

County of Volusia
2013 State Legislative Priorities Agenda
February 28, 2013

***Dedicated Rail Funding**

Support legislation that would provide dedicated funding from the State for Sunrail operation and maintenance costs.

***State Transportation Funding Policy**

Support legislative action which allows local governments to implement sustainable transportation funding for the long term by endorsing the top six revenue options as defined in the Florida MPO Advisory Council Transportation Revenue Study.

***Juvenile Justice**

Support the wording of any proposed legislation on juvenile detention billed costs that provide Volusia County pays only its fair share of detention costs, and is not obligated to pay costs that should be borne by the State.

***State Offenders in County Jail**

Support legislation that requires the State to house Violators of Probation (VOP) who are alleged to have committed a qualifying offense as defined in s. 948.06, F.S., while awaiting disposition and transfer; limits the number of days a felony VOP can be held in a county jail, prior to disposition, to 30 days; requires the Florida Department of Corrections (DOC) to pay for “state prisoners” housed in county jails based on the local jail’s past annual estimated cost per day.

**County of Volusia
2013 State Legislative Agenda
February 7, 2013**

LEADERSHIP

Revenue Caps

Monitor any legislative and/or constitutional proposals that negatively affect local government taxing and/or revenue generating authority, especially TABOR.

Economic Development

Monitor funding for economic development, including business assistance and development programs designed to help existing companies grow and create jobs.

Qualified Target Industries

Monitor legislation that would expand eligibility for Qualified Target Industries (QTI) tax refunds to limited liability companies (LLCs) and corporations taxed under Subchapter S of the Internal Revenue Code (S corporations.)

Elections

Monitor full state funding of all expenditures by supervisors of elections to comply with requirements of the federal Help America Vote Act.

Destination Resorts

Monitor legislation related to destination resorts, generally defined as mega-centers that feature casino gaming, shopping, conference facilities, restaurants, and live entertainment.

District Cost Differential

Support restructuring of the District Cost Differential formula for allocating funds to local school systems so that Volusia County will receive its fair share.

GROWTH MANAGEMENT AND ENVIRONMENTAL

Environmental Permitting

Oppose legislation that would require local governments to seek delegation from the State for environmental permitting and *oppose* legislation that would prevent counties from having local environmental programs that are substantially similar or more restrictive than state or federal regulatory programs, e.g., wetland alteration permitting programs.

Environmental Planning

Monitor legislation that would have positive impacts on Volusia County's environmental planning, regulation and funding, e.g. manatee protection plan, conservation element and recreation and open space in our comprehensive plan, tree protection ordinances in our land development code.

Growth Management

Monitor legislation affecting Florida's growth management.

Bio-Solids Land Spreading

Monitor movement on the regulation of land spreading of septage and bio-solids.

Fertilizer

Oppose legislation that would remove local control over fertilizer regulation.

Water Quality

Monitor issues related to numeric nutrient criteria or other water quality mandates.

River Management

Monitor issues related to the management and/or funding of the St. John's River.

Oil Exploration

Monitor bills related to exploration, drilling, extraction, and/or production of oil beneath Florida waters.

Climate Protection

Monitor legislation related to climate protection, e. g., greenhouse gas emissions.

Alternative Energy

Monitor legislation related to alternative energy.

Conservation Land

Oppose legislation that would restrict the ability of counties and municipalities to purchase and manage conservation lands.

Continued Funding for Florida Forever

Support continued funding for Florida Forever.

Closure of Florida Forest Service Seedling Tree Nursery

Oppose legislation that would result in the closure of the Florida Forest Service seedling tree nursery.

FINANCE AND ADMINISTRATION**Online Travel Taxes**

Oppose legislation that would codify internet travel brokers' practice of paying taxes on the wholesale room rate paid to the accommodations owner.

Sales and Use Tax on Internet Sales

Support legislation that requires the collection and remission of sales taxes on internet sales.

Procurement

Support legislation that changes the Consultants' Competitive Negotiation Act (CCNA) to allow agencies to reopen negotiations with any selected firm after terminating negotiations with another shortlisted firm.

Property Assessment

Monitor legislation regarding assessment of homestead and non-homesteaded property.

Unfunded mandates

Oppose legislation that:

- Addresses state budget shortfalls through cost shifts to local governments;
- Imposes unfunded mandates.

COMMUNITY SERVICES

Buses and Traffic

Oppose legislation that would require buses to not impede or block traffic on the roadway, if another reasonable means is available.

County Health Department

Monitor legislation that maintains state general revenue funding for county health departments.

Medicaid Cost Share

Monitor changes to the counties' mandated share of reimbursement to the Florida Agency for Health Care Administration (AHCA) for Medicaid hospital beds and nursing home beds.

Libraries

Monitor funding for State Aid to Libraries.

Health Care

Monitor legislation related to Medicaid or other health care changes.

Human Services

Monitor legislation related to human services, e.g. children's services.

Trails Funding

Support legislation that would maintain or increase dedicated recreational trails program funding.

PUBLIC PROTECTION

Pretrial Supervision

Oppose legislation that limits the discretion of the first appearance judge; requires written reports and certification of defendants for release; or eliminates the presumption of release on non-monetary conditions.

