of these levies, the "High Tourism Impact Tax," is a discretionary (local option) one percent tax on transient rental transactions available to counties in which tourism is a significant component of the local economy. This policy request recommends a statutory revision to allow all counties, by an extraordinary commission vote, to levy the High Tourism Impact Tax.

**Background:** At last count, seven counties have exercised their statutory ability to collect this sixth percent High Tourism Impact Tax. Pursuant to Section 125.0104(3)(m)(2) a county is considered to be a High Tourism Impact County after the Department of Revenue (DOR) has certified to such county that the sales subject to the tax on transient rental transactions exceeded \$600 million during the previous calendar year, or were at least 18 percent of the county's total taxable sales under chapter 212 where the sales subject to the tax levied pursuant to this section were a minimum of \$200 million. We are unaware of any past efforts to extend this option to all 67 counties.

Presently, Broward, Monroe, Orange, Osceola, Palm Beach, and Pinellas counties levy this tax, and each county will retain the designation as a "High Tourism Impact County" until its tax levy ends. According to DOR, Hillsborough has been certified as being eligible to levy the tax in 2018 due to sufficient sales in calendar year 2017; Lee and Walton counties appear to have had sufficient sales to be eligible to levy the tax, but have not requested certification by the Department.

**Analysis:** This statutory change would benefit all counties by allowing them to expand efforts to attract tourists and enhance the quality of their communities. The Alachua County Commission is seeking equity for all counties with this policy request.

**Fiscal Impact:** Alachua County currently raises approximately \$1 million for each 1 percent of TDT. Alachua County levies the full allowable 5 percent raising about \$5 million. The impact of this change would be giving counties the option of raising 20 percent more TDT revenue through an extraordinary vote of their commissions.

## **2018 INNOVATION & POLICY CONFERENCE**

#### **FTA 4: 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.*

**Proposed Policy: SUPPORT** legislation offering public records exemptions to counties which benefit the county's ability to provide and administer services to citizens.

**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.





County Policy Proposal  
**Submitted by:** Collier County/  
Palm Beach County

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rdelarosa@pbcgov.org

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.

## **2018 INNOVATION & POLICY CONFERENCE**



County Policy Proposal  
**Submitted by:** Gilchrist County/  
Baker County  
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kennie.downing@bakercountyfl.org

### **FTA 5: Small County Surtax**

|  |
|--|
| <b>FAC Staff Recommendation:</b> Defer to committee. |
|--|

**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.

**Issue Summary:** 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%.

**Background:** 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 (see following pages for *Discretionary Sales Surtax Rates* by county). 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 Gilchrist County, a 1 cent surtax would equal an estimated \$865,000.00 a year. The county currently will spend approximately \$450,000.00 this year on housing inmates in neighboring county. In Baker County, an additional 1/2 cent sales tax in Baker County will amount to \$853,000. The additional sales tax would create additional revenue for local governments to improve the infrastructure in their county.

