

MANDATES ON COUNTIES IN FLORIDA

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I. INTRODUCTION

State and federal mandates are proclamations of law—pursuant to a constitutional or statutory provision, or an administrative regulation—which require a local government to carry out a specified activity, service, or expend money in a dictated way.¹ In a fiscal sense, a mandate is the “difference between what a local government spends on a legally mandated activity and what the government would spend on the same activity [or lack thereof] in the absence of that mandate.”² In the last quarter of the 20th century, there was an influx of federal mandates placed on state governments in order to maintain social policy control while cutting federal spending. These fiscal responsibilities required by federal law led to states enacting their own cost-shifting legislation onto local governments. Florida is no exception to this trickle-down trend.³

In the 1980s alone, Florida’s legislature enacted approximately 300 mandates requiring local governments’ compliance.⁴ Counties and municipalities were forced to spend millions of dollars to comply with these mandates, often addressing problems from which they did not themselves suffer. Moreover, many of these mandates were completely unfunded by the state.⁵ In response to the surge of mandates, the Florida Legislature proposed an amendment to the state’s constitution which would restrict mandates in 1990.⁶ Although this amendment (known as the “Unfunded Mandates” provision) was considered a win amongst many local government officials, there were many exemptions and exclusions that allow for the continuance of cost-shifting legislation by the state. Even after the Unfunded Mandates provision, counties remain particularly susceptible to mandate legislation, as compared to cities, due to their closer connection to the state.

Florida’s counties rely on ad valorem taxes, service charges, state-shared revenue, utility service taxes, and other lesser revenue sources in order to comply with the numerous mandates handed down to them by the state (and somewhat by the federal government) and fund their own needs. It can be challenging to accurately measure the costs of these mandates for many reasons. Data on the costs of mandates may not always be reliable. Many officials have different definitions of what qualifies as a mandate, and there are countless indirect costs associated with mandates.⁷ This report aims to flesh out the myriad of mandates which require Florida’s counties to fund the different responsibilities rendered to them by the state. Only express, specific constitutional or statutory mandates on counties are included in this report.

¹ Joseph F. Zimmerman, *The State Mandate Problem*, 19 STATE & LOCAL GOV. REV. 2, at 78 (1987).

² *Id.*

³ Nancy Perkins Spyke, *Florida’s Constitutional Mandate Restrictions*, 18 NOVA L. REV. 1403, 1404 (1994).

⁴ *Id.*

⁵ J. Edwin Benton, *Fiscal Aid and Mandates the County Experience* (providing that sixty-five percent of state mandates were paid for in whole or partially by counties, while only twenty-seven percent of federal mandates were such).

⁶ Fla. Const., art. VII, § 18.

⁷ Benton, *supra* note 5.

II. HISTORICAL BACKGROUND OF COUNTY HOME RULE AND THE UNFUNDED MANDATES PROVISION

The 1885 Florida Constitution included a rather glossed over approach to governing counties than the State Constitution of today. Similar to the current constitution, the 1885 version provided the guidelines for local government in Article VIII. However, the provisions mainly focused on the establishment of counties and appointment of commissioners and other county officers, thus speaking relatively little to the authority of counties and other forms of local government. The major revisions of Florida's Constitution took place in 1968, which added a majority of the language seen today.

A. Home Rule Powers

Prior to this 1968 constitutional revision, Florida's counties could only exercise the powers granted by the legislature. However, due to the public's expectations for local governments to resolve the matters particular to their area, a national movement developed favoring the broadening of powers for county and municipal governments.⁸ The reallocation of power into counties that occurred with the 1968 Constitution gave counties the ability to enforce rules on matters of local concern and gave local decision-makers the tools to meet the demands of their people.⁹ While the State furnished counties with many of the powers it once held exclusively, the counties did not develop complete independence.

Chapter 125 of the Florida Statutes prescribes the general powers of counties. "These powers illustrate the many functions in which counties are involved, including fire protection, health and welfare services, zoning and business regulations, air pollution control, parks and recreation, libraries, museums, waste and sewage regulation and control, and public transportation."¹⁰ A critical focal point to this report involves the concept that Chapter 125 gives the power for counties to act in these many different forms—it does not, however, demand that counties provide such services.

B. The Unfunded Mandates Provision

The 1990 Unfunded Mandates provision was one of the most popular amendments to the Florida Constitution ever adopted, with every county in Florida voting in favor of its adoption. In total, over two million electors voted for the

⁸ FAC, FLORIDA COUNTY GOVERNMENT GUIDE 25 (2012).

⁹ *Id.*

¹⁰ *Id.* at 26.

amendment sponsored by the Florida Legislature.¹¹ The amendment contains five subsections pertaining to mandate restrictions: (a) provides that there must be certain conditions met in order to for counties and municipalities to fund the mandated requirement; (b) prohibits altering the local government’s revenue power without supermajority vote; (c) prohibits minimizing the state tax shared with local governments without supermajority vote; (d) provides that laws funding pension benefits, criminal laws, election laws, the general appropriations act, special appropriations act, and laws authorizing but not expanding statutory authority are exempt; and (e) provides a catch-all that if a law has an “insignificant fiscal impact” it is exempt from the mandate restrictions.

III. THE OBLIGATIONS AND UNCERTAINTY BEHIND MANDATES DELEGATED TO COUNTY GOVERNMENTS

The Florida Constitution is the organic source of what is required of counties; however the Florida Statutes, Attorney General Opinions, and case law also provide crucial references in identifying county mandated responsibilities. Chapter 125 of the Florida Statutes provides the powers and duties that county governments have the authority to provide. This comprehensive list does not mean that counties must provide such services, rather that they have the ability to do so.

A. COUNTY OPERATIONS

i. Public Records and Open Meetings

The Florida Constitution entitles every person to access public records and meetings in connection with the official business of any “public body, officer, or employee of the state, or persons acting on their behalf.”¹²

The “Government in the Sunshine Law” obligates public boards or commissions (e.g. Board of County Commissioners) to open their meetings to the public, to provide reasonable notice of such meetings, and to provide minutes of such meetings.¹³ The law does not define what constitutes “reasonable notice”. The Attorney General and Florida courts have found that the question of reasonable notice is fact-specific.¹⁴ An additional feature to this “open meetings” mandate is the

¹¹ Laws Affecting Local Governmental Expenditures or Ability to Raise Revenue or Receive State Tax Revenue, Florida Dep’t of State Div. of Elections, *available at* <http://election.dos.state.fl.us/initiatives/initdetail.asp?account=10&seqnum=57> (recognizing 2,031,557 as voting for the constitutional amendment, as opposed to only 1,140,745 voting against it).

¹² Fla. Const. art., I, § 24.

¹³ Fla. Stat. § 286.011 (2020) (“All meetings of any board or commission of any state agency or authority . . . are declared to be public meetings open to the public at all times.”).

¹⁴ *Transparency for Fla. v. City of Port St. Lucie*, 240 So. 3d 780, 786 (Fla. 4th DCA 2018) (“Where there is no specific legislative directive as to what constitutes reasonable notice as a matter of law, we agree with the Attorney General that it is a fact specific inquiry.”); Op. Att’y Gen. Fla. 2000-08 (“While the term “reasonable notice” has not been statutorily defined, this office has recognized that the type of notice that must be given is variable and

requirement for members of the public to be given the opportunity to be heard before a board or commission.¹⁵

Public records encompass a wide-ranging amount of materials,¹⁶ but as long as the record is “made or received by an agency in connection with official business, and is used to perpetuate, communicate or formalize knowledge of some type” the public has the right to inspect or copy it.¹⁷

ii. Ordinance Adoption Requirements

Counties have the power to enact ordinances to the extent authorized by the Florida Constitution.¹⁸ However, these ordinance-making powers are restricted by mandated procedures which require: notice,¹⁹ official copy kept available to the public, a place for the public to view the copy of the ordinance, and opportunity for interested parties to be heard with respect to the proposed enactment or amendment of the ordinance.²⁰ Ordinances affecting land use have several other procedures in which the county clerk must notify each real property owner of the proposed ordinance at least thirty days before the hearing, the board of county commissioners must hold a public hearing, and if the land is of a considerable size, the board must advertise the hearings within the newspaper.²¹ Section 125.67 provides additional requirements for ordinances with respect to limitations on subject matter and amendments and requires that the enacting clause of every ordinance shall read: “Be It Ordained by the Board of County Commissioners of _____ County.”

iii. Other Notice Requirements

will depend on the facts of the situation and the board involved. In each case, however, an agency must give notice at such time and in such manner as to enable interested members of the public to attend the meeting.”)

¹⁵ Fla. Stat. § 286.0114 (2020) (“Members of the public shall be given a reasonable opportunity to be heard on a proposition before a board or commission.”).

¹⁶ Fla. Stat. § 119.011(12) (2020) (“Public records’ means all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.”).

¹⁷ *Shevin v. Byron, Harless, Schaffer, Reid and Associates, Inc.*, 379 So 2d 633 (Fla. 1980); Fla. Stat. § 119.01(1) (2020) (“It is the policy of this state that all state, county, and municipal records are open for personal inspection and copying by any person.”).

¹⁸ Fla. Const. art. VIII, § 1.

¹⁹ Notice must be published in a newspaper serving said county. *See infra* Part.III.A.iii (discussing the several requirements when posting a notice within a newspaper is necessary).

²⁰ Fla. Stat. § 125.66(2)(a) (2020) (“The regular enactment procedure shall be as follows: The board of county commissioners at any regular or special meeting may enact or amend any ordinance, . . . A copy of such notice shall be kept available for public inspection during the regular business hours of the office of the clerk of the board of county commissioners. The notice of proposed enactment shall state the date, time, and place of the meeting; the title or titles of proposed ordinances; and the place or places within the county where such proposed ordinances may be inspected by the public. The notice shall also advise that interested parties may appear at the meeting and be heard with respect to the proposed ordinance.”).

²¹ Fla. Stat. §125.66(4) (2020) (describing the processes for which land ordinance affecting parcels of land involving more and less than ten contiguous acres).

Besides enacting or amending county ordinances, there are many other actions that require a county to comply with certain notice and advertising procedures. Chapter 50 of the Florida Statutes contains the extensive practice and procedure guidelines in which a county must use when notifying the public of certain solicitations for products and services. In general, any statutorily required legal notice, advertisement, or publication must be published in a newspaper that has been in existence for at least one year,²² is printed and published at least weekly, contains at least one-quarter of its words in English, and is for sale to the general public.²³

iv. Ethics

Besides the notice and public meeting requirements, county commissioners and constitutional officers are also mandated to complete ethics training annually that addresses the Code of Ethics for Public Officers and Employees and Florida's public records and public meetings laws.²⁴

v. Budget System

Counties are required to “prepare, approve, adopt, and execute” a budget every fiscal year.²⁵ The budget must be approved by the board of county commissioners and must be balanced so that the receipts match the appropriations and reserves.²⁶ After the constitutional officers have provided proposed budgets to the board of county commissioners and the board forms a tentative budget, the budget is then subject to

²² Fla. Stat. § 50.031 (2020) (requiring publication to be “in a newspaper which at the time of such publication shall have been in existence for 1 year and shall have been entered as periodicals matter at a post office in the county where published”).