Inmate medical costs

Support legislation that reduces jail expenses by setting a standardized statewide reimbursement amount paid by counties to medical providers for health care services provided to inmates and arrestees at the established Medicaid rate or less.

***Juvenile Justice**

Support the wording of any proposed legislation on juvenile detention billed costs that provide Volusia County pays only its fair share of detention costs, and is not obligated to pay costs that should be borne by the State.

Keeping State Offenders in County Jail

Oppose legislation of action that would require inmates who have a total of one year or less left on their sentences to remain at the county level for the remainder of that sentence.

***State Offenders in County Jail**

Support legislation that requires the State to house Violators of Probation (VOP) who are alleged to have committed a qualifying offense as defined in s. 948.06, F.S., while awaiting disposition and transfer; limits the number of days a felony VOP can be held in a county jail, prior to disposition, to 30 days; requires the Florida Department of Corrections (DOC) to pay for “state prisoners” housed in county jails based on the local jail’s past annual estimated cost per day.

Internet Café

Monitor legislation that prohibits unrestricted, unregulated, and/or untaxed internet cafe computer gambling establishments and/or sweepstakes promotions in such establishments.

Simulated Gambling Devices

Monitor legislation that prohibits or restricts the use of simulated gambling devices, e.g. game promotions, drawings, games of chance.

Prescription Drugs

Monitor legislation that would lower prescription drug abuse, including additional restrictions or regulations on pain management clinics.

PUBLIC WORKS

***Dedicated Rail Funding**

Support legislation that would provide dedicated funding from the State for Sunrail operation and maintenance costs.

Water Supply Funding

Monitor legislation that enhances regional and local financial capacity to address water resource and water supply development.

Solid Waste Management

Monitor legislation that reinstates state funding of Solid Waste Management Grants; maintains the waste tire fee as a dedicated revenue source for funding mosquito control programs and waste tire recycling.

Monitor legislation that preempts county authority to franchise and otherwise regulate Construction & Demolition (C&D) haulers, recyclers, or disposal facilities.

***State Transportation Funding Policy**

Support legislative action which allows local governments to implement sustainable transportation funding for the long term by endorsing the top six revenue options as defined in the Florida MPO Advisory Council Transportation Revenue Study.

Monitor legislation that:

- Ensures the state's Other Arterial Capacity Program is not impacted by Florida Department of Transportation's (FDOT) Strategic Intermodal System (SIS) funding policies;
- Establishes a statutory funding cap preventing FDOT from allocating more than 65 percent of any "new discretionary highway capacity funds" to the SIS;
- Increases funding from FDOT for local government projects for bridge replacement, Transportation Regional Incentive Program (TRIP) grants, traffic signal maintenance and infrastructure to serve commuter rail;
- Indexes gas tax and removes restrictions on use of local option gas taxes to allow for major road and bridge rehabilitations;
- Expands the use of state transportation dollars to non-state roads that provide alternative access and reduce congestion on state roads;
- Diverts any revenues from the state transportation trust fund;
- Redirects any state program funds to the SIS that currently benefits county transportation needs.
- Suspends impact fees, either permanently or temporarily.

Water Governance

Monitor legislation that:

- Enhances local government participation in the water management district permitting and regulatory process;
- Encourages and assists in the long term funding of alternative water systems and transmission mains;
- Maintains oversight of reclaimed water usage at the local utility level rather than at the water management level.

Monitor the legislative creation of a statewide water commission that would redefine the water supply relationship among the state, water management districts, and local governments.

Water Supply Planning and Permitting

Monitor legislation that:

- Encourages the use of state owned lands including existing highway rights-of-way for purposes such as water wells, transmission piping and recharge infiltration;
- Encourages the use of alternative methods to achieve minimum flows and levels established by state water management districts to include reclaimed water augmentation, mitigation by aquifer recharge and other methods;
- Provides additional time for planning, permitting and necessary environmental studies associated with alternative water supply systems.

Agriculture Preemption

Monitor legislation that would preempt county regulations pertaining to agriculture under certain circumstances, and that restrict counties' ability to impose storm water fees on agricultural properties.

Restrictions on Who Constructs Public Construction Projects

Oppose legislative actions which prevent local governments from using in-house crews to perform construction projects over \$300,000 and electrical projects over \$75,000.

FLORIDA ASSOCIATION OF COUNTIES

Support the Florida Association of Counties (FAC) Legislative Program and Guiding Principles unless specific issues conflict with County of Volusia positions.

Leadership

SUPPORT Restructuring District Cost Differential for Public Schools

The County of Volusia *supports* restructuring of the District Cost Differential formula for allocating funds to local school systems so that Volusia will receive its fair share.

Current Situation

The District Cost Differential (DCD) is one of several formulas designed by the State of Florida to adjust K-12 public school funding based on geographical cost disparities. The Florida Price Level Index (FPLI) was established by the Legislature as the basis for the DCD in the Florida Education Finance Program (FEFP). In this role, the FPLI is used to represent the costs of hiring equally qualified personnel across all 67 school districts and was intended to present a fairness factor.