## 2018 Local Discretionary Sales Surtax Rates in Florida's Counties

| County Government Levies |   |  |  |   |  |  |   |   |                            | School District Levy |                     |   |                            |                  |                     |
|--------------------------|---|--|--|---|--|--|---|---|----------------------------|----------------------|---------------------|---|----------------------------|------------------|---------------------|
| County                   | Charter County and Regional Transportation System Surtax<br>s. 212.055(1), F.S.<br>Up to 1% | Certain Levy Combinations Are Subject to Tax Rate Caps - See Notes Below |  |   |  |  |   | Emergency Fire Rescue Services and Facilities Surtax<br>s. 212.055(8), F.S.<br>Up to 1% | Maximum Potential Tax Rate | Current Tax Rate     | Unutilized Tax Rate | School Capital Outlay Surtax<br>s. 212.055(6), F.S.<br>Up to 0.5% | Maximum Potential Tax Rate | Current Tax Rate | Unutilized Tax Rate |
|                          |   | Local Gov't Infrastructure Surtax<br>s. 212.055(2), F.S.<br>0.5% or 1%   | Small County Surtax<br>s. 212.055(3), F.S.<br>0.5% or 1% | Indigent Care and Trauma Center Surtax<br>s. 212.055(4), F.S.<br>Up to 0.25%, 0.5 % | County Public Hospital Surtax<br>s. 212.055(5), F.S.<br>0.5% | Voter-Approved Indigent Care Surtax<br>s. 212.055(7), F.S.<br>Up to 0.5%, 1% | Pension Liability Surtax<br>s. 212.055(9), F.S.<br>Up to 0.5% |   |                            |                      |                     |   |                            |                  |                     |
| Alachua                  |   | 0.5  |  |   |  |  |   |   | 3.5                        | 0.5                  | 3.0                 |   | 0.5                        | 0.0              | 0.5                 |
| Baker                    |   |  | 1  |   |  |  |   |   | 2.5                        | 1.0                  | 1.5                 |   | 0.5                        | 0.0              | 0.5                 |
| Bay                      |   | 0.5  |  |   |  |  |   |   | 3.0                        | 0.5                  | 2.5                 | 0.5   | 0.5                        | 0.5              | 0.0                 |
| Bradford                 |   |  | 1  |   |  |  |   |   | 2.5                        | 1.0                  | 1.5                 |   | 0.5                        | 0.0              | 0.5                 |
| Brevard                  |   | 0.5  |  |   |  |  |   |   | 3.0                        | 0.5                  | 2.5                 | 0.5   | 0.5                        | 0.5              | 0.0                 |
| Broward                  |   |  |  |   |  |  |   |   | 3.0                        | 0.0                  | 3.0                 |   | 0.5                        | 0.0              | 0.5                 |
| Calhoun                  |   |  | 1  |   |  |  |   |   | 2.5                        | 1.0                  | 1.5                 | 0.5   | 0.5                        | 0.5              | 0.0                 |
| Charlotte                |   | 1  |  |   |  |  |   |   | 3.0                        | 1.0                  | 2.0                 |   | 0.5                        | 0.0              | 0.5                 |
| Citrus                   |   |  |  |   |  |  |   |   | 3.0                        | 0.0                  | 3.0                 |   | 0.5                        | 0.0              | 0.5                 |
| Clay                     |   | 1  |  |   |  |  |   |   | 3.0                        | 1.0                  | 2.0                 |   | 0.5                        | 0.0              | 0.5                 |
| Collier                  |   |  |  |   |  |  |   |   | 2.0                        | 0.0                  | 2.0                 |   | 0.5                        | 0.0              | 0.5                 |
| Columbia                 |   |  | 1  |   |  |  |   |   | 3.0                        | 1.0                  | 2.0                 |   | 0.5                        | 0.0              | 0.5                 |
| DeSoto                   |   |  | 1  |   |  | 0.5  |   |   | 2.5                        | 1.5                  | 1.0                 |   | 0.5                        | 0.0              | 0.5                 |
| Dixie                    |   |  | 1  |   |  |  |   |   | 2.5                        | 1.0                  | 1.5                 |   | 0.5                        | 0.0              | 0.5                 |
| Duval                    | 0.5   | 0.5  |  |   |  |  |   |   | 3.0                        | 1.0                  | 2.0                 |   | 0.5                        | 0.0              | 0.5                 |
| Escambia                 |   | 1  |  |   |  |  |   |   | 3.0                        | 1.0                  | 2.0                 | 0.5   | 0.5                        | 0.5              | 0.0                 |
| Flagler                  |   |  | 0.5  |   |  |  |   |   | 2.0                        | 0.5                  | 1.5                 | 0.5   | 0.5                        | 0.5              | 0.0                 |
| Franklin                 |   |  | 1  |   |  |  |   |   | 3.5                        | 1.0                  | 2.5                 |   | 0.5                        | 0.0              | 0.5                 |
| Gadsden                  |   |  | 1  |   |  | 0.5  |   |   | 2.5                        | 1.5                  | 1.0                 |   | 0.5                        | 0.0              | 0.5                 |
| Gilchrist                |   |  | 1  |   |  |  |   |   | 2.5                        | 1.0                  | 1.5                 |   | 0.5                        | 0.0              | 0.5                 |
| Glades                   |   | 1  |  |   |  |  |   |   | 2.5                        | 1.0                  | 1.5                 |   | 0.5                        | 0.0              | 0.5                 |
| Gulf                     |   |  | 1  |   |  |  |   |   | 3.5                        | 1.0                  | 2.5                 |   | 0.5                        | 0.0              | 0.5                 |
| Hamilton                 |   |  | 1  |   |  |  |   |   | 2.5                        | 1.0                  | 1.5                 |   | 0.5                        | 0.0              | 0.5                 |
| Hardee                   |   |  | 1  |   |  |  |   |   | 2.5                        | 1.0                  | 1.5                 |   | 0.5                        | 0.0              | 0.5                 |
| Hendry                   |   |  | 1  |   |  |  |   |   | 2.5                        | 1.0                  | 1.5                 |   | 0.5                        | 0.0              | 0.5                 |
| Hernando                 |   |  |  |   |  |  |   |   | 3.0                        | 0.0                  | 3.0                 | 0.5   | 0.5                        | 0.5              | 0.0                 |
| Highlands                |   | 1  |  |   |  |  |   |   | 2.0                        | 1.0                  | 1.0                 | 0.5   | 0.5                        | 0.5              | 0.0                 |
| Hillsborough             |   | 0.5  |  | 0.5   |  |  |   |   | 3.0                        | 1.0                  | 2.0                 |   | 0.5                        | 0.0              | 0.5                 |
| Holmes                   |   |  | 1  |   |  |  |   |   | 2.5                        | 1.0                  | 1.5                 |   | 0.5                        | 0.0              | 0.5                 |
| Indian River             |   | 1  |  |   |  |  |   |   | 2.0                        | 1.0                  | 1.0                 |   | 0.5                        | 0.0              | 0.5                 |
| Jackson                  |   |  | 1  |   |  |  |   |   | 2.0                        | 1.0                  | 1.0                 | 0.5   | 0.5                        | 0.5              | 0.0                 |
| Jefferson                |   |  | 1  |   |  |  |   |   | 2.5                        | 1.0                  | 1.5                 |   | 0.5                        | 0.0              | 0.5                 |
| Lafayette                |   |  | 1  |   |  |  |   |   | 2.5                        | 1.0                  | 1.5                 |   | 0.5                        | 0.0              | 0.5                 |
| Lake                     |   | 1  |  |   |  |  |   |   | 2.0                        | 1.0                  | 1.0                 |   | 0.5                        | 0.0              | 0.5                 |
| Lee                      |   |  |  |   |  |  |   |   | 3.0                        | 0.0                  | 3.0                 |   | 0.5                        | 0.0              | 0.5                 |
| Leon                     |   | 1  |  |   |  |  |   |   | 3.5                        | 1.0                  | 2.5                 | 0.5   | 0.5                        | 0.5              | 0.0                 |
| Levy                     |   |  | 1  |   |  |  |   |   | 2.5                        | 1.0                  | 1.5                 |   | 0.5                        | 0.0              | 0.5                 |
| Liberty                  |   |  | 1  |   |  |  |   | 0.5   | 2.5                        | 1.5                  | 1.0                 | 0.5   | 0.5                        | 0.5              | 0.0                 |
| Madison                  |   |  | 1  |   |  | 0.5  |   |   | 1.5                        | 1.5                  | 0.0                 |   | 0.5                        | 0.0              | 0.5                 |
| Manatee                  |   | 0.5  |  |   |  |  |   |   | 3.0                        | 0.5                  | 2.5                 | 0.5   | 0.5                        | 0.5              | 0.0                 |
| Marion                   |   | 1  |  |   |  |  |   |   | 2.0                        | 1.0                  | 1.0                 |   | 0.5                        | 0.0              | 0.5                 |
| Martin                   |   |  |  |   |  |  |   |   | 2.0                        | 0.0                  | 2.0                 |   | 0.5                        | 0.0              | 0.5                 |
| Miami-Dade               | 0.5   |  |  |   | 0.5  |  |   |   | 2.0                        | 1.0                  | 1.0                 |   | 0.5                        | 0.0              | 0.5                 |
| Monroe                   |   | 1  |  |   |  |  |   |   | 2.0                        | 1.0                  | 1.0                 | 0.5   | 0.5                        | 0.5              | 0.0                 |
| Nassau                   |   |  | 1  |   |  |  |   |   | 2.0                        | 1.0                  | 1.0                 |   | 0.5                        | 0.0              | 0.5                 |
| Okaloosa                 |   |  |  |   |  |  |   |   | 3.0                        | 0.0                  | 3.0                 |   | 0.5                        | 0.0              | 0.5                 |
| Okeechobee               |   |  | 1  |   |  |  |   |   | 2.5                        | 1.0                  | 1.5                 |   | 0.5                        | 0.0              | 0.5                 |
| Orange                   |   |  |  |   |  |  |   |   | 3.0                        | 0.0                  | 3.0                 | 0.5   | 0.5                        | 0.5              | 0.0                 |
| Osceola                  |   | 1  |  |   |  |  |   |   | 3.0                        | 1.0                  | 2.0                 | 0.5   | 0.5                        | 0.5              | 0.0                 |
| Palm Beach               |   | 1  |  |   |  |  |   |   | 3.0                        | 1.0                  | 2.0                 |   | 0.5                        | 0.0              | 0.5                 |
| Pasco                    |   | 1  |  |   |  |  |   |   | 3.0                        | 1.0                  | 2.0                 |   | 0.5                        | 0.0              | 0.5                 |
| Pinellas                 |   | 1  |  |   |  |  |   |   | 3.0                        | 1.0                  | 2.0                 |   | 0.5                        | 0.0              | 0.5                 |
| Polk                     |   |  |  |   |  |  |   |   | 3.0                        | 0.5                  | 2.5                 | 0.5   | 0.5                        | 0.5              | 0.0                 |
| Putnam                   |   | 1  |  |   |  | 0.5  |   |   | 2.0                        | 1.0                  | 1.0                 |   | 0.5                        | 0.0              | 0.5                 |
| St. Johns                |   |  |  |   |  |  |   |   | 2.0                        | 0.0                  | 2.0                 | 0.5   | 0.5                        | 0.5              | 0.0                 |
| St. Lucie                |   |  |  |   |  |  |   |   | 2.0                        | 0.0                  | 2.0                 | 0.5   | 0.5                        | 0.5              | 0.0                 |
| Santa Rosa               |   | 0.5  |  |   |  |  |   |   | 3.0                        | 0.5                  | 2.5                 | 0.5   | 0.5                        | 0.5              | 0.0                 |
| Sarasota                 |   | 1  |  |   |  |  |   |   | 3.0                        | 1.0                  | 2.0                 |   | 0.5                        | 0.0              | 0.5                 |
| Seminole                 |   | 1  |  |   |  |  |   |   | 3.0                        | 1.0                  | 2.0                 |   | 0.5                        | 0.0              | 0.5                 |
| Sumter                   |   |  | 1  |   |  |  |   |   | 2.0                        | 1.0                  | 1.0                 |   | 0.5                        | 0.0              | 0.5                 |
| Suwannee                 |   |  | 1  |   |  |  |   |   | 2.5                        | 1.0                  | 1.5                 |   | 0.5                        | 0.0              | 0.5                 |
| Taylor                   |   |  | 1  |   |  |  |   |   | 2.5                        | 1.0                  | 1.5                 |   | 0.5                        | 0.0              | 0.5                 |
| Union                    |   |  | 1  |   |  |  |   |   | 2.5                        | 1.0                  | 1.5                 |   | 0.5                        | 0.0              | 0.5                 |