²³ Fla. Stat. § 50.011 (2020) (“Whenever by statute an official or legal advertisement or a publication, or notice in a newspaper has been or is directed or permitted in the nature of or in lieu of process, or for constructive service, or in initiating, assuming, reviewing, exercising or enforcing jurisdiction or power, or for any purpose, including all legal notices and advertisements of sheriffs and tax collectors, the contemporaneous and continuous intent and meaning of such legislation all and singular, existing or repealed, is and has been and is hereby declared to be and to have been, and the rule of interpretation is and has been, a publication in a newspaper printed and published periodically once a week or oftener, containing at least 25 percent of its words in the English language, entered or qualified to be admitted and entered as periodicals matter at a post office in the county where published, for sale to the public generally, available to the public generally for the publication of official or other notices and customarily containing information of a public character or of interest or of value to the residents or owners of property in the county where published, or of interest or of value to the general public.”).

²⁴ Fla. Stat. § 112.3142(2)(a) (2020) (“All constitutional officers must complete 4 hours of ethics training annually that addresses, at a minimum, s. 8, Art. II of the State Constitution, the Code of Ethics for Public Officers and Employees, and the public records and public meetings laws of this state. This requirement may be satisfied by completion of a continuing legal education class or other continuing professional education class, seminar, or presentation if the required subjects are covered.”); Fla. Stat. § 112.3142(1) (2020) (defining “constitutional officer” to include: “the Governor, the Lieutenant Governor, the Attorney General, the Chief Financial Officer, the Commissioner of Agriculture, state attorneys, public defenders, sheriffs, tax collectors, property appraisers, supervisors of elections, clerks of the circuit court, county commissioners, district school board members, and superintendents of schools”).

²⁵ Fla. Stat. § 129.01(1) (2020).

²⁶ Fla. Stat. § 129.01(2) (2020) (“The budget must be balanced, so that the total of the estimated receipts available from taxation and other sources, including balances brought forward from prior fiscal years, equals the total of appropriations for expenditures and reserves.”).

notice and hearing requirements.²⁷ The board of county commissioners is required to prepare a summarized statement of the adopted tentative budgets (with different requirements therein) and advertise the summary through a newspaper in order to allow people to participate in public hearings when adopting final budgets.²⁸ Amendments to the final adopted budgets are also mandated to comply with their own notice and public hearing requirements.²⁹ Counties must maintain budget information on its website.³⁰

vi. Contract Procedures and Bidding Requirements

There is no general mandate which requires Florida’s counties to competitively bid or award the lowest bidder, however, the “strong public policy of the state requires” that “expenditures of public funds must be made on competitive bids whenever possible.”³¹ Moreover, there are several statutory provisions that require counties to participate in competitive bidding. When a contract or purchase is subject to competitive bidding, counties must publish a notice soliciting submission of bids and then the county must award the contract to the lowest or “best” bidder.³² For example, the Consultants’ Competitive Negotiation Act (CCNA) requires counties to fulfill a three-step process—including public announcement, competitive selection, and negotiation between multiple parties—in order for the county to contract professional services of an architect, engineer, landscape architect, surveyor, or design-builder.³³

Further, beyond each county’s responsibilities towards the bidders, the “Public Bid Disclosure Act” requires counties and other local governmental entities to disclose all permits or fees (including license, permit, impact, and inspection fees) in the bidding documents.³⁴

²⁷ Fla. Stat. § 129.03 (2020) (“The board of county commissioners shall receive and examine the tentative budget for each fund and, subject to the notice and hearing requirements . . .”).

²⁸ *Id.* (“Upon receipt of the tentative budgets and completion of any revisions, the board shall prepare a statement summarizing all of the adopted tentative budgets. The summary statement must show, for each budget and the total of all budgets, the proposed tax millages, balances, reserves, and the total of each major classification of receipts and expenditures, classified according to the uniform classification of accounts adopted by the appropriate state agency. The board shall cause this summary statement to be advertised one time in a newspaper of general circulation published in the county, or by posting at the courthouse door if there is no such newspaper . . .”).

²⁹ See Fla. Stat. § 129.06 (2020) (requiring the different notice and public meeting requirements pertaining to amendments of the county budget, including: advertisements in newspaper and posting to the county’s official website).

³⁰ Fla. Stat. § 218.32 (1) (g) (2020) (“Each local governmental entity’s website must provide a link to the department’s website to view the entity’s annual financial report submitted to the department...”).

³¹ 66-9 Fla. Op. Att’y Gen. (1966).

³² See *Marriott Corp. v. Metropolitan Dade Cnty.*, 383 So.2d 662 (1980) (holding that the county was obligated to follow competitive bidding standards requiring award to be made to lowest or best bidder and that the board of county commissioners may not simply approve a local bidder).

³³ See general Fla. Stat. §287.055 (2020).

³⁴ Fla. Stat. § 218.80 (2020) (“It is the intent of the Legislature that a local governmental entity shall disclose all of the local governmental entity’s permits or fees, including, but not limited to, all license fees, permit fees, impact fees, or inspection fees, payable by the contractor to the unit of government that issued the bidding documents or other request for proposal, unless such permits or fees are disclosed in the bidding documents or

Lastly, “[b]eginning January 1, 2021 every public employer,³⁵ contractor and subcontractor shall register with and use the E-Verify system to verify the work authorization status of all newly hired employees.”³⁶ The E-Verify system is an internet based system operated by the U.S. Department of Homeland Security.³⁷ Whether counties expend additional funds to comply with this requirement remains to be seen, to that end the results may constitute an unfunded mandate.

vii. Florida Retirement System

“Participation in the Florida Retirement System is compulsory for all officers and employees” throughout Florida, including county officers and employees.³⁸ Employers³⁹ must provide coverage for firefighters⁴⁰ diagnosed with certain cancers, which may include reimbursement for costs associated with treatment and a one-time cash payout of \$25,000.⁴¹ Employers participating in a retirement plan or system are solely responsible for the increased actuarial costs.⁴²

B. COUNTY BUILDINGS

i. Supervision and Control of County Property

other request for proposal for the project at the time the project was let for bid. It is further the intent of the Legislature to prohibit local governments from halting construction to collect any undisclosed permits or fees which were not disclosed or included in the bidding documents or other request for proposal for the project at the time the project was let for bid.”)

³⁵ Fla. Stat. § 448.095 (1) (2020) (Public employer means “an entity within state, regional, county, local or municipal government...that employs persons who perform labor or services for that employer in exchange for salary, wages, or other remuneration or that enters or attempts to enter into a contract with a contractor.”).

³⁶ Fla. Stat. § 448.095 (2) (a) (2020).

³⁷ Fla. Stat. § 448.095 (1) (e) (2020).

³⁸ Fla.Stat. § 121.051 (2020).

³⁹ Fla. Stat. § 112.191 (a) (2020) (Employer “means a state board, commission, department, division, bureau, or agency, or a county, municipality, or other political subdivision of the state.”).

⁴⁰ Fla. Stat. § 112.1816 (1) (c) (2020) (Firefighter “means an individual employed as a full-time firefighter within the fire department or public safety department of an employer whose primary responsibilities are the prevention and extinguishing of fires; the protection of life and property; and the enforcement of municipal, county, and state fire prevention codes and laws pertaining to the prevention and control of fires.”).

⁴¹ Fla. Stat. § 112.1816 (2) (2020) (“Upon a diagnosis of cancer, a firefighter is entitled to the following benefits, as an alternative to pursuing workers' compensation benefits under chapter 440, if the firefighter has been employed by his or her employer for at least 5 continuous years, has not used tobacco products for at least the preceding 5 years, and has not been employed in any other position in the preceding 5 years which is proven to create a higher risk for any cancer: (a) Cancer treatment covered within an employer-sponsored health plan or through a group health insurance trust fund. The employer must timely reimburse the firefighter for any out-of-pocket deductible, copayment, or coinsurance costs incurred due to the treatment of cancer.(b) A one-time cash payout of \$25,000, upon the firefighter's initial diagnosis of cancer.”).

⁴² Fla. Stat. § 112.1816 (5)(b) (2020) (“The employer or employers participating in a retirement plan or system are solely responsible for the payment of the contributions necessary to fund the increased actuarial costs associated with the implementation of the presumptions under paragraphs (3)(a) and (4)(a), respectively, that cancer has, or the circumstances that arise out of the treatment of cancer have, either rendered the firefighter totally and permanently disabled or resulted in the death of the firefighter in the line of duty.”).

Counties have the primary responsibility for the supervision and control of all county property not delegated to another “custodian.”⁴³ This responsibility is ultimately vested in the board of county commissioners, and the property purchased by the board or by the county offices must comply with the board’s instructions.⁴⁴ Moreover, counties are given the power to “provide and maintain county buildings”—which although this is just an authority bestowed, seems to suggest that the board of county commissioners is responsible for the maintenance of county-owned property that is not delegated away.⁴⁵

ii. County Courthouse

The county commissioners are explicitly required to “erect” a courthouse and suitable offices for all county officers that are necessary to be at the courthouse.⁴⁶ Counties are also required to fund many aspects of the state court system: including housing for “trial courts, public defenders’ offices, state attorney’s offices,” and clerks’ offices of the circuit and county courts.⁴⁷ However, the state is responsible to fund the necessary salaries, costs, and expenses for the state court system.⁴⁸

iii. County Jail

While there is an explicit statute for the construction of a county courthouse, there is no such statutory requirement for a county jail. Moreover, the Florida Statutes previously provided that a jail was required to be erected, but that provision was subsequently deleted by the Legislature.⁴⁹ However, “read as a whole,” the Florida Statutes require the county to be responsible to provide for its prisoners.⁵⁰ In addition, the county commissioners are required to designate a chief correctional officer.⁵¹ A majority of a county commission may charge the county sheriff with the duties of chief correctional officer, delegating to the sheriff responsibility for the daily operation and maintenance of county jails.⁵² Counties may also be given the custody

⁴³ Fla. Stat. § 274.03 (2020) (“A governmental unit shall be primarily responsible for the supervision and control of its property but may delegate to a custodian its use and immediate control and may require custody receipts.”).

⁴⁴ 60-18 Fla. Op. Att’y Gen. (1960).

⁴⁵ Fla. Stat. § 125.01 (2020).