A controversial part of this formula is the use of an adjustment methodology. This formula measures qualitative factors such as climates, beaches, parks and other quality of life amenities which serve to generate an index measure for all 67 counties in Florida. These adjustments assume that school personnel are willing to work in Volusia County for less based on its cost of living and amenities. The DCD formula has reduced Volusia County's funding by \$97.46 million over the last ten years, which is the highest dollar amount lost by any school district in the State. Unlike many counties who are penalized under the DCD, there is no formula to compensate Volusia County for the loss of DCD dollars. The Panhandle region and other small rural counties receive sparsity supplements. South Florida and large urban areas which benefit from the DCD have higher property values for a greater local discretionary match that financially aids their school systems. Counties like Volusia, Leon and Alachua are penalized under the DCD formula without adjustments to offset the lost revenue.

In 2004 when the formula was further adjusted, the Volusia County School Board, along with several other Florida school districts, filed suit against the State claiming the formula was unconstitutional in that it did not provide equal funding. The Florida Supreme Court ruled in favor of the State. Subsequent to that, Volusia County and other affected districts received a DCD supplement to mitigate some of the funding losses; however that revenue was terminated in FY 2007.

One of the primary factors in recruiting and retaining businesses is the quality of the public school system. Volusia County has been at a decided disadvantage since this formula has been in effect.

Possible Changes

Volusia County supports an adjustment to the District Cost Differential (DCD) formula such that Volusia receives its fair share of public school funding.

Analysis

With an adjustment to the District Cost Differential (DCD) state funding formula to ensure Volusia County received its fair share, Volusia would move to an even footing with other school districts. The ability to recruit and retain businesses would be enhanced by this funding improvement for the public school system.

Growth Management and Environmental OPPOSE Environmental Permitting Changes

The County of Volusia *opposes* legislation that would require local governments to seek delegation from the State for environmental permitting and *opposes* legislation that would prevent counties from having local environmental programs that are substantially similar or more restrictive than state or federal regulatory programs, e.g., wetland alteration permitting programs.

Current Situation

Volusia County has its own wetland alteration ordinance, which was adopted in 1989. This ordinance does contain some similarities to state and federal regulations, but also provides requirements that either do not exist in or are more strict than state and federal wetland regulations, and does not completely duplicate those regulations.

Possible Changes

Legislation will most likely be introduced again to require local governments to seek delegation, modify local ordinances to match state requirements, or eliminate certain local ordinances entirely.

Impact Analysis

Possible effects could include:

1. Eliminating additional wetland and buffer protections that currently exist in Volusia County;
2. Regulating activities that currently do not require a County wetland alteration permit;
3. Performing functions that County staff does not currently perform;
4. Requiring additional training;
5. Requiring additional staff; and
6. Costing Volusia County more for additional staff, training, and services.

Growth Management and Environmental OPPOSE Fertilizer Control Changes

The County of Volusia *opposes* legislation that would remove local control over fertilizer regulation.

Current Situation

Volusia County is currently engaged in Basin Management Action Plans (BMAP) for northern Indian River Lagoon and the Middle St. Johns River Basin as part of the state's Total Maximum Daily Loads (TMDL) program. In both cases, these water bodies are impaired for nutrients. TMDLs for the Halifax and Tomoka rivers are currently in draft form, therefore BMAPs will be forthcoming. Volusia is expected to be in the BMAP process for more sections of the St. Johns River and Spruce Creek in the near future. Volusia County anticipates these water bodies to be determined impaired which will require action to reduce incoming nutrients.

Man-made nutrient issues center around three main sources: fertilizer, waste water, and atmospheric deposition. The largest fertilizer problem in Volusia County stems from residential use, from either homeowner or commercial applications. Residential use impacts the impaired water bodies due to improper or overuse, and the proximity to the receiving water body. Waste water nutrients come from point sources, waste water plants, and two non-point sources - septic tanks and reuse water. Atmospheric deposition of nitrogen, although cited to be as high as 30% of the total nitrogen contribution, is not under local control.

Possible Changes

Legislation will most likely be introduced again to limit the ability of local elected officials to make decisions that fit local situations and would eliminate the low impact fertilizer alternative for nutrient source control.

Analysis

Nutrient source control through fertilizer regulation has possibly the lowest economic impact to the property owner. Options for reducing fertilizer nutrients on impaired water bodies include:

1. Revising fertilizer formulation specifications to include slow release nitrogen and low or no phosphorus ingredients;
2. Imposing a fertilizer surtax that would be dedicated to nutrient source reduction;
3. Restricting fertilizer use to certain times of the year; and
4. Restricting fertilizer use when reuse water is used for irrigation.

Nutrient source control from waste water, septic tanks, and reuse systems would be very expensive and severely impact property owners/rate payers. Atmospheric deposition control is not possible for Volusia County. Treatment of nutrients at "end of pipe" in storm water systems is also very expensive, largely due to land cost, and inefficient, since there are no highly efficient best management practices for nutrient removal. Fertilizer source control is the best, low impact method to reduce nutrients in impaired water bodies.

Growth Management and Environmental OPPOSE Restrictions on Local Purchase of Conservation Land

The County of Volusia *opposes* legislation that would restrict the ability of counties and municipalities to purchase and manage conservation lands.