## 2018 Local Discretionary Sales Surtax Rates in Florida's Counties

| County Government Levies |  |   |   |  |   |   |  |  |                            | School District Levy |                     |  |                            |                  |                     |
|--------------------------|--|---|---|--|---|---|--|--|----------------------------|----------------------|---------------------|--|----------------------------|------------------|---------------------|
| County                   | Charter County and Regional Transportation System Surtax<br>s. 212.055(1), F.S.<br><i>Up to 1%</i> | Certain Levy Combinations Are Subject to Tax Rate Caps - See Notes Below      |   |  |   |   |  | Emergency Fire Rescue Services and Facilities Surtax<br>s. 212.055(8), F.S.<br><i>Up to 1%</i> | Maximum Potential Tax Rate | Current Tax Rate     | Unutilized Tax Rate | School Capital Outlay Surtax<br>s. 212.055(6), F.S.<br><i>Up to 0.5%</i> | Maximum Potential Tax Rate | Current Tax Rate | Unutilized Tax Rate |
|                          |  | Local Gov't Infrastructure Surtax<br>s. 212.055(2), F.S.<br><i>0.5% or 1%</i> | Small County Surtax<br>s. 212.055(3), F.S.<br><i>0.5% or 1%</i> | Indigent Care and Trauma Center Surtax<br>s. 212.055(4), F.S.<br><i>Up to 0.25%, 0.5 %</i> | County Public Hospital Surtax<br>s. 212.055(5), F.S.<br><i>0.5%</i> | Voter-Approved Indigent Care Surtax<br>s. 212.055(7), F.S.<br><i>Up to 0.5%, 1%</i> | Pension Liability Surtax<br>s. 212.055(9), F.S.<br><i>Up to 0.5%</i> |  |                            |                      |                     |  |                            |                  |                     |
|                          |  |   |   |  |   |   |  |  |                            |                      |                     |  |                            |                  |                     |
| Volusia                  |  |   |   |  |   |   |  |  | 3.0                        | 0.0                  | 3.0                 |  | 0.5                        | 0.5              | 0.0                 |
| Wakulla                  |  | 1   |   |  |   |   |  |  | 3.5                        | 1.0                  | 2.5                 |  | 0.5                        | 0.0              | 0.5                 |
| Walton                   |  |   | 1   |  |   |   |  |  | 3.0                        | 1.0                  | 2.0                 |  | 0.5                        | 0.0              | 0.5                 |
| Washington               |  |   | 1   |  |   |   |  |  | 2.5                        | 1.0                  | 1.5                 |  | 0.5                        | 0.0              | 0.5                 |
| # Eligible to Levy:      | 31   | 67  | 31  | 65   | 1   | 60  | 25   | 65   |                            | 67                   |                     | 67   |                            | 67               |                     |
| # Levying:               | 2  | 25  | 29  | 1  | 1   | 4   | 0  | 1  |                            | 56                   |                     | 19   |                            | 19               |                     |

