

COUNTY OF VOLUSIA, FLORIDA



2014 STATE LEGISLATIVE AGENDA

County of Volusia
2014 State Legislative Agenda
January 23, 2014

Unfunded Mandates

Oppose legislation that addresses state budget shortfalls through cost shifts to local governments, thereby imposing unfunded mandates.

Juvenile Justice Overpayment Reimbursement

Support the State's fulfilling its obligation to reimburse Volusia County for juvenile justice overpayments over the last five years, approximately \$13.5 million.

Commercial Space Launch Facilities

Support legislation that encourages the efforts of Space Florida to develop commercial space launch facilities in appropriate locations north of the current Kennedy Space Center complex after conducting environmental surveys to ensure that the environmental conditions of the area are duly preserved.

Dedicated Rail Funding

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

Trails Funding

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

Fertilizer Control Changes

Oppose legislation that would remove local control over fertilizer regulation.

Additional Transportation Funding Options

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 Metropolitan Planning Organization Advisory Council Transportation Revenue Study.

E911 Revenue Restrictions

Modify Florida Statutes to allow more flexibility in the use of E911 revenues, especially toward E911 dispatcher salaries/benefits, rather than call-takers only.

Medical Examiner Fees

Oppose the removal of local authority to charge fees to offset costs associated with required Medical Examiner services.

Florida Association of Counties

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

Oppose Unfunded Mandates

Finance and Administration

The County of Volusia ***opposes*** legislation that addresses state budget shortfalls through cost shifts to local governments, thereby imposing unfunded mandates.

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.

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.

Possible Changes

Legislation will likely be introduced again to shift costs to local governments.

Analysis

Unless a designated corresponding funding source is shifted down, any additional cost would have a negative impact to the county's budget. A shift of costs would require service level changes or a corresponding increase in the tax rate.

Support Juvenile Justice Overpayment Reimbursement **Public Protection**

The County of Volusia ***supports*** the State's fulfilling its obligation to reimburse Volusia County for overpayments to the Department of Juvenile Justice (DJJ) over the last five years, approximately \$13.5 million.

Current Situation

Non-fiscally constrained counties share costs with DJJ for secure detention. The State covers all juvenile justice costs in fiscally constrained counties. Legislation mandating this cost share originally passed in 2004, at which point the 37 non-fiscally constrained counties became the primary revenue source for the state's juvenile detention facilities. Counties paid for secure detention days prior to a juvenile's final court disposition and the State paid for days after the case was resolved.

Beginning in FY 2008-09, DJJ began billing counties for all secure detention days except for those incurred while a juvenile awaited "commitment" to a residential facility. This abrupt conversion shifted thousands of additional days to counties and was done despite there being no corresponding change in statute.

Ultimately, this led several counties to file administrative actions against DJJ in which they contested the validity of DJJ's rules. The department of administrative hearings and the appellate court sided with the counties, and invalidated those rules.

In 2012, the County of Volusia joined other counties to challenge DJJ's annual reconciliations for FY 2008-09, FY 2009-10, FY 2010-11, and FY 2011-12. DJJ now admits that the original calculations were wrong and has recalculated what each county should have paid. DJJ also now admits that its FY 2012-13 charges to the county were, likewise, wrong. DJJ's own calculations reflect that DJJ overcharged Volusia County for the five years in question in an aggregate amount of approximately \$13.5 million. Despite that admission, however, DJJ refuses to either refund the overpayment or grant credits to the County for future services. DJJ contends that a legislative appropriation will be required to reimburse the counties for the overpayments, because DJJ lacks the funds to pay.

Action

The Revenue Estimating Conference has projected more than \$700 million in surplus for FY 2014. The Legislature should direct a portion of this surplus to reimburse Volusia County for the amounts overpaid for the DJJ program before any tax cuts are considered.

Analysis

County Council has made very difficult budgetary decisions over the last four years due to the reduction in revenues. Had these overcharges not been made, some of the program reductions may have been avoided. The reimbursement of these overcharges would be instrumental in council's effort to maintain county services.

Support Commercial Space Launch Facilities

Leadership

The County of Volusia ***supports*** legislation that encourages the efforts of Space Florida to develop commercial space launch facilities in appropriate locations north of the current Kennedy Space Center complex after conducting environmental surveys to ensure that the environmental conditions of the area are duly preserved.

Current Situation

Space Florida is an independent special district of the State of Florida, created by Chapter 331, Part II, Florida Statutes, for the purposes of fostering the growth and development of a sustainable and world-leading space industry in Florida. It fosters bold economic development activities to expand and diversify domestic and international opportunities that support talent development, enhance infrastructure, and support governments and organizations in improving the state's competitive business climate. Space Florida is responsible for advocating the needs of Florida's space industry to the Florida Legislature.

A generation ago the United States launched 100% of the world's commercial satellites from Florida but that market and its associated jobs have since gone overseas. There are 34 private spaceports planned or underway worldwide, including 17 in other states in the U.S.

The relationship between this nation's space program and the enjoyment and preservation of our natural environment is a history of successful partnership for over 50 years.

The citizens and communities of the Space Coast have paid a high price for being solely reliant upon the government launch programs, and there now exists the opportunity to diversify into a broader, more robust, and unlimited commercial marketplace.

Possible Changes

The State of Florida has requested the transfer of title back from the Federal Government to the State certain property to establish a comprehensive commercial spaceport capability, which launch site will be in close proximity to, yet jurisdictionally independent of, the government launch infrastructure at Kennedy Space Center and Cape Canaveral Air Force Station.