Current Situation

Volusia County has a voter approved conservation land acquisition and management program, Volusia Forever. The mission of the Volusia Forever Program is to finance the acquisition and improvement of environmentally sensitive, water resource protection, and outdoor recreation lands, and to manage these lands as conservation stewards in perpetuity.

Proposed Changes

Senate Bill 584 proposes to restrict the ability of the state, counties, and municipalities to purchase lands for conservation purposes. Specifically, the bill states that a county may purchase land for conservation purposes only if:

- (1) An accurate inventory, not more than 1 year old, of government-owned property is made public;
- (2) Sufficient funds are approved in the county's annual budget for the maintenance of existing properties;
- (3) An analysis by the county describing the annual cost of maintenance of the proposed land purchase is completed; and
- (4) An equal amount of public property not being held in public conservation is returned or sold at fair market value to the private sector.

Impact Analysis

Implementation of SB 584 would restrict the county's ability to implement its current voter approved land acquisition and management program, and any future conservation land acquisition programs. Land acquisition decisions should remain the responsibility of local government elected officials.

Growth Management and Environmental SUPPORT Continued Funding for Florida Forever

The County of Volusia *supports* continued funding for Florida Forever.

Current Situation

Florida Forever was passed by the Legislature in 1999 and funded through 2010. When Volusia Forever was ratified in 2000, one of its stated purposes was to match funding through the state program. Between 2000 and 2010, Florida Forever provided joint funding assistance for Spruce Creek Preserve, Volusia Conservation Corridor, and several Florida Communities Trust Projects. In 2011, the Legislature did not appropriate Funds to Florida Forever and in 2012, they appropriated \$15 million.

Proposed Budget

Governor Scott released his proposed budget for FY20 13-14 which proposed \$75 million for Florida Forever for less than fee acquisitions, springs protection, and partnership acquisitions. More appropriations to Florida Forever could result in purchase of additional conservation properties within the Volusia Conservation Corridor.

**Growth Management and Environmental
OPPOSE Closure of Florida Forest Service Seedling Tree Nursery**

The County of Volusia *opposes* legislation that would result in the closure of the Florida Forest Service seedling tree nursery.

Current Situation

Volusia County has a voter approved conservation land acquisition and management program, Volusia Forever. One of the missions of the Volusia Forever Program is to finance the management and improvement of environmentally sensitive, water resource protection, and outdoor recreation lands, and to manage these lands as conservation stewards in perpetuity.

Proposed Changes

House Bill 4027 proposes to eliminate the seedling tree nursery operated by the Florida Forest Service.

Impact Analysis

Implementation of HB 4027 would eliminate the ability of many government agencies, private organizations, and property owners to purchase tree seedlings at a reasonable cost. Volusia County Land Management routinely purchases seedlings from the Florida Forest Service, when available, because their seedlings are generally less expensive than those of other suppliers.

Conservation lands, in addition to providing a host of recreational and environmental benefits, can provide a significant source of revenue from timber management to lessen the management costs to the citizens of Florida. Efficient management of timber involves the harvesting and planting of trees.

Finance and Administration
OPPOSE Wholesale Taxes for Online Travel Companies

The County of Volusia *opposes* legislation that would codify internet travel brokers' practice of paying taxes on the wholesale room rate paid to the accommodations owner.

Current Situation

Volusia County collects 3% Tourist Development Tax and 3% Local Convention Development Tax on transient accommodations. These taxes are used to promote Volusia destinations and to support the Ocean Center Convention facility, including debt associated with the recent expansion. Total revenue generated in Volusia County for fiscal year 2012, excluding administrative fees, was \$14.7 million.

Accommodations tax laws were adopted before the existence of internet intermediaries. Hotels collect and remit these taxes based on the retail rate paid by the guest for the room. OTCs remit taxes on the wholesale price they pay a hotel for the room, not the advertised retail price paid by the consumer. This creates different tax applications involving the same hotel room and the same retail rate paid by the guest. The Department of Revenue has requested clarification from the legislature regarding the application of these taxes.

Possible Changes

Legislation will likely be introduced again in 2013 to codify the current practice of online travel companies paying taxes based on their wholesale rate from the accommodation owners rather than the full retail rate paid by the consumer.

Analysis

In a recent case in Atlanta, the Georgia Supreme Court "concluded that the OTCs were third-party tax collectors who were required to remit collected taxes to the City based on the room rate and not based on the negotiated wholesale rate." Several other lawsuits are pending, including one from Volusia County.

Evelyn Find, President of Mid-Florida Marketing and Research, Inc., anecdotally estimates that 1/3 of all Volusia rooms are rented using internet wholesalers. She estimates that county revenues on internet transactions would increase as much as 40% during the peak season and 25% during the off-season (approximately \$1.7 million annually), if taxes were received based on the retail payment.

Volusia County depends on the tourist development tax to pay for the bond debt associated with the Ocean Center and its recent expansion. This facility is of vital importance to our community; full revenue from the bed taxes is critical.

Finance and Administration

SUPPORT Sales and Use Tax on Internet Sales

The County of Volusia *supports* legislation that requires the collection and remission of sales taxes on internet sales.