Notes:

1) Boxed areas indicate those counties eligible to impose particular surtaxes authorized for county governments or school districts eligible to impose the School Capital Outlay Surtax.

2) The Indigent Care and Trauma Center Surtax consists of two separate levies for different groups of eligible counties. Non-consolidated counties with a total population of 800,000 or more may impose, either by an extraordinary vote of the county's governing body or voter approval in a countywide referendum, a surtax not to exceed 0.5% for the purpose of funding health care services for qualified residents. Non-consolidated counties with a total population of less than 800,000 may impose, subject to voter approval in a countywide referendum, a surtax not to exceed 0.25% for the sole purpose of funding trauma services provided by a trauma center licensed pursuant to Chapter 395, Florida Statutes.

3) Pursuant to ss. 212.055(2)(h) and 212.055(3)(f), F.S., a county cannot levy the Local Government Infrastructure, Small County, Indigent Care and Trauma Center, and County Public Hospital surtaxes in excess of a combined rate of 1%.

4) Pursuant to s. 212.055(4)(b)5., F.S., a county cannot levy the Local Government Infrastructure, Small County, and Indigent Care and Trauma Center surtaxes in excess of a combined rate of 1%.

5) Pursuant to s. 212.055(5)(f), F.S., a county cannot levy the Local Government Infrastructure, Small County, and County Public Hospital surtaxes in excess of a combined rate of 1%.

6) Subject to referendum approval, the Voter-Approved Indigent Care Surtax may be levied by counties with less than 800,000 residents at a rate not to exceed 0.5%. However, if a publicly supported medical school is located within the qualifying county, the rate cannot exceed 1%, pursuant to s. 212.055(7)(a), F.S. Currently, Florida has publicly supported medical schools at the following universities: Florida International University in Miami-Dade County; Florida State University in Leon County; University of Central Florida in Orange County; University of Florida in Alachua County; and the University of South Florida in Hillsborough County. The Florida International University, University of Central Florida, and University of South Florida medical schools are each located in counties having a resident population greater than 800,000; therefore, Hillsborough, Miami-Dade, and Orange counties are not eligible to levy the surtax. Only Alachua and Leon counties could levy the surtax at the maximum 1% rate. Additionally, the governing body of any county that has a population of less than 50,000 residents may levy the surtax, at a rate not to exceed 1%, subject to voter approval in countywide referendum pursuant to Chapter 2005-242, Laws of Florida. Consequently, if a publicly supported medical school is located in the county, or the county has a population of less than 50,000 residents, the combined tax rate of this levy and any Local Government Infrastructure Surtax and Small County Surtax levies cannot exceed 1.5% pursuant to s. 212.055(7)(f), F.S. For all other counties eligible to levy this surtax, the combined tax rate cannot exceed 1%.

7) Effective July 1, 2009, Chapter 2009-146, L.O.F., renamed the Charter County Transit System Surtax as the Charter County Transportation System Surtax and extended eligibility for surtax levy to 13 additional charter counties.

8) Effective July 1, 2010, Chapter 2010-225, L.O.F., renamed the Charter County Transportation System Surtax as the Charter County and Regional Transportation System Surtax and extended eligibility for surtax levy to each county that is within or under an interlocal agreement with a regional transportation or transit authority created under Chapters 343 or 349, Florida Statutes (i.e., South Florida Regional Transportation Authority, Central Florida Regional Transportation Authority, Northwest Florida Transportation Corridor Authority, Tampa Bay Area Regional Transit Authority, and Jacksonville Transportation Authority). As a result of the legislation, seven counties within the Northwest Florida Transportation Corridor Authority (i.e., Bay, Escambia, Franklin, Gulf, Okaloosa, Santa Rosa, and Walton) and four counties of the Tampa Bay Area Regional Transit Authority (i.e., Citrus, Hernando, Manatee, and Pasco) are eligible to levy this surtax.

9) Effective July 1, 2009, Chapter 2009-182, L.O.F., created the Emergency Fire Rescue Services and Facilities Surtax. A county's governing body, other than a county that has imposed two separate discretionary surtaxes without expiration, may levy this surtax at a rate of up to 1%, subject to voter approval in a countywide referendum. Madison and Miami-Dade counties are not eligible to levy this surtax since each county has imposed two separate discretionary surtaxes without expiration. The remaining 65 counties are eligible to levy this surtax. However, if Orange or Osceola impose the surtax, neither county can levy the surtax within the boundaries of the Reedy Creek Improvement District pursuant to s. 212.055(8)(j), F.S.