⁴⁶ Fla. Stat. § 138.09 (2020) (“The county commissioners shall erect a courthouse as soon as possible and provide suitable offices for all the county officers who are required by law to keep their offices at the courthouse at the place so selected as the county seat.”).

⁴⁷ Fla. Const. art. V, § 14.

⁴⁸ *Id.*

⁴⁹ 91-25 Fla. Op. Att’y Gen. (1991).

⁵⁰ *Id.* (“Accordingly, I am of the opinion that the deletion of the word ‘jail’ in s. 138.09, F.S., does not remove the responsibility of the county to provide for county prisoners.”); Fla. Stat. § 950.01 (2020) (county in which offense is committed is to bear the cost of housing inmate if housed in another county).

⁵¹ Fla. Stat. § 951.06 (2020).

⁵² Fla. Stat. § 951.061 (2020); *Jones ex rel. Albert v. Lamberti* (S.D. Fla. 2008) (The County has some duties with respect to county jails; however, none of these duties relate to the daily operation of the jails or to the supervision of inmates. Furthermore, the County does not have any supervisory control over the Sheriff. The Florida Supreme Court has held that “the internal operation of the sheriff’s office ... is a function which belongs

of any prisoner via the authority of the United States⁵³ and can be accountable for the medical expenses of their arrestees.⁵⁴

iv. Criminal Laws and the Impact on Jail Capacity

The issuance of state laws, such as “Zero Tolerance,” in Florida has led to an increase in inmates for county jails, thus an increase in the costs associated with holding and processing such inmates. When counties are required to comply with State laws that can potentially create a rise in the amount of inmates within the county jail system, this is essentially a mandated compliance standard that can impose significant costs to counties across Florida. Criminal laws are specifically excluded from the requirements of Article VII, Section 18, of the Florida Constitution prohibiting unfunded state mandates.⁵⁵ While the increase in costs may be substantial, challenge is not possible under this section.

C. PUBLIC SAFETY AND COURTS

i. Emergency Medical Services

Counties are mandated to comply with the Florida Emergency Communications Number E911 State Plan Act, under which a system for contacting emergency services is required to be created and maintained throughout the state.⁵⁶ Boards of county commissioners are required to establish a fund to be used exclusively for receipt and expenditure of 911 fee revenues collected from telephone companies.⁵⁷ These funds are received from the state and are based on a percentage of revenues received from wireless, non-wireless, and prepaid wireless telephone

uniquely to the sheriff as the chief law enforcement officer of the county.” (citing *Weitzenfeld v. Dierks*, 312 So.2d 194, 196 (Fla.1975)); 079-49 Fla. Op. Att’y Gen. (1979) (“A sheriff is responsible under the statute for equipping the county jail and repairing, maintaining, and replacing the equipment necessary for the proper and efficient operation of the jail, and he should include as part of his annual budget the estimated amounts necessary for such operation, equipment, and maintenance during the next fiscal year. Repairs, construction, or capital improvements to the county building in which the jail is located, however, remain the responsibility of the board of county commissioners and are to be paid from general county funds.”).

⁵³ Fla. Stat. § 950.03 (2020) (“The keeper of the jail in each county within this state shall receive into his or her custody any prisoner who may be committed to the keeper’s charge under the authority of the United States and shall safely keep each prisoner”).

⁵⁴ Fla. Stat. § 901.35 (2020) (“Upon a showing that reimbursement from the sources listed in subsection (1) is not available, the costs of medical care, treatment, hospitalization, and transportation shall be paid . . . [f]rom the general fund of the county in which the person was arrested”).

⁵⁵ Art. VII, § 18(d), Fla. Const.

⁵⁶ Fla. Stat. §§ 365.171-.173 (2020).

⁵⁷ Fla. Stat. § 365.173(2)(d) (2020) (“Any county that receives funds . . . shall establish a fund to be used exclusively for the receipt and expenditure of the revenues collected . . . All fees placed in the fund and any interest accrued shall be used solely for costs [related to 911]. The money collected and interest earned in this fund shall be appropriated for these purposes by the county commissioners and incorporated into the annual county budget.”).

services.⁵⁸ This money must be appropriated for 911 purposes and incorporated into the annual county budget.⁵⁹

ii. Animal Control

There are statutory mandates regarding animals related to public health, stray livestock, dangerous dogs, domestic animal vaccination and euthanasia, animal control, and cruelty ordinances.

The “fence laws” require owners of livestock to prevent their animals from “running at large or straying upon public roads” or be subject to costs and liability.⁶⁰ The law imposes a duty on the sheriff or county animal control center to “take up, confine, hold, and impound” stray livestock.⁶¹ County commissions are required to establish and maintain pounds or suitable places for the keeping of impounded livestock and to provide truck transportation for the impounded animals.⁶²

While there is no mandate that counties operate an animal control shelter or establish an “animal control authority,” if counties elect to provide local animal control, state law establishes minimum criteria and responsibilities.⁶³

Chapter 767, Fla. Stat. (2014) entitled “Damage by Dogs;” establishes statutory liability for owners of dogs who damage livestock or domestic animals.⁶⁴ It sets forth “uniform requirements for the owners of dangerous dogs” and establishes procedures governing the investigation, certification, notice and hearing, confinement, and appellate remedies related to dangerous dogs.⁶⁵ These procedures govern county animal control authorities. There is a statutory definition of a “dangerous dog,” and the law requires that a dog that has been “declared dangerous attacks or bites a person or a domestic animal without provocation” shall be “destroyed in an expeditious and humane manner.”⁶⁶ In all cases, the law requires that a dog that “causes severe injury or death of any human” shall be euthanized.⁶⁷

A county operating an animal control authority must maintain and make certain data available for inspection on a monthly basis regarding the disposition of dogs and cats.⁶⁸ The law mandates procedures that will result in “sterilization of all

⁵⁸ Fla. Stat. § 365.173(2) (2020). Local governments are not permitted to levy additional fees on voice communications service providers or prepaid wireless service providers for the provision of E-911 services. Fla Stat. § 365.172(8)(k), (9)(n).

⁵⁹ Fla. Stat. § 365.173(2) (2020).

⁶⁰ Fla. Stat. § 588.15 (2020).

⁶¹ Fla. Stat. § 588.16 (2020).

⁶² Fla. Stat. § 588.21 (2020).

⁶³ In areas not served by a local animal control authority, the sheriff must carry out the duties of the animal control authority. § 767.11(5), Fla. Stat. (2020); Fla. Stat. § 828.27 (2020) (outlines the criteria, responsibilities, and definitions related to animal control should a county enact an ordinance regulating same); Fla. Stat. § 823.151 (2020) (provides requirements for policies and procedures regarding lost or stray dogs and cats during natural disasters).

⁶⁴ Chapter 767, Florida Statutes (2020).

⁶⁵ Fla. Stat. § 767.12 (2020).

⁶⁶ Fla. Stat. § 767.13(1) (2020).

⁶⁷ Fla. Stat. § 767.13(2), (3) (2020).

⁶⁸ Fla. Stat. § 823.15 (2020).

dogs and cats sold or released for adoption” from any county shelter.⁶⁹ The euthanasia of dogs and cats is also regulated.⁷⁰ Technicians who perform euthanasia must complete a 16-hour course approved by the Board of Veterinary Medicine.⁷¹ There are also minimum educational criteria for county animal control officers.⁷² They must report all animal bite or diagnosis of disease that “may indicate the presence of a threat to humans.⁷³ Animal control officers will be required to report any known or suspected child abuse, abandonment, or neglect.⁷⁴ State criteria governs how animal control officers should respond to “domestic animals which are suffering from an incurable or untreatable condition or are imminently near death from injury or disease” and there is a statutory process governing how animal control officers react to “animals found in distress.”⁷⁵

iii. Fire Protection Services

There is no explicit requirement for counties to fund an organized fire department.⁷⁶ Only if counties adopt fire safety responsibilities will they be mandated to adopt and enforce the Florida Fire Prevention Code and employ a fire safety inspector.⁷⁷ There is no constitutional or statutory provision that stipulates which counties have fire safety responsibilities or how a county adopts such a status. Further, any county that does not employ a fire safety inspector, the State Fire Marshal shall assume the duties of the county with respect to certain fire safety inspections.⁷⁸ Lastly, maintenance and fire protection of forests and wild lands within a county is funded by state and federal funds.⁷⁹

⁶⁹ *Id.*

⁷⁰ Fla. Stat. § 828.058 (2020).

⁷¹ *Id.*

⁷² See Fla. Stat. § 828.27 (2020). (Biennial continuing education requirements are also established).

⁷³ Fla. Stat. § 381.0031 (2020).

⁷⁴ During the 2021 Regular Session, the Florida Legislature passed SB96, which mandates animal control officers report known or suspected child abuse and take a one-hour training during normal work hours. The bill was enrolled on May 2, 2021 and unless the Governor vetoes the bill, it will be effective July 1, 2021.

⁷⁵ Fla. Stat. § 828.05 (2020), Fla. Stat. § 828.073 (2020).

⁷⁶ See Fla. Stat. § 633.112(b) (2020) (“If the fire or explosion occurs in a municipality, county, or special district that *does not have an organized fire department* or designated arson investigations unit within its law enforcement providers, the municipality, county, or special district may request the State Fire Marshal to conduct the initial investigation.”) (emphasis added). *But see* Fla. Stat. § 509.211(4) (2020), which provides that the local fire official shall be responsible for determining whether carbon monoxide hazards have been adequately mitigated without providing for the State Fire Marshal or some other state or local official to make such a determination in the absence of an organized fire department.

⁷⁷ Fla. Stat. § 633.208 (2020) (“[E]ach municipality, county, and special district *with firesafety responsibilities* shall enforce the Florida Fire Prevention Code as the minimum firesafety code required”) (emphasis added).

⁷⁸ Fla. Stat. § 633.104(7) (2020) (“[I]n any county, municipality, or special district that does not employ or appoint a firesafety inspector certified under s. 633.216, the State Fire Marshal shall assume the duties of the local county”); Fla. Stat. § 633.112(6)(b) (2020) (“County, municipality, or special district without an organized fire department or arson investigations unit may ask State Fire Marshal to conduct initial investigations of fire or explosion.”).

⁷⁹ Fla. Stat. § 125.27 (2020) (Total costs of “the establishment and maintenance of countywide fire protection of all forest and wild lands within said county” shall be “funded by state and federal funds.”).