Current Situation

Under Florida law, retailers are required to collect 6% sales tax on the sale of taxable items. When the sales tax is not collected at the time of purchase, states impose a “use” tax. This requires residents who purchase taxable goods in another state to pay the equivalent of a sales tax in their home state. The use tax preserves a key principle of the sales tax – the tax is due in the state where the product is used or consumed, not necessarily where it is purchased.

Federal constitutional constraints prohibit the applicability of this requirement to out-of-state retailers that do not have “nexus,” or presence, in Florida. A 1992 Supreme Court ruling also reaffirmed that an action imposing tax collection imposes an undue burden on interstate commerce, citing complexity and potential cost of compliance on the part of jurisdictions.

According to the U.S. Census, as of 2nd quarter 2012, e-commerce sales accounted for 5.1% of total sales.

Possible Changes

The Budget Subcommittee for Finance and Tax filed Senate Bill 7206 in 2012 related to this issue but it never came to a vote. Similar legislation is expected to be re-introduced in 2013. In total, 22 states have Possible similar legislation; 12 states have passed legislation.

Impact

In August 2011, Florida Senate’s Budget Subcommittee on Finance and Tax published an interim report (2012-107) based on a few widely cited studies showing the state’s losses range from \$281M to \$800M. This wide range indicates the complexity of the issue and other factors such as those listed below.

- Enforcement is limited due to lack of reliable data on out-of-state retailers with nexus in Florida.
- Purchasers are unaware of or ignore requirement.
- Estimates vary widely due to underlying assumptions.

Therefore, it is difficult to accurately predict Volusia County’s sales tax loss by out-of-state retailers. To illustrate, Wal-Mart or Best-Buy sells online but has a physical presence in Florida requiring them to collect sales tax on products purchased by Floridians. Actual revenue loss results only from those out-of-state retailers who do not have a physical presence in Florida but sell to Floridians.

Finance and Administration

SUPPORT Changes to Consultants' Competitive Negotiation Act

The County of Volusia *supports* a change to the Consultants' Competitive Negotiation Act (CCNA) to allow agencies to reopen negotiations with any selected firm after terminating negotiations with another shortlisted firm.

Current Situation

Currently, the Consultants' Competitive Negotiation Act (CCNA) in s. 287.055, F.S., specifies the process to be followed when state and local government agencies procure the professional services of an architect, professional engineer, landscape architect, or registered surveyor and mapper.

The CCNA provides a two-phase selection process. In the first phase, the "competitive selection," the agency evaluates and shortlists a minimum of three proposers based on the qualifications and past performance. The shortlisted proposers participate in oral presentations to a selection committee and the committee ranks the proposers from number one ranked (most qualified) to the third ranked.

In the second phase, the "competitive negotiation," the agency then negotiates compensation with the most qualified of the three selected firms. If a satisfactory contract cannot be negotiated, the agency must then negotiate with the second most qualified firm, if negotiations fail then the agency must negotiate with the third most qualified firm. In this process, the agency may not go back to the previous vendors to reopen negotiations. At the end of discussions with the third ranked vendor, if no agreement is acceptable, the process starts over from the beginning.

Possible Changes

Legislation will likely be introduced again in 2013 to allow agencies to reopen negotiations with any selected firm which has been ranked, if negotiations with all have failed initially. This legislation may change a provision in s. 287.055(5)(b), F.S., specifying the order in which agencies must negotiate with selected vendors. Agencies would no longer be required to restart the process if negotiations failed in discussions with the third most qualified firm. The agency would be permitted to reopen discussions with the top ranked firm, rather than incur the time and cost of a re-solicitation.

Analysis

Changes to the Consultants' Competitive Negotiation Act (CCNA), which specifies how state agencies and political subdivisions procure services of design professionals, to allow agencies to reopen negotiations with any selected firm after terminating negotiations with another selected firm would be a more effective and efficient method of contracting for professional services.

Finance and Administration **OPPOSE Unfunded Mandates**

The County of Volusia is *opposed* to codifying the state budget shortfalls through cost shifts to local governments.

Current Situation

In 1990, the Florida Constitution was amended to add provisions governing the passage of laws that affect the revenues and expenditures of local governments. This section of the constitution provides general guidance on the legal interpretation of a mandate. State mandates are defined in Article VII, section 18 of the Florida Constitution as laws requiring counties to spend funds or to take an action requiring the expenditure of funds, laws reducing the authority to raise revenue, or laws reducing the percentage of a state tax shared with counties. A state directive that compels local governments to provide a service, program, or benefit without providing the appropriate monies or a funding source is regarded as an unfunded mandate. County officials recognize that some state-funded mandates are justified because they achieve agreed-upon statewide policy goals. However, many, if not most, mandates on counties are imposed without the consensus of local governments or the resources for implementation. Mandates drain the financial lifeblood from county governments and impede their ability to adequately deliver the fundamental services required by law. Mandates also compromise a county's ability to provide discretionary services requested by the local community.

Possible Changes

Legislation will likely be introduced again in 2013 to shift costs to local governments. Unless a designated corresponding funding source is shifted down, any cost would have a negative impact to the budget. Any shift of costs would require service levels changes or a corresponding increase in the tax rate.