10) Since both the Charter County and Regional Transportation System Surtax and Emergency Fire Rescue Services and Facilities Surtax are not subject to any tax rate limitations, the maximum potential tax rates for nearly all county governments have increased since July 1, 2009. For Madison and Miami-Dade counties, the maximum potential tax rate did not change. For 24 counties (i.e., Alachua, Bay, Brevard, Charlotte, Citrus, Clay, Columbia, Escambia, Franklin, Gulf, Hernando, Lee, Leon, Manatee, Okaloosa, Orange, Osceola, Palm Beach, Pasco, Polk, Santa Rosa, Seminole, Wakulla, and Walton), the maximum potential tax rate increased by 2%. For all other counties, the maximum potential tax rate increased by 1%. Currently, Alachua, Franklin, Gulf, Leon, and Wakulla counties have the highest maximum potential tax rate for county government levies at 3.5%.

11) Effective July 1, 2016, Chapter 2016-146, L.O.F., created the Pension Liability Surtax and specified that a county considering a Pension Liability Surtax levy must currently levy the Local Government Infrastructure Surtax, which is scheduled to terminate and is not subject to renewal. Additionally, the legislation created a number of preconditions that must be satisfied prior to a Pension Liability Surtax levy and specified that a county may not levy this surtax as well as the Local Government Infrastructure Surtax, Small County Surtax, Indigent Care and Trauma Center Surtax, and County Public Hospital Surtax, in excess of a combined rate of 1%.

12) Effective December 31, 2018, the School Capital Outlay Surtax levies in Calhoun and Polk counties are scheduled to expire. Effective December 31, 2019, the Small County Surtax levy in Hamilton County is scheduled to expire.

Data Source: Florida Department of Revenue's "History of Local Sales Tax and Current Rates" (Last Updated: August 1, 2018) available at <https://revenue.floridarevenue.com/Pages/Browse.aspx#3-17-23>.

## **2018 INNOVATION & POLICY CONFERENCE**



### **FTA-6: Infrastructure Surtax Flexibility**

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|--|
| <b>FAC Staff Recommendation:</b> Defer to committee. |
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**Proposed Policy:** **SUPPORT** authorizing sales surtax revenue for short-term operational expenses.

**Issue Summary:** Currently, Sec. 212.055(2) authorizes counties to levy the Local Government Infrastructure Surtax for public facilities with a life expectancy of more than 5 years. The funds can be used for land acquisition, land improvement, design, and engineering costs associated with the public facilities. Currently, short-term operational costs are not permitted expenditures.

**Background:** Among many other counties in Florida, Marion County received a matching grant for FY 18/19 from the Department of Economic Opportunity (DEO). Marion County's \$5.5 million matching grant will help to fund the Florida Crossroads Commerce Park which has the potential to create 500+ jobs as well as improving the infrastructure of the county. Allowing the option of using sales surtax monies to fund the operational side of short term projects would give needed flexibility to continue supporting positive economic growth within the state.

**Analysis:** While the statute does authorize a varied array of options, it would be beneficial to allow for short term operational costs to be considered within projects that encourage economic growth, particularly if the State's economic development funding strategies continue to focus on construction of public infrastructure as opposed to financial incentives. The statute allows for funds from the local government infrastructure surtax imposed or extended after July 1, 1998 to be used for economic development projects, including the funding of operational costs. The ballot statement adopting the surtax must have indicated the intention to make an allocation towards economic development. According to the Florida Chamber of Commerce, Florida's Growth Domestic Product (GDP) hit \$1 trillion in July 2018.

**Fiscal Impact:**  
Neutral

## **2018 INNOVATION & POLICY CONFERENCE**



### **FTA-7: Consultants Competitive Negotiation Act (CCNA)**

**FAC Staff Recommendation:** Pursue under Guiding Principle FTA 14:

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

**Proposed Policy:** **SUPPORT** increasing the value of the construction costs at which a continuing contract must be bid pursuant to the Consultants' Competitive Negotiation Act ("CCNA") from the existing threshold of \$2 million.

**Issue Summary:** The robust recovery of the economy has led to an increase in engineering fees, thus increasing overall fees to projects. The ability to use a continuing contract for a higher valued construction project would reduce the number of projects that require the full bidding process, which would speed the time required to complete development and reduce the overall costs.

**Background:** The thresholds for bidding continuing contracts have been in place since 2009. Construction costs have significantly increased since that time, reducing the number of projects allowed without requiring a full bid process. Consultant fees are averaging approximately 8% of the total project, which translates to a \$200,000 consultant fee for a \$2.5 million project. The bidding of projects increases the time and money required to complete the development. Construction costs expected to be within these limits sometime exceed them, triggering a bidding process midstream, which jeopardizes the integrity of the project and increases administrative costs.









**Analysis:** Florida Statute 287.055, the "CCNA" governs the acquisition of professional architectural, engineering, landscape architectural, or surveying and mapping services. The statute provides that a "continuing contract" is a contract for professional services whereby the firm provides professional services to the agency for projects in which the estimated construction cost of each individual project under the contract does not exceed \$2 million, and for study activity if the fee for professional services for each individual study under the contract does not exceed \$200,000. Firms providing professional services under continuing contracts are not required to bid against one another.