For counties that choose to fund fire protection services, such services may be funded through municipal service taxing or benefit units. However, such assessments may not be levied on lands classified as agricultural unless the land contains a residential dwelling or a nonresidential farm building (with the exception of an agricultural pole barn) with a value in excess of \$10,000.⁸⁰ Additionally, firefighters diagnosed with certain cancers are entitled to coverage and benefits that includes reimbursement for costs associated with treatment and a one-time cash payout of \$25,000.⁸¹

iv. Emergency Management

During the World War II era, Florida enacted legislation to create the State Civil Defense Council in response to the possibility of emergencies resulting from enemy action or natural causes. Under the Florida Civil Defense Act of 1951, counties were required to create “civil defense councils” consisting county commissioners and other elective county officials. By the early 1980s, Florida completely revised its emergency operations to include county disaster preparedness responsibilities and a more inclusive “all hazards” approach to emergency management.⁸²

Today, in accordance with the “State Emergency Management Act,” counties are mandated to create and maintain an emergency management agency and develop a county emergency management plan consistent with the state’s plan—all pursuant the board of county commissioners’ direction.⁸³ This county agency is also required to coordinate with different entities in order to ensure there is suitable public shelter in case of hurricane or disaster.⁸⁴ Because Federal and State grants do not always cover the costs of emergency management, counties may be forced to use their ad valorem funds in order to comply with the program. It is explicitly stated in the Florida Statutes that counties are responsible, in coordination with their local medical and health departments, for developing and planning for special needs shelters.⁸⁵ Section 252.355, Florida Statutes, addresses the registration of persons with special needs who would need special assistance in an emergency. The statute provides for the State Division of Emergency Management to create a statewide database of such

⁸⁰ Fla. Stat. § 125.01(1) (r) (2020).

⁸¹ Fla. Stat. § 112.1816 (2) (2020).

⁸² FAC, FLORIDA COUNTY GOVERNMENT GUIDE 159 (2012). This new approach to a broader emergency management program “was especially productive for Florida, given our high susceptibility to all forms of natural disasters (e.g., hurricanes, floods, wildland fires, tornadoes, etc.)” *Id.*

⁸³ Fla. Stat. § 252.38 (2020) (“[E]ach county must establish and maintain such an emergency management agency and shall develop a county emergency management plan and program that is coordinated and consistent with the state comprehensive emergency management plan and program.”).

⁸⁴ Fla. Stat. § 252.385(4)(a) (2020) (“The local emergency management agency shall coordinate with these entities to ensure that designated [public shelter space] facilities are ready to activate prior to a specific hurricane or disaster.”).

⁸⁵ Fla. Stat. § 381.0303(2)(b) (2013) (“County health departments shall, in conjunction with the local emergency management agencies, have the lead responsibility for coordination of the recruitment of health care practitioners to staff local special needs shelters. County health departments shall assign their employees to work in special needs shelters when those employees are needed to protect the health and safety of persons with special needs. County governments shall assist the department with nonmedical staffing and the operation of special needs shelters.”).

persons and have local agencies upload patient names and medical data to this state database. However, uploading the medical data involves the transmission of health information protected by the federal Health Insurance Portability and Accountability Act (HIPAA) and is therefore likely a violation of this statute. It is noted that HIPAA has its own federal preemption of state law provision, 42 U.S.C. § 1320d-7 (2015), which, together with HIPAA's serious penalty provisions, 42 U.S.C. § 1320d-6 (2015), would seem to justify non-compliance with this particular provision of state law. A HIPAA implementing regulation, 45 C.F.R. § 164.512 (2015), provides for the use or disclosure of HIPAA protected information under specific circumstances where other law requires this use or disclosure. There are provisions in this regulation for public health and health oversight activities, but it is not clear whether these provisions cover emergency management. Additionally, "if a county maintains designated shelters, it must also designate a shelter that can accommodate persons with pets."⁸⁶

v. Juvenile Detention

Counties are statutorily mandated to contribute financial support to juvenile detention care, including a portion of detention care (respite beds), unless the county is deemed "fiscally constrained."⁸⁷ Furthermore, counties are required to fund juveniles' predisposition assessment centers and provide a broad array of intake services.⁸⁸ Counties may establish and be responsible for all operation costs associated with a juvenile detention facility, but are not required to create such facilities.⁸⁹

Chapter 985, Florida Statutes, states that the state and the counties have a "joint obligation . . . to contribute to the financial support of the detention care provided for juveniles." Non-fiscally constrained counties⁹⁰ are required to cost-share fifty percent of their shared detention costs.⁹¹ The remaining costs are borne by the state.

⁸⁶ Fla. Stat. § 252.3568 (2020).

⁸⁷ Fla. Stat. § 985.686 (2020) ("It is the policy of this state that the state and the counties have a joint obligation, as provided in this section, to contribute to the financial support of the detention care provided for juveniles. . . . Each county shall pay the costs of providing detention care, exclusive of the costs of any preadjudicatory nonmedical educational or therapeutic services and \$2.5 million provided for additional medical and mental health care at the detention centers, for juveniles for the period of time prior to final court disposition.").

⁸⁸ Fla. Stat. § 985.135(2) (2020) ("The department shall work cooperatively with substance abuse programs, mental health providers, law enforcement agencies, schools, health service providers, state attorneys, public defenders, and other agencies serving youth to establish juvenile assessment centers. Each current and newly established center shall be developed and modified through the local initiative of community agencies and local governments and shall provide a broad array of youth-related services appropriate to the needs of the community where the center is located.").

⁸⁹ Fla. Stat. § 985.688 (2020) ("A county or municipal government may establish and operate a juvenile detention facility in compliance with this section, if such facility is certified by the department.").

⁹⁰ A fiscally constrained county is one that (1) is in a rural area of opportunity or (2) raises no more than \$5 million in revenue for the value of a mill based on the certified school taxable value as of the previous July 1. Fla Stat. § 985.6865 (2020).

⁹¹ *Id.*

vi. State Courts System

In November, 1998, the Florida electorate approved Revision 7 to Article V of the Florida Constitution. Article V provides for the judicial branch of state government. Revision 7 was designed to allocate state's court system funding mechanism among the state, counties, and users of the courts. Revision 7 was fully implemented by the Legislature in 2004. The Florida Constitution now requires the state to fund the state courts system, state attorneys' offices, public defenders' offices and court-appointed counsel, except as provided in section 14(c) of Article V. County funding is limited to the cost of communications services, existing radio systems, existing multiagency criminal justice information systems, and the cost of construction or lease, maintenance, utilities, and security of facilities for the circuit and county courts, public defenders' offices, state attorneys' offices, guardian ad litem offices, and the offices of the clerks of the circuit and county courts performing court-related functions.⁹² Counties are also statutorily required to pay the reasonable and necessary salaries, costs, and expenses of the state courts system, including associated staff and expenses, to meet "local requirements". Local requirements are those expenses associated with specialized court programs, prosecution needs, defense needs, or resources "required of a local jurisdiction as a result of special factors or circumstances"⁹³ (1) when imposed pursuant to an express statutory directive; or (2) when circumstances in the local jurisdiction necessitate the implementation of programs impacting the resources of the state courts system. Local requirements specifically include legal aid programs and alternative sanctions coordinators.⁹⁴ The expenditures associated with the county funding of the state courts system are required to increase each year by 1.5 percent over the prior county fiscal year.⁹⁵

D. HEALTH AND HUMAN SERVICES

i. Medicaid

⁹² For purposes of section 29.008(1), Florida Statute, the term "circuit and county courts" includes the offices and staffing of the guardian ad litem programs, and the term "public defenders' offices" includes the offices of criminal conflict and civil regional counsel. The county designated as the headquarters for each appellate district is also required to fund those costs for the appellate division of the public defenders' office in that county.

⁹³ Fla. Stat. § 29.008(2)(2020) (describing in greater detail what the counties are responsible for in the state courts system pursuant to Article V, Section 14 of the Florida Constitution, with regard to local requirements).

⁹⁴ Fla. Stat. § 29.008(3) (2020).

⁹⁵ Fla. Stat. § 29.008(4) (2020).

Around half the states in the nation require counties to share in cost of the Medicaid program; Florida is one of these states. Today, counties are mandated to supply an annual contribution to the State in order to fund Florida’s Medicaid program. This contribution will cost the collective counties as much as \$350 million for the 2020-2021 fiscal year.⁹⁶ In 2012, Florida began collecting these Medicaid obligations automatically, directly from each county’s revenue through the Agency for Health Care Administration and Department of Revenue, leaving a county unable to review its “bill” before it was automatically paid.⁹⁷ A year later, legislation passed that changed the method of calculating county Medicaid contributions altogether. As of the 2015-16 fiscal year, these percentages are based on each county’s respective percentage share of residents who are enrolled in Medicaid.⁹⁸ This Medicaid enrollment formula has increased Medicaid costs for many counties, although other counties’ costs have remained stable or decreased.

ii. Indigent Care

Counties are mandated to reimburse participating hospitals which provide care for indigent patients for their respective citizens.⁹⁹

iii. County Health Units

County health department units are required to be established within counties to provide for environmental health, communicable disease control, and primary care services.¹⁰⁰ The status of county health departments as a unit of county government (as opposed to state government) has been addressed by the Attorney General, who has found that county health departments should be considered units of county government.¹⁰¹ However, in practice, the responsibility for county health departments is shared between the counties and the state. In establishing the system of county health department units, it was the intent of the Legislature that the public health needs of Florida citizens be served through contractual arrangements between the state and each county.¹⁰² The use and maintenance of facilities and equipment are to be addressed in the contracts between each county and the Department of Health. Counties may maintain ownership and use of these facilities to the extent

⁹⁶ Fla. Stat. § 409.915 (2020) (“Although the state is responsible for the full portion of the state share of the matching funds required for the Medicaid program, the state shall charge the counties an annual contribution in order to acquire a certain portion of these funds.”).

⁹⁷ HB 5301 (Fla. 2012).

⁹⁸ Fla. Stat. § 409.915 (2020).

⁹⁹ Fla. Stat. § 154.306 (2020) (“Ultimate financial responsibility for treatment received at a participating hospital or a regional referral hospital by a qualified indigent patient . . . is the obligation of the county of which the qualified indigent patient is a resident.”).

¹⁰⁰ See Fla. Stat. § 154.01 (2020) (providing that “[a] functional system of county health department services shall be established which shall include the following three levels of service and be funded as” environmental health services, communicable disease control services, and primary care services).

¹⁰¹ Fla. Op. Atty. Gen. 2000-19 (2000); Fla. Op. Atty. Gen. 1980-28 (1980).