Analysis

Funding for spaceport infrastructure, financing and business development by the Florida Legislature is crucial to Space Florida's success. Commercial space launch facilities north of the Kennedy Space Center can leverage private investment to develop infrastructure needed to increase the number of users in east central Florida. The result will be not only improved U.S. competitiveness in the space industry and enhanced reputation for Florida as a center of commercial innovation, it will add jobs to the area directly and indirectly through the inevitable increase in supporting businesses.

Support Dedicated Rail Funding

Public Works

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.

Proposed Change

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. A dedicated state funding source 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.

Support Trails Funding

Community Services

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

Current situation

Development of the Coast to Coast Connector is a significant effort to provide a safe and continuous multi-use trail from the Gulf of Mexico to the Atlantic Ocean through central Florida. The estimated cost to close the remaining gaps (75 miles) is approximately \$42 million. As part of last year's budget Florida lawmakers approved \$50 million to complete the Coast to Coast Connector. The Governor vetoed the funding.

The Coast to Coast Connector encompasses many significant trail systems throughout the State. The Connector is a major priority within the Florida Greenways and Trails Systems Plan which is being implemented by the Office of Greenways and Trails, and is the keystone project within the Florida Greenways and Trails Foundation's "Close the Gaps" Campaign.

Anticipated changes

It is anticipated that lawmakers will propose funding for the Coast to Coast Connector again this year. Supporters of trails throughout the State are preparing and lobbying to educate the Governor on the importance of this funding. They expect a favorable outcome.

Analysis

Recreational trails 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. Funding for the important Coast to Coast Connector will allow for the completion of this important central Florida asset.

Oppose Fertilizer Control Changes

Growth Management and Environmental

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.

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.

Possible Changes

Legislation may be introduced to limit the ability of local elected officials to make decisions that fit local conditions and eliminate the low impact fertilizer alternative for nutrient source control.

Analysis

Nutrient source control from waste water, septic tanks, and reuse systems would be very expensive and would 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 is 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.

Support Additional Transportation Funding Options

Public Works

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 Metropolitan Planning Organization (MPO) Advisory Council (AC) Transportation Revenue Study.

Current Situation

Many of the current transportation revenue sources have not been adjusted since the 1940s 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.

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.

A new means to fund transportation will be necessary.

Possible Changes

The Florida MPOAC recently spent two years on a Transportation Revenue Study. The 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. 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 in cities with a population greater than 100,000 (LOCAL);
- Conduct a vehicle miles traveled study (STATE);
- Increase the local diesel tax by 5-cents (LOCAL); and
- Return motor vehicle license and registration and titling fee increases to the State Transportation Trust Fund (STATE)

Analysis

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.

Modify E911 Revenue Restrictions

Public Protection

The County of Volusia would like to ***modify*** Florida Statutes to allow more flexibility in the use of E911 revenues, especially toward E911 dispatcher salaries/benefits, rather than call-takers only.

Current Situation

The Wireless Emergency Communications Act established a statewide E911 system for wireless telephone users. The act imposed a monthly fee, capped at \$0.50, on voice communications services to fund specified costs incurred by local governments to install and operate 911 systems and reimburses providers for costs incurred to provide 911 services.

Voice communications service providers collect the E911 fee from subscribers of voice communications services. One percent is retained by the E911 Board to cover the costs of managing the fund. Two percent is distributed to rural counties for their E911 systems and to make grants to rural counties to upgrade and replace such systems.

In the nonwireless category, counties receive the remaining 97% of the proceeds, based on the total number of service identifiers in each county. In the wireless category, counties receive 67% of the proceeds, and wireless service providers receive 30% to cover actual costs incurred to provide E911 service.

Counties may use their funds to pay for expenditures related to:

- Acquisition, implementation, and maintenance of Public Safety Answering Point (PSAP) equipment and E911 service features;
- Installation and maintenance of other E911 equipment;
- Salary and associated expenses for E911 call-takers for that portion of their time spent taking and transferring E911 calls only;
- Salary and associated expenses for three full time equivalent positions – coordinator, geographical data mapper, and staff assistant;
- Staff training on E911 procedures/equipment;
- Database development and maintenance; and
- Next-generation database services, equipment, and routing systems.

A county may carry forward up to 30 % of the total funds it receives during a calendar year for expenditures for capital outlay, capital improvements, or equipment replacement provided that the expenditures are otherwise authorized uses of the funds derived from E911 fees.

Possible Changes

Volusia County would like to modify the law to allow more flexibility in the use of these revenues, especially toward E911 dispatcher salaries/benefits, rather than call-takers only.

Analysis

Flexibility in the use of these revenues would ease the financial burden of the program.

OPPOSE Removal of Local Authority to Set Medical Examiner Fees

Public Protection

The County of Volusia ***opposes*** the removal of local authority to charge fees to offset costs associated with required Medical Examiner services.

Current Situation

The Medical Examiner Division provides examination, investigation and autopsy services under certain circumstances as required by Florida Statute (FS) 406. These required services include a death certificate review prior to every cremation. Reviews often include consultation with agencies, hospitals and physicians. County council established a cremation fee to offset these costs, in accordance with FS 406. It is currently set at \$30, unchanged since 1996.

Proposed Changes

House Bill (HB) 301 has been filed to remove local authority to charge a user fee associated with Medical Examiner services required by FS 406.

This change may constitute an unfunded mandate, as defined in Article VII, Section 18 of the Florida Constitution - a state directive that compels local governments to provide a service without providing a funding source.

Analysis

Volusia County would lose approximately \$125,000 in annual revenue should council's authority to impose a cremation fee be rescinded.