**Fiscal Impact:**

The following table shows the increased price of architectural and engineering services year-over-year. Increasing the threshold at which services for a project must be bid should have a positive impact on overall project costs and reflects the actual increase in the costs of the service relative to the cost of the entire project

## Producer Price Index - Engineering and Architectural Services

(not seasonally adjusted data)

| Industry   | Producer Price Index - Engineering and architectural services                       |       |       |           |           |           |           |       |       |       |       |       |       |       | Annual Avg |
|--|---|-------|-------|-----------|-----------|-----------|-----------|-------|-------|-------|-------|-------|-------|-------|------------|
|  | Historical data   | Jan   | Feb   | Mar       | Apr       | May       | Jun       | Jul   | Aug   | Sep   | Oct   | Nov   | Dec   |       |            |
| Architectural, engineering and related services  |   |       |       |           |           |           |           |       |       |       |       |       |       |       |            |
| 2017   |    | 162.3 | 163.0 | 163.1     | 163.0     | 161.4     | 161.5     | 162.2 | 162.4 | 162.4 | 164.2 | 164.3 | 164.9 | 162.9 |            |
| 2018   |   | 165.2 | 166.0 | (P) 165.8 | (P) 166.0 | (P) 165.8 | (P) 165.9 |       |       |       |       |       |       |       |            |
| Engineering services   |   |       |       |           |           |           |           |       |       |       |       |       |       |       |            |
| 2017   |    | 166.5 | 167.2 | 167.2     | 167.2     | 165.2     | 165.3     | 166.0 | 166.0 | 166.0 | 168.3 | 168.4 | 169.0 | 166.8 |            |
| 2018   |   | 169.4 | 170.3 | (P) 170.1 | (P) 170.1 | (P) 170.3 | (P) 170.4 |       |       |       |       |       |       |       |            |
| Building-related engineering   |   |       |       |           |           |           |           |       |       |       |       |       |       |       |            |
| 2017   |    | 158.6 | 159.2 | 159.4     | 159.2     | 155.7     | 155.4     | 155.2 | 155.2 | 155.2 | 159.2 | 159.2 | 159.9 | 157.6 |            |
| 2018   |   | 160.3 | 160.9 | (P) 160.5 | (P) 161.0 | (P) 161.1 | (P) 161.3 |       |       |       |       |       |       |       |            |
| Nonbuilding-related engineering  |   |       |       |           |           |           |           |       |       |       |       |       |       |       |            |
| 2017   |    | 169.1 | 169.7 | 169.7     | 169.8     | 168.9     | 169.1     | 170.6 | 170.6 | 170.6 | 171.8 | 171.8 | 172.4 | 170.3 |            |
| 2018   |   | 172.8 | 174.1 | (P) 174.1 | (P) 173.7 | (P) 174.0 | (P) 174.0 |       |       |       |       |       |       |       |            |
| Architectural services   |   |       |       |           |           |           |           |       |       |       |       |       |       |       |            |
| 2017   |    | 143.0 | 144.0 | 144.3     | 144.3     | 144.3     | 144.3     | 145.1 | 145.7 | 145.9 | 145.8 | 146.0 | 146.2 | 144.9 |            |
| 2018   |   | 145.9 | 146.0 | (P) 145.9 | (P) 147.3 | (P) 144.9 | (P) 145.0 |       |       |       |       |       |       |       |            |
| Residential building projects  |   |       |       |           |           |           |           |       |       |       |       |       |       |       |            |
| 2017   |    | 174.6 | 176.7 | 176.6     | 176.6     | 176.6     | 176.6     | 178.7 | 179.4 | 179.4 | 178.2 | 179.7 | 179.6 | 177.7 |            |
| 2018   |   | 177.7 | 177.7 | (P) 177.6 | (P) 177.7 | (P) 177.7 | (P) 177.7 |       |       |       |       |       |       |       |            |
| Non-residential building projects  |   |       |       |           |           |           |           |       |       |       |       |       |       |       |            |
| 2017   |    | 106.4 | 106.8 | 107.1     | 107.1     | 107.1     | 107.2     | 107.6 | 108.2 | 108.3 | 108.4 | 108.4 | 108.6 | 107.6 |            |
| 2018   |   | 108.6 | 108.6 | (P) 108.5 | (P) 109.1 | (P) 107.1 | (P) 107.1 |       |       |       |       |       |       |       |            |
| Other architectural services, incl. historic restoration and architectural advisory services |   |       |       |           |           |           |           |       |       |       |       |       |       |       |            |
| 2017   |  | 103.6 | 105.7 | 108.9     | 108.9     | 109.0     | 109.0     | 110.1 | 110.2 | 109.8 | 109.8 | 109.8 | 109.8 | 108.7 |            |
| 2018   |   | 109.9 | 109.9 | (P) 110.2 | (P) 110.2 | (P) 109.9 | (P) 109.9 |       |       |       |       |       |       |       |            |
| Footnotes  |   |       |       |           |           |           |           |       |       |       |       |       |       |       |            |
| (p) Preliminary  |   |       |       |           |           |           |           |       |       |       |       |       |       |       |            |



### **FTA-8: Fuel Tax Indexing**

|  |
|--|
| <b>FAC Staff Recommendation:</b> Defer to committee. |
|--|

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

**Issue Summary:** Motor fuel tax revenues and buying power are constantly eroding as the costs of road construction and maintenance has increased and vehicles have become more fuel efficient. The statutes allow the State’s motor fuel tax rate to rise with increases in the cost of goods and services, as measured by the Consumer Price Index (CPI). Local rates have not been similarly indexed and, thus, local revenues are not keeping pace with the transportation costs and needs.