¹⁰² Fla. Stat. § 154.001 (2020) (“The Legislature recognizes the unique partnership which necessarily exists between the state and its counties in meeting the public health needs of the state.”).

that such ownership and use does not interfere with the provision of public health services.¹⁰³ Personnel of county health departments are employees of the Department of Health, not of county governments.¹⁰⁴ County health departments may be funded through millage levied for the purpose of the provision of public health services and the maintenance of public health equipment.¹⁰⁵ These proceeds are placed into a County Health Department Trust Fund which contains all state and local funds to be expended by county health departments.¹⁰⁶

iv. Mental Health and Substance Abuse Services

“The Community Substance Abuse and Mental Health Services Act”¹⁰⁷ states that local governments are required to participate in the funding of Florida’s mental health and substance abuse system.¹⁰⁸ “Local governing bodies” are required to supply 25% of the community programs’ funding, with the state disbursing the other 75%.¹⁰⁹ Counties are not solely responsible to produce these “local matching funds,” as there are many other sources—e.g. city commissions and special districts—contributing to local match.¹¹⁰

“The Florida Mental Health Act” (also known as “The Baker Act”)¹¹¹ was enacted to “reduce the occurrence, severity, duration, and disabling aspects of mental, emotional, and behavioral disorders.”¹¹² Counties are not the primary source of funding for the treatment of Baker Act commitment, but there are different exceptions in which a county could be liable for such medical payments.¹¹³

¹⁰³ Fla. Stat. § 154.01(4) (2020).

¹⁰⁴ Fla. Stat. § 154.04 (2020).

¹⁰⁵ Fla. Stat. § 154.02 (2020). The amount of millage authorized for this purpose varies depending on a county’s population. Counties with a population exceeding 100,000 may levy an annual tax not to exceed 0.5 mill. A county with a population between 40,000 and 100,000 may levy 1 mill, and a county with a population not exceeding 40,000 may levy 2 mills.

¹⁰⁶ *Id.*

¹⁰⁷ Fla. Stat. § 394.65 (2020).

¹⁰⁸ 77-97 Fla. Op. Att’y Gen. (1977); Fla. Stat. § 394.76(9) (2020) (“State funds for community alcohol and mental health services shall be matched by local matching funds The governing bodies within a district or subdistrict shall be required to participate in the funding of alcohol and mental health services under the jurisdiction of such governing bodies. The amount of the participation shall be at least that amount which, when added to other available local matching funds, is necessary to match state funds.”).

¹⁰⁹ Fla. Stat. § 394.76(3) (2020) (“All other contracted community alcohol and mental health services and programs, except as identified in s. 394.457(3), shall require local participation on a 75-to-25 state-to-local ratio.”).

¹¹⁰ Fla. Stat. § 394.67(13) (2020) (““Local matching funds” means funds received from governing bodies of local government, including city commissions, county commissions, district school boards, special tax districts, private hospital funds, private gifts, both individual and corporate, and bequests and funds received from community drives or any other sources.”). However, the mental health agencies do look to the counties to provide those local matching funds, even if they do come from other sources. – regardless of the language of the statutes and applicable rules.

¹¹¹ Fla. Stat. § 394.451 (2020).

¹¹² Fla. Stat. § 394.453 (2020).

¹¹³ 93-49 Fla. Op. Att’y Gen. (1993) (“[A] county is not primarily responsible for the payment of hospital costs for the treatment of an involuntary Baker Act commitment. However, a county may be liable for such payments in the event a person in the county is arrested for a felony involving violence against another person, is taken to a receiving facility and specified sources for reimbursement are not available.”). A county shall also

v. Unclaimed Bodies

If the anatomical board does not accept an unclaimed body, then the board of county commissioners is required to dispose of the body of persons that die within the confines of their county.¹¹⁴ The county is also responsible for making a reasonable effort to identify the body and accepting responsibility to arrange for the body's burial or cremation.¹¹⁵

vi. Medical Examiners

The fees, salaries, and expenses associated with the medical examiner must be paid from the funds under the control of the board of county commissioners.¹¹⁶ These medical examiner expenses, including transportation and laboratory facility costs, are borne by the county.¹¹⁷

vii. Child Protective Services

Counties are mandated to pay for the initial costs of the examination of allegedly abused, abandoned, or neglected children; however, parents or legal custodians are required to reimburse the counties of such examination.¹¹⁸

viii. Veteran Services

Veteran Service Officers (VSOs) may be employed by the board of county commissioners to assist county residents by providing advocacy and counseling to veterans and their families.¹¹⁹ While VSOs are not required to be employed by the counties, currently all sixty-seven counties employ at least one VSO.

designate a single law enforcement agency to transport persons held under the Baker Act to treatment facilities. Fla. Stat. § 394.462 (2020).

¹¹⁴ Fla. Stat. § 406.50(5) (2020) (“If the anatomical board does not accept the unclaimed remains, the board of county commissioners or its designated county department of the county in which the death occurred or the remains were found may authorize and arrange for the burial or cremation of the entire remains.”).

¹¹⁵ 91-87 Fla. Op. Att’y Gen. (1991).

¹¹⁶ Fla. Stat. § 406.08 (2020) (“Fees, salaries, and expenses may be paid from the general funds or any other funds under the control of the board of county commissioners.”).

¹¹⁷ *Id.* (“When a body is transported to the district medical examiner or his or her associate, transportation costs, if any, shall be borne by the county in which the death occurred. . . . Autopsy and laboratory facilities utilized by the district medical examiner or his or her associates may be provided on a permanent or contractual basis by the counties within the district.”).

¹¹⁸ Fla. Stat. § 39.304(5) (2020) (“The county in which the child is a resident shall bear the initial costs of the examination of the allegedly abused, abandoned, or neglected child; however, the parents or legal custodian of the child shall be required to reimburse the county for the costs of such examination . . .”).

¹¹⁹ Fla. Stat. § 292.11 (2020) (“Each board of county commissioners may employ a county veteran service officer; provide office space, clerical assistance, and the necessary supplies incidental to providing and maintaining a county service office; and pay said expenses and salaries from the moneys hereinafter provided for.”).

ix. Mosquito Control

In an effort to suppress disease-bearing and pestiferous arthropods, “mosquito control districts” were created.¹²⁰ Counties are not mandated to create such mosquito control agencies, but if they do, there are many sources of funding (including tax levying and state matching funds).¹²¹ In the event state funds do not fully fund mosquito control budgets, counties will need to fund the difference. “County commissioners’ mosquito and arthropod control budgets . . . shall be incorporated into county budgets.”¹²²

E. PARKS, RECREATION, AND LIBRARIES

Although Chapter 125 of the Florida Statutes authorizes counties to provide parks and recreational areas, there is no specific statute which mandates that counties shall fund such facilities.¹²³ The Division of Recreation and Parks of the Department of Environmental Protection assumes these duties in accordance with “all public parks, including all monuments, memorials, sites of historic interest and value” owned by the state, to which the county is capable of purchasing.¹²⁴ However, parks are a required element of a county’s mandated comprehensive plan, and therefore must be considered for future development within a county.¹²⁵

¹²⁰ Fla. Stat. § 388.021 (2020) (“herefore, any city, town, or county, or any portion or portions thereof, whether such portion or portions include incorporated territory or portions of two or more counties in the state, may be created into a special taxing district for the control of arthropods under the provisions of this chapter.”) (emphasis added).

¹²¹ See generally Fla. Stat. § 388.261 (2020) (“Every county or district budgeting local funds to be used exclusively for the control of mosquitoes and other arthropods, under a plan submitted by the county or district and approved by the department, is eligible to receive state funds and supplies, services, and equipment on a dollar-for-dollar matching basis to the amount of local funds budgeted.”). Counties may receive up to \$50,000 per year in state funds for up to three years, with no match requirement, for new programs that serve areas not previously served. *Id.*

¹²² Fla. Stat. §388.201 (2020).

¹²³ Fla. Stat. § 125.01(1)(f) (2020) (“Provide parks, preserves, playgrounds, recreation areas, libraries, museums, historical commissions, and other recreation and cultural facilities and programs.”). If a county charges entrance fees to parks and recreational areas, Section 125.029, Florida Statutes, requires it to provide free or discounted fees to members of the armed forces, veterans, and surviving spouses of veterans and law enforcement officers.

¹²⁴ Fla. Stat. § 258.004(1) (2020) (“It shall be the duty of the Division of Recreation and Parks of the Department of Environmental Protection to supervise, administer, regulate, and control the operation of all public parks, including all monuments, memorials, sites of historic interest and value, sites of archaeological interest and value owned, or which may be acquired, by the state, or to the operation, development, preservation, and maintenance of which the state may have made or may make contribution or appropriation of public funds.”).

¹²⁵ See *infra* Part III.F; see also Fla. Stat. § 163.3177(6)(e) (2020) (“A recreation and open space element indicating a comprehensive system of public and private sites for recreation, including, but not limited to, natural reservations, parks and playgrounds, parkways, beaches and public access to beaches, open spaces, waterways, and other recreational facilities.”).

The state is responsible for a State Library that will be located within Tallahassee and is administered by the Division of Library.¹²⁶ However, there is no mandated requirement for a county library.

F. GROWTH MANAGEMENT

i. Generally

Florida adopted the Local Government Comprehensive Planning and Land Development Regulation Act in 1985, which mandated counties to create local planning agencies to prepare and manage a “comprehensive plan.”¹²⁷ In 2011, the Act was renamed to the “Community Planning Act,” with which all 67 counties, Walt Disney World, and Reedy Creek Improvement District comply. A comprehensive plan is required to consider many different elements in order to guide future development, including: capital improvements, future land use plan, transportation, conservation, recreation, housing, intergovernmental coordination, sanitary sewer, solid waste, drainage, potable water, and natural groundwater recharge, and waste elements.¹²⁸ In 1995, a major revision of the Act required counties to consider joint planning efforts with school districts and interlocal agreements for all such joint planning efforts. “The goals, objectives, policies, standards, findings, and conclusions within the proposed comprehensive plan must be supported by relevant and appropriate data which is gathered in a professionally accepted manner.”¹²⁹ Also, while a comprehensive plan is required to include affordable housing considerations, counties are not mandated to increase affordable housing.¹³⁰ To the extent a county approves the development of affordable housing, it must be included in the county’s economic status report to the Office of Economic and Demographic Research outlining the “expenditures providing for the financing, acquisition, construction, reconstruction, or rehabilitation of housing”¹³¹ and “must provide incentives to fully offset all costs to the developer” which includes reducing or waiving fees.¹³²

¹²⁶ Fla. Stat. § 257.01 (2020) (“There is created and established the State Library which shall be located at the capital. The State Library shall be administered by the Division of Library and Information Services of the Department of State.”).

¹²⁷ Richard Grosso, *Florida’s Growth Management Act: How Far We Have Come, and How Far We Have Yet to Go*, 20 NOVA L. REV. 589, 591 (1996); Fla. Stat. § 163.3174 (2020) (“The governing body of each local government . . . shall designate and by ordinance establish a ‘local planning agency’ . . . [which] shall prepare the comprehensive plan or plan amendment after hearings to be held after public notice and shall make recommendations to the governing body regarding the adoption or amendment of the plan.”).