Analysis

Currently Volusia County appropriates funding for many items where a designated funding source was not filtered down to local levels. Some of these programs include: Medicaid nursing home costs, court related functions, and juvenile justice.

Community Services
OPPOSE Requiring Buses to Not Block Traffic

The County of Volusia *opposes* legislation that would require buses to not impede or block traffic on the roadway, if another reasonable means is available.

Current situation

Per Chapter 341.031(6), F.S., “Public transit” means the transporting of people by conveyances, or systems of conveyances, traveling on land or water, local or regional in nature, and available for use by the public. Public transit systems may be either governmentally owned or privately owned. Public transit specifically includes those forms of transportation commonly known as “paratransit.”

Along thousands of miles across Florida, vehicles stop along the roadway to allow for loading and unloading of passengers. Some areas have bus pull-outs where the vehicles would pull over to be out of the flow of traffic; however, the vast majority of the bus stops in Florida do not have pull-out areas and merely stop along the side of the road to safely load passengers.

Possible changes

Proposed bills Senate Bill 158 and House Bill 75 require that:

Notwithstanding any other law to the contrary, a bus, other than a school bus, may not be stopped in such a manner so as to impede, block, or otherwise restrict the progression of traffic on the main traveled portion of a roadway while the bus is loading or discharging passengers if another reasonable means is available to safely load or discharge passengers.

Analysis

There is no clear definition of “another reasonable means” in relation to which areas a bus shall be required to pull over, therefore, each route and bus stop in Florida would have to be examined to ascertain if there is a safe area to pull over. If the definition is to include private plazas or property, this could require negotiations with thousands of private owners around the State of Florida. According to a Transportation Research Board study, the average dwell time of a bus stop is 40 seconds during peak time. This appears to be a minimal amount of time for the blockage of traffic.

Community Services
SUPPORT Dedicated Funding for Recreational Trails

The County of Volusia *supports* legislation that would maintain or increase dedicated recreational trails program funding.

Current situation

The Recreational Trails Program (RTP) was created by the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), reauthorized in 1998 as part of the Transportation Equity Act of the 21st Century (TEA-21) and reauthorized again in 2005 through Safe, Accountable, Flexible, Efficient Transportation Equity Act : A Legacy for Users (SAFETEA-LU). The RTP is included in the Moving Ahead for Progress in the 21st Century Act (MAP-21), the transportation-reauthorization bill signed by the President on July 6, 2012.

RTP is the foundation for state trail programs across the country. It leverages hundreds of millions of dollars for additional support from other sources for trails.

Possible changes

In July, Congress passed a new transportation bill that authorizes funding for surface transportation programs at roughly current levels through September 30, 2014. The bill includes an extension of existing law through the end of FY 2012, with programmatic and structural changes coming into effect for Fiscal Years 2013 and 2014.

One of those changes is the removal of dedicated funding for several programs, including Safe Routes to School, Recreational Trails, and the Transportation Enhancements program. The legislation instead creates a new program called Transportation Alternatives (TA). The funding for Volusia County will go to the Transportation Planning Organization and the FY 2013 allocation is expected to be \$432,781. This funding is not impacted by the Governor's September 2012 decision to opt-out of the trails funding mandates, and can be used on trails or other TA projects.

Analysis

Recreational trails and other motorized and non-motorized transportation programs are important to Volusia County for the benefits brought to the local economy through eco-tourism and for the improvement of its multi-modal transportation network. With only two years before this transportation authorization expires, Congress must almost immediately begin discussing new authorizing legislation. It is therefore appropriate to advocate for the return of dedicated funding for recreational trails and other bicycle and pedestrian programs in the next transportation authorization.

Public Protection OPPOSE Pretrial Supervision Changes

The County of Volusia *opposes* legislation that limits the discretion of the first appearance judge; requires written reports and certification of defendants for release; or eliminates the presumption of release on non-monetary conditions.

Current Situation

Volusia County operates two correctional facilities with a combined capacity of 1,494. Since 2002, the jail population has exceeded 90 percent of its authorized capacity in all but two years. And from 2004 to 2007, the population exceeded its authorized capacity. Volusia is extremely concerned that limiting the discretion of judges and eliminating the presumption of non-monetary release would return the jail population to intolerable levels exceeding its authorized design capacity.

An increase in the jail population is not the only concern. In recent study by the Volusia County jail officials, the failure to appear (FTA) rate for individuals placed on Pretrial Supervision program (PTS) was 2.0 percent vs. an FTA rate of 6.6 percent for individuals who were released by posting a surety bond with a private bondsman. Individuals who post a surety bond are more likely to fail to appear for future court proceedings than an individual on PTS. When persons are supervised by Pretrial Services, they are monitored closely to ensure compliance with release conditions imposed by judges. The majority of defendants released on PTS are first-time offenders charged with nonviolent offenses. Without PTS, these individuals may end up staying in jail because they have no money to post bond.

Volusia's Pretrial Services includes consideration of victim impact. In Fiscal Year 2011, 1,544 victim contacts were made prior to First Appearance. Such contacts are not made by private bail companies.