**Background:** 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.

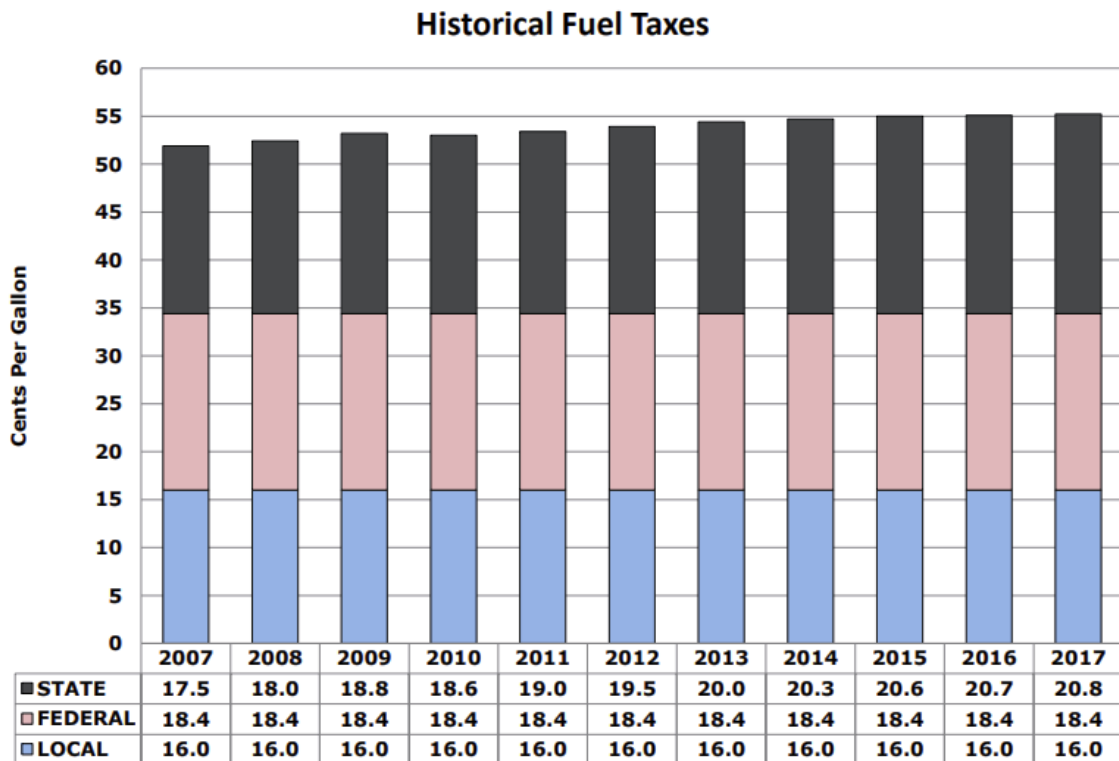
Sec. 206.41(f) and (g) allows for the State Comprehensive Enhanced Transportation System Tax and “fuel sales tax” to be indexed to the Consumer Price Index. These taxes are state-levied. The fuel taxes authorized to be levied by counties, (contained in Sec. 206.41(1)(a)-(f) and Sec. 206.60) are not indexed.

**Analysis:** 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 a more targeted control of 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.

**Fiscal Impact:** 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



**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,

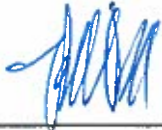
WHEREAS, the effect of this annual increase in costs of goods and services without a corresponding adjustment to the motor fuel tax rate results in a reduction in buying power of the motor fuel tax revenues,

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,

NOW THEREFORE BE IT RESOLVED that the Florida Association of County Engineers and Road Superintendents (FACERS) recommends to the 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.



R. Shane Parker, P.E., President  
Florida Association of County Engineers and Road Superintendents

8/2/18

Date



# Florida Association of County Engineers and Road Superintendents

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August 2, 2018

**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 2018, 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,

**R. Shane Parker, P.E.**  
FACERS President

### **FTA-9: Rural Development Grant Program**

**FAC Staff Recommendation:** Adopt.

*Note: FAC's 2017-2018 Legislative Action Plan included a substantially similar policy. SB 1646 and HB 1103 were filed during the 2017-2018 legislative session but did not see final passage.*

**Proposed Policy:** **SUPPORT** eliminating the cap on the Rural Development Loan Fund allowing the full \$1.07 M be available for each grant cycle, and **SUPPORT** reducing the match to 50% and increasing the appropriation for each RAO to \$250,000.

**Issue Summary:** Currently, the Rural Development Grant program requires a 100% match of dollars requested. Reimbursement is provided once all each grant deliverable has been completed. Recommended action is to eliminate the cap on the Rural Development Loan Fund allowing the full \$1.07M be available for each grant cycle, reduce the match to 50% and increase the appropriation for each RAO to \$250,000.

**Background:** Each Rural Area of Opportunity (RAO) is served by a regional rural economic development organization (Opportunity Florida (9 counties), North Florida Economic Development Partnership (14 counties) and the Florida Heartland Economic Region of Opportunity (6 counties and 4 cities). As increased opportunities present themselves, having the necessary funds to attract new businesses, grow our existing businesses, improving the physical infrastructure and cultivating a strong and innovative workforce is essential to our success.

**Analysis:** The rural development grant program provides critical funding to enable a wide range of technical assistance, marketing, leadership capacity building and education services to the rural counties within each RAO. The RAOs are responsible for providing, facilitating and coordinating these services on behalf of the counties within their respective region. Without appropriate funding to meet today's economic challenges, Rural Florida counties will continue to struggle in their efforts to secure quality jobs to their respective communities.

**Fiscal Impact:** Each RAO continues to struggle to meet the demand for their respective communities due to limited funds associated with this grant program. It is always difficult to generate local and private match dollars to maximize this grant in its current state. However, with the increase appropriation and the reduction in matching dollars, each RAO would have a 17% decrease in the amount of matching dollars required. For rural counties this is a huge benefit.

## **2018 INNOVATION & POLICY CONFERENCE**



### **FTA-10: Rural Infrastructure Fund**

**FAC Staff Recommendation:** Adopt.

*Note: FAC's 2017-2018 Legislative Action Plan a substantially similar policy. SB 1646 and HB 1103 were filed during the 2017-2018 legislative session but did not see final passage.*

**Proposed Policy:** **SUPPORT** modifying the grant verbiage to allow for up to 50% of the total project costs on any RIF grant request.