¹²⁸ See Fla. Stat. § 163.3177 (2020) (containing the many elements that the comprehensive plan shall provide for the “orderly and balanced future economic, social, physical, environmental, and fiscal development” of the county).

¹²⁹ Grosso, *supra* note 112.

¹³⁰ Fla. Stat. § 125.01055 (2020) (“[A] county *may* adopt and maintain in effect any law, ordinance, rule, or other measure that is adopted for the purpose of increasing the supply of affordable housing using land use mechanisms such as inclusionary housing ordinances.”) (emphasis added).

¹³¹ Fla. Stat. § 129.03 (3) (d) (7) (2020).

¹³² Fla. Stat. § 125.01055 (4) (2020).

The procedure to amend a county’s comprehensive plan has historically been a long, arduous process full of mandated drafts, public hearings, comment periods, and state review.¹³³ This process (usually exceeding six months) was then revised for an “expedited state review process” in 2011; and now most amendments can be proposed and decided within a shorter amount of time and with fewer mandated processes.¹³⁴ However, despite the permissive language regarding the provision of affordable housing found in Section 125.01055, the Community Planning Act effectively requires a county to address this issue or be found not in compliance with state law. Specifically, Section 163.3177(6)(f) requires the county’s housing element to include “standards and strategies” for “[t]he elimination of substandard dwelling conditions” and “[t]he provision of adequate sites for future housing, including affordable workforce housing as defined in Section 380.0651(3)(h), housing for low income, very low income, moderate-income families, mobile homes, and group home facilities and foster care facilities, with supporting infrastructure and public facilities.” Accordingly, while there is no specific mandate that a county provide affordable housing, the mandatory compliance provisions of Section 163.3177(6)(f) have the effect of requiring counties to take action and spend resources for this purpose.

The Community Planning Act also has several implementing requirements that cause counties to expend resources. The first of these is concurrency, which is a requirement that certain public facilities be in place and available to serve new development no later than the issuance by the local government of a certificate of occupancy or its functional equivalent.¹³⁵ As a cornerstone of the 1985 Act, concurrency has been a controversial provision for both local governments and the development community. In essence, if the required facilities are not in place concurrent with the development, the local government cannot allow the development to proceed, which for some counties has resulted in temporary building moratoria. Under the original law, the county was required to apply concurrency to the following public facilities: sanitary sewer, solid waste, drainage, potable water, recreation and open space, and transportation. However, the 2011 Community Planning Act eliminated the state mandate for transportation concurrency, while allowing communities to retain it by local option. Although the transportation mandate has been lifted¹³⁶, state law still requires counties to apply concurrency for water, sewer, drainage, and solid waste. To ensure the adopted levels-of-service for these services

¹³³ See generally Fla. Stat. § 163.3184 (2013).

¹³⁴ See Fla. Stat. § 163.3184(3) (2013). The expedited state review process applies to all future plan amendments “except those that are small scale amendments, in areas of critical state concern, propose a rural land stewardship area, propose a sector plan, are EAR based amendments, or are new plans.” FLORIDA COUNTY GOVERNMENT GUIDE, Florida Association of Counties (2012).

¹³⁵ See Fla. Stat. § 163.3180(2) (2020).

¹³⁶ However, if a local government chooses to retain transportation concurrency pursuant to Sec. 163.3180, and an applicant in good faith offers to enter into a binding agreement to pay for or construct its proportionate share of required improvements, the local government may not require payment or construction of transportation facilities whose costs would be greater than a development’s proportionate share of the improvements necessary to mitigate the development’s impacts. This is an unfunded mandate

are maintained, the county’s capital improvements element (CIE) must include a 5-year schedule of projects and their accompanying funding source.

The second implementing requirement of the comprehensive plan is for each county to develop, adopt, and maintain a set of land development regulations that ensures the goals, objective, and policies of the plan are carried out in a consistent manner. Given the breadth and extent of the comprehensive plan and all of its requirements, the scope of the land development regulations often match or exceed the size of the plan and, as such, have comparable local cost requirements.

The procedure to amend a county’s comprehensive plan has historically been a long, arduous process full of mandated drafts, public hearings, comment periods, and state review.¹³⁷ This process (usually exceeding six months) was then revised for an “expedited state review process” in 2011; and now most amendments can be proposed and decided within a shorter amount of time and with fewer mandated processes.¹³⁸

The Florida Impact Fee Act recognizes that local governments, inclusive of counties, may charge a regulatory fee to pay for infrastructure expenses necessitated by new growth.¹³⁹ Even so, counties must meet a minimum criteria for the adoption of impact fees by ordinance and the Act restricts how the impact fees may be used or when it is collected.¹⁴⁰

ii. Development Permits

Sec. 125.022, Florida Statutes, contains several mandates as follows:

¹³⁷ See generally Fla. Stat. § 163.3184 (2020).

¹³⁸ See Fla. Stat. § 163.3184(3) (2013). The expedited state review process applies to all future plan amendments “except those that are small scale amendments, in areas of critical state concern, propose a rural land stewardship area, propose a sector plan, are EAR based amendments, or are new plans.” FLORIDA COUNTY GOVERNMENT GUIDE, Florida Association of Counties (2012).

¹³⁹ Fla. Stat. § 163.31801 (2020).

¹⁴⁰ Fla. Stat. § 163.31801 (4) (2020) (“At a minimum, each local government that adopts and collects an impact fee by ordinance and each special district that adopts, collects, and administers an impact fee by resolution must: (a) Ensure that the calculation of the impact fee is based on the most recent and localized data. (b) Provide for accounting and reporting of impact fee collections and expenditures and account for the revenues and expenditures of such impact fee in a separate accounting fund. (c) Limit administrative charges for the collection of impact fees to actual costs. (d) Provide notice at least 90 days before the effective date of an ordinance or resolution imposing a new or increased impact fee. A local government is not required to wait 90 days to decrease, suspend, or eliminate an impact fee. Unless the result is to reduce the total mitigation costs or impact fees imposed on an applicant, new or increased impact fees may not apply to current or pending permit applications submitted before the effective date of a new or increased impact fee. (e) Ensure that collection of the impact fee may not be required to occur earlier than the date of issuance of the building permit for the property that is subject to the fee. (f) Ensure that the impact fee is proportional and reasonably connected to, or has a rational nexus with, the need for additional capital facilities and the increased impact generated by the new residential or commercial construction. (g) Ensure that the impact fee is proportional and reasonably connected to, or has a rational nexus with, the expenditures of the funds collected and the benefits accruing to the new residential or nonresidential construction. (h) Specifically earmark funds collected under the impact fee for use in acquiring, constructing, or improving capital facilities to benefit new users. (i) Ensure that revenues generated by the impact fee are not used, in whole or in part, to pay existing debt or for previously approved projects unless the expenditure is reasonably connected to, or has a rational nexus with, the increased impact generated by the new residential or nonresidential construction.”)

- (2) When a county denies an application for a development permit, the county shall give written notice to the applicant. The notice must include a citation to the applicable portions of an ordinance, rule, statute, or other legal authority for the denial of the permit.
- (4) For any development permit application filed with the county after July 1, 2012, a county may not require as a condition of processing or issuing a development permit that an applicant obtain a permit or approval from any state or federal agency unless the agency has issued a final agency action that denies the federal or state permit before the county action on the local development permit.
- (5) Issuance of a development permit by a county does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the county for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. A county shall attach such a disclaimer to the issuance of a development permit and shall include a permit condition that all other applicable state or federal permits be obtained before commencement of the development.

G. BUILDING CODE ENFORCEMENT AND PROFESSIONAL LICENSURE

Florida counties have the authority to regulate building construction and enforce the Florida Building Code.¹⁴¹ Counties are authorized by statute to provide a schedule of fees for this purpose. Fees collected are to be used solely for carrying out the enforcement of the provisions of the Florida Building Code.¹⁴² The total amount of fees, including fines and investment earnings, collected for this purpose may not exceed the total estimated annual costs of enforcement of the Florida Building Code. At the end of the fiscal year, any unexpended balances may either be carried forward to future years or be refunded at the county's discretion. If a county elects to carry unexpended funds forward, the amount carried forward may not exceed the average of its operating budgets for the previous 4 fiscal years. Counties must use any excess funds that they are prohibited from carrying forward to reduce fees.¹⁴³ Counties are prohibited from charging fees for certain activities, including providing proof of licensure pursuant to Chapter 489, recording or filing professional licenses under

¹⁴¹ Fla. Stat. § 125.56 (2020). This statute provides that counties may enforce the Florida Building Code. *But see* Fla. Stat. § 553.80 (2020) ("Except as provided in paragraphs (a)-(g), each local government and each legally constituted enforcement district with statutory authority *shall* regulate building construction...") (emphasis added).

¹⁴² *Id.*; Fla Stat. § 125.56 (2020). The activities that constitute enforcement of the Florida Building Code are set forth in Section 553.80, Florida Statutes.

¹⁴³ Fla. Stat. § 553.80(7)(a) (2020).

Chapter 553, Florida Statutes, or providing, recording, or filing evidence of worker’s compensation coverage required by Chapter 440, Florida Statutes.¹⁴⁴ Counties are required to post a schedule of fees and utilization report on its website.¹⁴⁵ To the extent that counties are required to expend public funds to conduct these activities, this may constitute an unfunded mandate.

H. ENVIRONMENTAL PROTECTION

In general, the mandates considering environmental interests are handed down at the federal level – e.g. the Clean Water Act – costing both the state and local governments billions of dollars per year to conform to the standards and requirements provided by these environmental protection-focused acts. Florida’s Department of Environmental Protection (DEP) has wide-ranging responsibilities for the state’s air, land, and water qualities; however, DEP is mandated to work closely with local governments to collect adequate data and enforce regulations for several aspects of environmental protection.¹⁴⁶

Counties are not mandated to establish or administer any form of local air and water pollution control program; however they may do so and enforce stricter ordinances as long as such a program complies with the Florida Air and Water Pollution Control Act.¹⁴⁷

i. Solid Waste Disposal Facilities

A key responsibility of counties is to provide for the creation and operation of solid waste disposal facilities which can reasonably meet the needs of their incorporated and unincorporated areas.¹⁴⁸

ii. Recycling

Counties are also mandated to implement a recycling program with goals of recycling at least 75% of recyclable materials annually.¹⁴⁹ Counties are required to ensure that their municipalities participate, to the maximum extent possible, in their

¹⁴⁴ *Id.*

¹⁴⁵ Fla. Stat. § 553.80(7)(b) (2020).

¹⁴⁶ *See generally* Fla. Stat. Chapters 373 & 403 (2020).