Possible Changes

Legislative initiatives favoring monetary release would severely curtail Pretrial Services and the court's authority to release individuals who would have been qualified for release in the past. Opposers of this legislation in 2011 included the Florida Sheriffs Association, Association of Pretrial Professionals of Florida; Florida Partners in Crisis; Bill Cervone, 8th Circuit Elected State Attorney and President of the Florida Prosecuting Attorneys Association; Florida Public Defenders Association; Florida Police Chiefs; Florida Alcohol and Drug Abuse Association; Pretrial Justice Institute; American Bar Association; National Districts Attorneys Association; National Association of Pretrial Services Agencies and International Association of Police Chiefs.

Analysis

It is clear that reducing or eliminating the role and purpose of Pretrial Services would not only increase the jail population, but would also increase the number of individuals who fail to appear for court. Based on conservative assumption that 25 percent of Pretrial Services candidates would not bond out but would remain in custody for an additional 30 days, Volusia County's correction expenses would increase approximately \$2,418,000 per year (25% x 4,554 PTS clients served in Fiscal Year 2011 x 30 days x \$70.79 per diem). The jail cannot accommodate increases in its average daily inmate population, except by expanding. Expansion of the jail by 500 beds was conservatively estimated at \$35 million several years ago; today it would be much higher.

Public Protection
SUPPORT Inmate Medical Costs

The County of Volusia *supports* legislation that reduces jail expenses by setting a standardized statewide reimbursement amount paid by counties to medical providers for health care services provided to inmates and arrestees at the established Medicaid rate or less.

Current Situation

Volusia County has a private medical provider for medical services for inmates. The Florida Sheriffs Association (FSA) has pursued the idea of the development of a statewide inmate medical cost management program. The Affordable Care Act and formation of Health Information Exchanges will impact county jails in allowing those in custody to enroll in a health insurance plan if eligible. This could potentially reduce county jail health costs.

Volusia County's health provider "Corizon" already receives local medical billing at the Medicaid rate or less.

Possible Changes

Legislation may be introduced to develop a statewide inmate medical management program with a standard statewide reimbursement amount paid by counties to medical providers for health care services provided to inmates and arrestees at the established Medicaid rate or less.

Analysis

Any legislation that reduces jail medical costs either through standardization or Federal Medicaid funding opportunities should be supported by local government. Although, as stated above, our contracted health care provider already gets Medicaid or lower rates, Volusia County supports cost controls for all counties such as proposed by the FSA and billing on the Medicaid rates as the acceptable threshold.

Public Protection
SUPPORT Juvenile Justice

The County of Volusia *supports* the wording of any proposed legislation on juvenile detention billed costs that provide Volusia County pays only its fair share of detention costs, and is not obligated to pay costs that should be borne by the State.

Current Situation

The joint review process team for budget development recently created should provide DJJ with realistic and genuine costs from the county perspective.

Possible Changes

We want the State to revisit the formula for charging counties due to the adverse financial impact to county budgets.

Analysis

Billed costs should be fair and uniform. Each level of government should be expected to pay only its fair share.

Public Protection
OPPOSE Keeping State Offenders in County Jail

The County of Volusia *opposes* legislation of action that would require inmates who have a total of one year or less left on their sentences to remain at the county level for the remainder of that sentence.

Current Situation

The Florida Department of Corrections has proposed in their upcoming budget that any inmate who has a total of 1 year or less left on their sentence to serve the remaining sentence in the county jail. Currently, all felons sentenced to state prison are housed and complete their sentences at a state prison.

Possible Changes

Retain existing practice as to where a state prisoner serves his/her sentence – no change.

Analysis

The proposal by the Florida Department of Corrections creates an unfunded mandate for local governments. This proposal transfers the responsibility for housing state prisoners to local jails, with its attendant costs. The cost shift is not limited to county jails having to house increased numbers of offenders, which will lead to crowding. The change radically alters the face of local corrections, increasing costs for: offender classification; sentence computation; security; food service; inmate programs; medical, dental and mental health; staffing; infrastructure (wear and tear) and facility and equipment maintenance; inmate transportation. Additionally, it can impact local jail's compliance with state and national standards, and accreditation agreements.

Public Protection
SUPPORT State Offenders in County Jail Provisions

The County of Volusia *supports* legislation that requires the State to house Violators of Probation (VOP) who are alleged to have committed a qualifying offense as defined in s. 948.06, F.S., while awaiting disposition and transfer; Limits the number of days a felony VOP can be held in a county jail, prior to disposition, to 30 days; Requires the Florida Department of Corrections (DOC) to pay for “state prisoners” housed in county jails based on the local jail’s past annual estimated cost per day.

Current Situation

The County pays indirectly for state prisoners and also assumes all costs for state probationers, parolees, and prisoners when they reoffend (violate probation or parole), when they are awaiting transfer to state prison, or when they temporarily return to the community for another court proceeding, while still in the custody of Florida State Prison.

Possible Changes

Require state prisons located in same community to house Violators of Probation/Parole (VOP) who are alleged to have committed a qualifying offense as defined in s. 948.06, F.S., while awaiting disposition and transfer or those state prisoners returned for local court proceedings.

Limit the number of days a felony VOP can be held in a county jail prior to disposition to 30 days.