**Issue Summary:** The Rural Infrastructure Fund (RIF) currently allows grants up to 30% of the total project infrastructure costs. If an application for funding is for a catalyst site, as defined in s. 288.0656, the department may award grants for up to 40 percent of the total infrastructure project cost. The request is to modify the grant verbiage to allow up to 50% of the total project costs on any RIF grant request.

**Background:** The RIF grant provides funds for critical infrastructure and site development required for economic development projects in rural Florida counties. It offers flexibility for many types of infrastructure (e.g. transportation, water and wastewater and utility) needs in rural Florida efforts to attract new industry. Increasing the grant allocation for rural counties would extremely helpful.

**Analysis:** There have been instances where rural counties have been awarded the grant but could not obtain the remaining portion of the funds to complete the project, thus the grant dollars were not awarded. Revising the award percentage potentially places the rural counties in a better position of being able to complete needed infrastructure projects.

**Fiscal Impact:** With the current verbiage as stated in the RIF grant, rural counties must be able to fund 70% of the project or in the case, if it a catalyst site 60%. As most understand, rural counties designated as a Rural Area of Opportunity are not flushed with cash resources and find it very difficult and in some cases impossible to submit for this grant allocation. With the suggested change, potentially allows for a greater chance of a rural county to be successful in the venture for which they are seeking funds.

## **2018 INNOVATION & POLICY CONFERENCE**

### **FTA-11: Public Records Exemptions – Discrimination Complaints**

**FAC Staff Recommendation:** Defer to committee.

**Proposed Policy:** **SUPPORT** legislation offering public records exemptions to counties which benefit the county's ability to provide and administer services to citizens.

**Issue Summary:** 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. Amend s. 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 s.119.07(1) and s. 24(a), Article I of the State Constitution.

**Background:** Palm Beach County Office of Equal Opportunity is the County agency that investigates discrimination complaints. The County's Ordinances include confidentiality for all protected bases under federal law but the State statute does not include all of the federally protected bases. Additionally, conciliation efforts under the County's ordinances only derive the authority from State law. Currently, the Florida law does not include confidentiality provision for conciliation efforts.

**Analysis:** 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.

**Fiscal Impact:** Neutral

## **2018 INNOVATION & POLICY CONFERENCE**

### **FTA-12: Apprenticeship Programs**

**FAC Staff Recommendation:** Defer to committee.

**Proposed Policy:** **SUPPORT** removing the exemption for tuition and fees for students enrolled in apprenticeship programs.

**Issue Summary:** Currently, there are no tuition fees for registered apprentices for related instruction provided through Local Education Agencies (LEA), as stipulated in Florida Statute 1009.25. We are asking to modify or delete Florida statute 1009.25(1)(b) to remove the exemption for tuition and fees for students enrolled in apprenticeship programs. Also, to add clarification in the statute or supplemental guidance to explain how state colleges and technical colleges can use the Florida College System Program Fund and Workforce Development training funds for Apprenticeship and use these resources to encourage more apprenticeship opportunities. Our goal is to ensure all Apprenticeship Programs registered with the state, those that use educational institutions and those that use another type of organization to provide high-quality, business-driven related classroom instruction, are eligible for current and future state funding of apprenticeship.

**Background:** A few years ago, legislation was proposed to create the Florida Apprenticeship Grant (FLAG) program that would provide funding for start-up of new apprenticeships, particularly in new sectors such as healthcare, information technology, and manufacturing. Unfortunately, the legislation did not pass, but there was support for it at the time. Some states provide state funding for apprenticeship, and a state-funded program in Florida would provide a key source of revenue to grow apprenticeship programs, as well as pre-apprenticeship programs, in the state. Florida statute 446.051 encourages state colleges and technical colleges to support apprenticeship programs. However, Florida Statute 1009.25 indicates that students enrolled in apprenticeship programs are exempt from paying tuition and fees, which has created a disincentive for most colleges to provide the related classroom instruction for apprenticeship programs. Also, most colleges have interpreted this tuition and fee exemption to mean that businesses also cannot directly pay colleges for instruction provided to their apprentices. Therefore, colleges must fund apprenticeship training through third party arrangements, such as foundations or private funding, or use the Florida College System Program Fund and Workforce Development training funds. These state resources, appropriated annually by the state legislature, can be used for apprenticeship, but few colleges are currently doing so. These funds are provided to colleges through a complex reimbursement formula based on Full-time Equivalents (FTEs). Institutions that are involved in apprenticeship training, such as Pinellas Technical College and Santa Fe College, have utilized these state sources for apprenticeship, generated a substantial amount of FTE per student, and found multiple benefits for their students and area businesses. Perhaps the Florida Department of Education can explore way of making FTE funding more compatible with all college programs.

**Analysis:** Currently, only educational institutions can receive funding through two state programs – the Florida College System Program Fund and Workforce Development training funds – that support apprenticeship and other work development activities. While colleges are an essential part of the education system in Florida and can be providers of related classroom instruction for apprenticeships, they are not the only entities that can play this role for apprenticeship programs. More apprenticeship programs are emerging in which a qualified industry intermediary or workforce training program, such as the American Manufacturing Skills Initiative (AmSkills), provides the related education for employers for their apprenticeship programs. To leverage the collective capacity that exists within the state to grow apprenticeship and meet the skills needs of business, it is important that entities other than educational institutions have access to state-funded programs for apprenticeship, as long as these apprenticeship programs are registered with the state. Absent such resources, the costs for apprenticeship training are charged to the program participants, the company, or both, which prevents many companies from participating, because they are unable to bear the full cost of the operating the program.

**Fiscal Impact:** There would be a fiscal impact to the Department of Education; however, the degree of the impact is unknown at this time.

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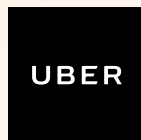


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