¹⁴⁷ Fla. Stat. § 403.182 (2020) (“Each county and municipality or any combination thereof may establish and administer a local pollution control program if it complies with this act.”). If a county establishes a local pollution control program under this statute, the Department of Environmental Protection has the authority to require the county to take corrective action if the department determines that the county’s program is inadequate to control pollution or is being administered inconsistently with the act. *Id.*

¹⁴⁸ Fla. Stat. § 403.706(1) (2020) (“The governing body of a county has the responsibility and power to provide for the operation of solid waste disposal facilities to meet the needs of all incorporated and unincorporated areas of the county.”).

¹⁴⁹ Fla. Stat. § 403.706(2)(a) (2020) (“Each county shall implement a recyclable materials recycling program that shall have a goal of recycling recyclable solid waste”).

solid waste and recycling programs.¹⁵⁰ County contracts for recycling are required to contain provisions for the reduction of contaminated recyclable material.¹⁵¹

iii. Beach Renourishment

Counties have accrued several responsibilities with respect to environmental protection pursuant to the Community Planning Act.¹⁵² Counties are responsible for partial funding of the restoration and nourishment of beach erosion along with the state.¹⁵³

iv. Water Quality

Counties, along with DEP and water management districts, are also responsible for the development of stormwater management.¹⁵⁴ The federal Clean Water Act (CWA) “establishes the basic structure for regulating discharges of pollutants into the waters of the United States and regulating quality standards for surface waters.”¹⁵⁵ The Total Maximum Daily Load (TMDL) program was enacted to establish a calculation for the maximum amount of a particular pollutant that water bodies can receive in order to maintain the water quality standards for that water body’s designated use.¹⁵⁶ The Florida Springs and Aquifer Protection Act regulates water quality in springs and requires local governments “coordinate to restore and maintain water quantity and water quality.”¹⁵⁷ Local governments may be required to develop an Onsite Sewage Treatment and Disposal System remediation plan if the Florida Department of Environmental Protection determines an area to be vulnerable to pollutants.¹⁵⁸ Counties must comply with the requirements from programs like the CWA and TMDL in order to regulate water quality, a task that can be quite costly.

In practice, many counties impose a stormwater assessment or fee to maintain stormwater flow and treatment facilities. However, a bona fide farm operation on land classified as agricultural is exempt from such an assessment or fee if the farm operation implements best management practices as adopted by the Department of Environmental Protection, the Department of Agriculture and Consumer Services, or water management district.¹⁵⁹ Despite the statutory presumption, a farm operation that is implementing best management practices and deemed exempt from a

¹⁵⁰ Fla. Stat. § 403.706(3) (2020).

¹⁵¹ Fla. Stat. § 403.706(22) (2020).

¹⁵² See *supra* Part.III.F.

¹⁵³ Fla. Stat. § 161.101 (2020) (“The local government in which the beach is located shall be responsible for the balance of such [beach management and erosion control] costs.”).

¹⁵⁴ Fla. Stat. § 403.0891 (2020) (“The department, the water management districts, and local governments shall have the responsibility for the development of mutually compatible stormwater management programs.”).

¹⁵⁵ *Summary of the Clean Water Act*, ENVIRONMENTAL PROTECTION AGENCY (last visited Jun. 15, 2021), <http://www2.epa.gov/laws-regulations/summary-clean-water-act>.

¹⁵⁶ *Total Maximum Daily Loads*, NATIONAL AGRICULTURAL LIBRARY (last visited Jun. 15, 2021), <https://www.nal.usda.gov/waic/total-maximum-daily-loads>.

¹⁵⁷ Fla. Stat. § 373.801 (2) (2020).

¹⁵⁸ Fla. Stat. 373.807 (3) (2020).

¹⁵⁹ Fla. Stat. §163.3162(3)(c) (2020).

stormwater assessment or fee may still be contributing to the poor water quality within a county. This exemption amounts to an unfunded mandate by the legislature because a county is required to restore and maintain water quality but cannot impose an assessment or fee on major contributors – agricultural lands and concentrated animal feeding operations – or, in many cases, confirm that a farm is actually utilizing best management practices.

I. TRANSPORTATION

i. County Roads

County commissioners assume the control of, and are fully responsible for, the establishment and maintenance of all county roads, bridges, tunnels, bicycle paths, sidewalks, and other structures.¹⁶⁰ With respect to regulation of the placement and maintenance of regulated utilities in county right-of-way.¹⁶¹ Specifically with reference to the placement of communication services in county right-of-way, counties are authorized to adopt rules and regulations relating to the placement of such facilities and may require providers to register with the county. Counties that, as of January 1, 2019, had elected to require permit fees from providers of communications services may continue to require and collect such fees, but counties that had not elected to collect such fees as of January 1, 2019 may not subsequently elect to collect such fees.¹⁶² To the extent that communication facilities fall under the definition of “small wireless services” counties may not “prohibit, regulate, or charge for the collocation of small wireless facilities in the public rights-of-way or for the installation, maintenance, modification, operation, or replacement of utility poles used for the collocation of small wireless facilities in the public rights-of-way.”¹⁶³

J. CONSTITUTIONAL OFFICERS

i. Salaries

Chapter 145 of the Florida Statutes lays out the compensation requirements for county officials set by the legislature.¹⁶⁴ Each member of the board of county

¹⁶⁰ Fla. Stat. § 336.02(1)(a) (2020) (“The commissioners are invested with the general superintendence and control of the county roads and structures within their respective counties, and they may establish new roads, change and discontinue old roads, and keep the roads in good repair in the manner herein provided. They are responsible for establishing the width and grade of such roads and structures in their respective counties.”).

¹⁶¹ Fla. Stat. § 337.401 (2020).

¹⁶² Fla. Stat. § 337.401(3)(c) (2020).

¹⁶³ Fla. Stat. § 337.401(7) (2020).

¹⁶⁴ Fla. Stat. § 145.012 (2020) (“This chapter applies to all officials herein designated in all counties of the state, except those officials whose salaries are not subject to being set by the Legislature because of the provisions of a county home rule charter and except officials . . . of counties which have a chartered consolidated form of government”).

commissioners receives a salary “based on the population of his or her population.”¹⁶⁵ Moreover, the legislature has also designed a system based on population to assign salaries to the other constitutional officer, which each officer’s respective county is required to fund.¹⁶⁶

ii. Budgets

Counties are required to establish a budget that must be “prepared, summarized, and approved by the board of county commissioners of each county.”¹⁶⁷ Each constitutional officer is required to submit their respective budget to the board of county commissioners by certain dates in order for the board, and also a county budget officer, to prepare the tentative budget.¹⁶⁸ After completing a summary of the adopted budgets, the board of county commissioners is mandated to advertise the summary statement and hold public hearings in order to hear requests or complaints.¹⁶⁹

iii. Clerks

The division or separation of the clerk’s duties as clerk of court from the clerk’s functions as auditor and custodian of all county funds is established in two articles of the Florida Constitution. One provides that “the duties of the clerk of the circuit court may be divided by special or general law between two officers, one serving as clerk of court and one serving as ex officio clerk of the board of county commissioners, auditor, recorder, and custodian of all county funds,” and another, which states that, “the clerk of the circuit court shall be ... auditor, recorder and custodian of all county funds.”¹⁷⁰ Based on these two constitutional provisions, absent alternative designation under county charter or special law approved by a vote of the electors, the clerk of court is the clerk of the board as a result of his or her office, and its auditor and the custodian of all county funds.

There are several implementing statutory provisions that give shape to the role of the clerk in this capacity as clerk of the board and to the numerous and diverse powers and duties of the clerk concerning fiscal matters of the board. For example,

¹⁶⁵ Fla. Stat. § 145.031 (2020).

¹⁶⁶ See Fla. Stat. § 145.051 (2020) (laying out the salary requirements for the clerk of court); see also Fla. Stat. § 145.071 (2020) (laying out the salary requirements for the sheriff); see also Fla. Stat. § 145.09 (2020) (laying out the salary requirements for the supervisor of elections); see also Fla. Stat. § 145.10 (2020) (laying out the salary requirements for the property appraiser); see also Fla. Stat. § 145.11 (2020) (laying out the salary requirements for the tax collector).

¹⁶⁷ Fla. Stat. § 129.01 (2020).

¹⁶⁸ Fla. Stat. § 129.03(2) (2020) (“On or before June 1 of each year, the sheriff, the clerk of the circuit court and county comptroller, the tax collector . . . and the supervisor of elections shall each submit to the board of county commissioners a tentative budget for their respective offices for the ensuing fiscal year.”).

¹⁶⁹ Fla. Stat. § 129.03(3) (2020) (“Upon receipt of the tentative budgets and completion of any revisions, the board shall prepare a statement summarizing all of the adopted tentative budgets. . . . The board shall cause this summary statement to be advertised one time in a newspaper of general circulation published in the county The board shall hold public hearings to adopt tentative and final budgets”).

¹⁷⁰ Art. V, § 16, Fla. Const.; Art. VIII, § 1(d), Fla. Const.

the clerk is required to act as the board’s accountant and keep its accounts,¹⁷¹ checks or warrants drawn on county accounts must be “attested by the clerk,”¹⁷² and all “county accounts of each and every depository... shall at all times be subject to the inspection and examination by the county auditor[.]”¹⁷³ To emphasize the significance of the clerk as county auditor, the Legislature imposes personal liability for the payments of any claim or bill against county funds in excess of the amount permitted by law, or any illegal charge against the county, or any claim not authorized by law and subjects the clerk to criminal penalties if improper payment is made willfully and knowingly.¹⁷⁴

iv. Sheriffs

Sheriffs are given a wide variety of powers and duties which they may execute within their respective county. Chapter 30 of the Florida Statutes lays out the core duties of the sheriff, the most recognizable aspect being his or her duty towards law enforcement within their county.¹⁷⁵ Other responsibilities include assessing legal process documents (writs, warrants, subpoena, etc.),¹⁷⁶ providing court security,¹⁷⁷ providing safe school officers in collaboration with local school boards,¹⁷⁸ and, at the election of the county commission, keeping the county jail.¹⁷⁹ Sheriffs cooperate with the board of county commissioners by being required to submit their proposed budget for all expenditures related to the operation of the office.¹⁸⁰ Whereas the Sheriff retains authority over the implementation and provision of law enforcement services, the Chief Judge of the circuit retains decision making authority to ensure the protection of due process rights, including, but not limited to, the scheduling and conduct of trials and other judicial proceedings as part of his or her responsibility for the administrative supervision of trial courts.¹⁸¹ Given Article V, Section 14, of the Florida Constitution requires counties fund trial court security, additional associated costs may constitute an unfunded mandate.

v. Tax Collector

The tax collector has the “authority and obligation to collect all taxes as shown on the tax roll by the date of delinquency or to collect delinquent taxes, interest, and

¹⁷¹ Fla. Stat. §§ 28.12, 125.17 (2020).