Change the reimbursement costs from Florida Department of Corrections estimated costs per day to the actual local county costs per day.

Analysis

Currently, local county jails assume the cost of housing violators of probation/parole, even though the individuals are supervised by the Florida Department of Corrections. Similarly, state prisoners who return to testify in a child custody case, for example, or in another criminal case, are housed at local county jails. Many communities have a state prison sited in the county or close by. Yet, local government assumes the burden of inmate housing, with its associated cost, for individuals who are actually under jurisdiction of the state. When a jail and state prison are in close proximity and the defendant has access to the court of jurisdiction, the state should retain its client (probationer/parolee/prisoner) and not be permitted to shift the obligation to the county.

Individuals held on violations of felony probation are under the jurisdiction of the state. Counties should not be expected to hold such individuals indefinitely or at the mercy of court schedules. Persons on VOPs should either have their cases disposed of expeditiously, within 30 days, or transfer to the nearest state prison pending the revocation court proceedings in their case.

Support legislation that would provide for any reimbursement since we assume all inmate costs. Our current rate is \$70.17 where DOC costs are \$35.00 a day.

Public Works
SUPPORT Dedicated Rail Funding

The County of Volusia *supports* legislation that would provide dedicated funding from the State for SunRail operation and maintenance costs.

Current Situation

There currently is no dedicated funding at the state level for long term SunRail operation and maintenance (O&M) costs. The Florida Department of Transportation (FDOT) is responsible for O&M costs for the first seven years after the SunRail becomes operational. After seven years, O&M costs become the responsibility of the partnering local governments. If ridership revenue does not generate adequate funding for O&M costs, the local governments will be responsible to make up the shortfall from an undetermined revenue source.

Possible Changes

The State should identify revenue(s) for long term SunRail O&M costs.

Analysis

Failure to fund SunRail O&M costs adequately will result in a steady decline in the quality of SunRail infrastructure, reduced ridership and a loss of the transportation investment. Supporting legislation would ensure long term funding of SunRail, stabilize operations and continue to provide an alternative transportation means to relieve traffic congestion on I-4 and connecting roadways that are primarily state highways.

Public Works

SUPPORT Additional Transportation Funding Options

The County of Volusia *supports* legislative action which allows local governments to implement sustainable transportation funding for the long term by endorsing the top six revenue options as defined in the Florida MPO Advisory Council Transportation Revenue Study.

Current Situation

Many of the current transportation revenue sources have not been adjusted since the 1940's and only the state's motor fuel tax is indexed based on the Consumer Price Index (CPI). The purchasing power of a majority of the current transportation revenue sources has not kept up with inflation. Mandated increased vehicle fuel mileage goals, alternate fuels and electric cars will ultimately impact conventional revenue sources. A new means to fund transportation will be necessary.

Possible Changes

The Florida Metropolitan Planning Organization (MPO) Advisory Council (AC) has spent the last two years on Transportation Revenue Study. The Florida MPOAC Revenue Study found that \$12.1 billion in additional investment in transportation would be needed to match the level of investment the state made in FY 1999-2000. The Florida MPOAC Governing Board is pursuing six revenue funding options for legislative action in 2013. Those options are:

- * Implement a 2-cent fuel tax increase per year for five years (total increase of 10 cents), indexed for inflation (STATE)
- * Index all fuel taxes not currently indexed (LOCAL)
- * Allow up to a 1-cent municipal optional sales tax (cities > 100,000 population) (LOCAL)
- * Conduct a vehicle miles traveled (VMT) study
- * Increase the local diesel tax by 5-cents (LOCAL)
- * Return motor vehicle license and registration and titling fee increases to the State Transportation Trust Fund (STTF) (STATE)

Impact Analysis

Current Volusia County transportation funding is at a level that does not allow adequate maintenance of our infrastructure. Funding for future roads and capacity improvement is minimal. Failure to fund transportation maintenance and new construction for capacity will result in a steady decline in the quality of our infrastructure and a loss of our investment. Supporting this legislation would allow local elected officials to choose options that are currently not available to them to increase transportation funding without using additional MSD/General Fund dollars.

Public Works
OPPOSE Legislation that Restricts Who Constructs Public Construction Projects

The County of Volusia *opposes* legislative actions which prevent local governments from using in-house crews to perform construction projects over \$300,000 and electrical projects over \$75,000.

Current Situation

Florida Statute 255.20 requires local governments to bid out construction projects over \$300,000 and electrical projects over \$75,000 unless the local government follows the specific conditions to exempt the competitive bid process and perform the work with in-house work force. The only exceptions are emergency type repairs.

Proposed Changes

The changes being proposed, in SB 602 would eliminate the specific conditions under which a local government is exempt from the requirement to competitively award contracts for all public construction projects over \$300,000 and electrical over \$75,000 to be bid.

Impact Analysis

Although many of our construction projects over \$300,000 are competitively bid, we do perform some of these projects due to circumstances like in-house expertise, grant funding requirements, complexity and public sensitivity. Many times the competitive bid process slows down projects and could raise costs due to bidding requirements, e.g. Davis-Bacon compliance. Local governments are in the best position to consider the most cost efficient manner to spend limited funds for completion of local construction projects.