¹⁷² *Id.*; Fla. Stat. § 136.06(1) (2020).

¹⁷³ Fla. Stat. § 136.08 (2020).

¹⁷⁴ Fla. Stat. § 129.09 (2020).

¹⁷⁵ *See* Fla. Stat. § 30.15(1)(e) (2020) (generally stating that sheriffs are the “conservators of the peace in their counties”).

¹⁷⁶ Fla. Stat. § 30.15(1)(a)-(b) (2020).

¹⁷⁷ Fla. Stat. § 30.15(1)(c) (2020).

¹⁷⁸ Fla. Stat. § 1006.12 (2020).

¹⁷⁹ Fla. Stat. § 951.061 (2020).

¹⁸⁰ Fla. Stat. § 30.49 (2020).

¹⁸¹ Fla. Stat. § 30.15 (4) (a) (2020).

costs, by sale of tax certificates on real property and by seizure and sale of personal property.”¹⁸² County tax collectors are also responsible for the administration of driver license issuance services.¹⁸³ Fees for the issuance of driver licenses are dictated by statute.¹⁸⁴ To the extent that the cost of administration of driver license issuance services exceed the fees set by statute, this may constitute an unfunded mandate.

vi. Property Appraisers

Property appraisers are responsible for identifying, locating, and fairly valuing all property, both real and personal, within the county for tax purposes. Property appraisers must send Truth in Millage (TRIM) notices to all property owners within their county. Each county property appraiser office is required to provide a Property Owner Bill of Rights on its website.¹⁸⁵ The Bill of Rights does not create a civil cause of action, it serves to list seven enumerated private property owners’ rights and protections.¹⁸⁶ Conjointly, local governments may not require “a notice, application, approval, permit, fee, or mitigation for the pruning, trimming, or removal of a tree on a residential property”¹⁸⁷ Seeing that local governments may not collect a fee for the maintenance and removal of trees and they may have to fund the Property Appraiser for its website, then this may constitute an unfunded mandate.

vii. Supervisor of Elections

The Supervisor of Elections is compensated by the board of county commissioners and is in charge of “updat[ing] voter registration information, enter[ing] new voter registrations into the statewide voter registration system, and act[ing] as the official custodian of documents received by the supervisor related to the registration of electors and changes in voter registration status of electors of the supervisor’s county.”¹⁸⁸ The Supervisor is also the custodian of the voting system and appoints necessary deputies to prepare the voting system.¹⁸⁹

After the 2000 presidential election, the Help America Vote Act (HAVA) established several federal mandates in which the states (which therefore had the

¹⁸² Fla. Stat. § 197.332 (2020).

¹⁸³ Fla. Stat. § 322.02 (2020).

¹⁸⁴ Fla. Stat. § 322.21 (2020).

¹⁸⁵ Fla. Stat. § 70.002 (2020).

¹⁸⁶ *Id.* (The seven enumerated rights include the right to “(1) acquire, possess, and protect your property; (2) use and enjoy your property; (3) exclude others from your property; (4) dispose of your property; (5) right to due process; (6) right to just compensation for property taken for a public purpose; and (7) the right to relief, or payment of compensation, when a new law, rule, regulation, or ordinance of the state or a political entity unfairly affects your property.”)

¹⁸⁷ Fla. Stat. § 163.045 (1) (2020)

¹⁸⁸ Fla. Stat. § 98.015 (2020).

¹⁸⁹ Fla. Stat. § 101.34 (2020).

trickle-down effect to the counties) were required to update many aspects of their election procedures—e.g. voting machines, registration, and poll worker training.¹⁹⁰

For constitutional amendments proposed by initiative, the Supervisor of Elections is required to provide petition forms and must maintain a database of petition circulators and forms assigned to each circulator that is publicly available and updated daily.¹⁹¹

IV. Example of County Expenditures

Leon County Expenditures in 2020¹⁹²

Legislative-Personnel Services	1,788,017
Legislative-Operating Expenses	53,786
Executive-Personnel Services	1,741,480
Executive-Operating Expenses	117,217
Executive-Grant and Aids	117,287
Financial and Administrative-Personnel Services	22,357,624
Financial and Administrative-Operating Expenses	7,982,789
Financial and Administrative-Capital Outlay	324,438
Financial and Administrative-Grants and Aids	83,175
Legal Counsel-Personnel Services	22,357,624
Legal Counsel-Operating Expenses	445,007
Comprehensive Planning-Personnel Services	659,426
Comprehensive Planning-Grants and Aids	1,225,002
Non-Court Information Systems-Personnel Services	174,299
Non-Court Information Systems-Operating Expenses	109,510
Other General Government - Personnel Services	3,215,549
Other General Government - Operating Expenses	7,661,740
Other General Government - Capital Outlay	1,738,148
Other General Government - Debt Service	7,979,867
Other General Government - Grants and Aids	78,193
Law Enforcement - Personnel Services	32,309,235
Law Enforcement - Operating Expenses	6,055,133
Law Enforcement - Capital Outlay	4,783,487
Law Enforcement - Grants and Aids	127,323
Fire Control - Operating Expenses	8,447,727

¹⁹⁰ Fla. Stat. § 98.015(10) (2013) (“Each supervisor shall ensure that all voter registration and list maintenance procedures conducted by such supervisor are in compliance with any applicable requirements prescribed by rule of the department through the statewide voter registration system or prescribed by the Voting Rights Act of 1965, the National Voter Registration Act of 1993, or the Help America Vote Act of 2002.”).

¹⁹¹ Fla. Stat. § 100.371(6) (2020) (“The division or the supervisor of elections shall make hard copy petition forms or electronic portable document format petition forms available to registered petition circulators. All such forms must contain information identifying the petition circulator to which the forms are provided. The division shall maintain a database of all registered petition circulators and the petition forms assigned to each. Each supervisor of elections shall provide to the division information on petition forms assigned to and received from petition circulators. The information must be provided in a format and at times as required by the division by rule. The division must update information on petition forms daily and make the information publicly available.”)

¹⁹² Local Government Financial Reporting, Florida Department of Financial Services website, *available at* <https://apps.fldfs.com/LocalGov/Reports/AdHoc.aspx> (last visited June 23, 2021).

EXPENDITURES *Continued*

Fire Control - Capital Outlay	6,819
Detention/Corrections - Personnel Services	28,684,688
Detention/Corrections - Operating Expenses	14,177,078
Detention/Corrections - Capital Outlay	2,323,638
Detention/Corrections - Grants and Aids	222,759
Protective Inspections - Personnel Services	1,950,819
Protective Inspections - Operating Expenses	541,638
Emergency and Disaster Relief - Personnel Services	661,684
Emergency and Disaster Relief - Operating Expenses	1,639,499
Emergency and Disaster Relief - Capital Outlay	299,603
Emergency and Disaster Relief - Grants and Aids	6,242,667
Ambulance and Rescue Services - Personnel Services	5,148,071
Ambulance and Rescue Services - Operating Expenses	8,759,892
Ambulance and Rescue Services - Capital Outlay	5,568,961
Medical Examiners - Operating Expenses	9,943
Medical Examiners - Capital Outlay	115,499
Medical Examiners - Grants and Aids	539,868
Other Public Safety - Personnel Services	359,652
Other Public Safety - Operating Expenses	1,213,252
Other Public Safety - Capital Outlay	111,864
Other Public Safety - Grants and Aids	3,019,390
Garbage/Solid Waste - Personnel Services	1,985,817
Garbage/Solid Waste - Operating Expenses	13,208,167
Garbage/Solid Waste - Capital Outlay	99,886
Sewer/Wastewater Services - Operating Expenses	78,411
Sewer/Wastewater Services - Capital Outlay	1,573,249
Sewer/Wastewater Services - Grants and Aids	224,206
Conservation/Resource Management - Personnel Services	3,202,113
Conservation/Resource Management - Operating Expenses	1,032,446
Conservation/Resource Management - Grants and Aids	490,018
Flood Control/Stormwater Control - Personnel Services	1,977,098
Flood Control/Stormwater Control - Operating Expenses	1,705,309
Flood Control/Stormwater Control - Capital Outlay	4,234,965
Other Physical Environment - Personnel Services	1,455,585
Other Physical Environment - Operating Expenses	937,398
Road/Street Facilities - Personnel Services	8,173,799
Road/Street Facilities - Operating Expenses	5,042,373
Road/Street Facilities - Capital Outlay	8,232,029
Industry Development - Personnel Services	985,883
Industry Development - Operating Expenses	2,146,508
Industry Development - Capital Outlay	176,809
Industry Development - Grants and Aids	382,680
Veterans Services - Personnel Services	186,668
Veterans Services - Operating Expenses	12,780
Veterans Services - Grants and Aids	71,510
Housing and Urban Development - Personnel Services	26,103
Housing and Urban Development - Operating Expenses	146,380
Housing and Urban Development - Grants and Aids	606,080
Other Economic Development - Operating Expenses	2,722,485
Other Economic Development - Capital Outlay	370,637
Other Economic Development - Grants and Aids	3,888,529

EXPENDITURES *Continued*

Health - Personnel Services	913,724
Health - Operating Expenses	3,282,834
Health - Grants and Aids	393,528
Mental Health - Operating Expenses	611,005
Public Assistance - Grants and Aids	3,403,224
Other Human Services - Personnel Services	594,548
Other Human Services - Operating Expenses	125,504
Other Human Services - Grants and Aids	1,546,393
Libraries - Personnel Services	5,171,911
Libraries - Operating Expenses	663,369
Libraries - Capital Outlay	442,079
Parks/Recreation - Personnel Services	1,637,196
Parks/Recreation - Operating Expenses	3,661,988
Parks/Recreation - Capital Outlay	3,022,471
Parks/Recreation - Grants and Aids	179,000
Cultural Services - Operating Expenses	259
Cultural Services - Grants and Aids	1,265,640
Interfund Transfers Out - Other Uses	155,406,091
Other Non-Operating Disbursements - Operating Expenses	840,363
Non-Operating Interest Expense - Personnel Services	640,546
Non-Operating Interest Expense - Operating Expenses	1,865,774
Special Items(Loss) - Operating Expenses	1,335,125
Court Administration - Personnel Services	212,430
Court Administration - Operating Expenses	10,383
State Attorney Administration - Personnel Services	37,000
State Attorney Administration - Operating Expenses	74,787
Public Defender Administration - Personnel Services	37,000
Public Defender Administration - Operating Expenses	121,558
Clerk of Court Administration - Personnel Services	4,521,749
Clerk of Court Administration - Operating Expenses	997,761
Jury Management - Personnel Services	91,844
Jury Management - Operating Expenses	61,270
Clerk of Court - Operating Expenses	420,865
Clerk of Court - Operating Expenses	21,842
Alternative Dispute Resolutions - Personnel Services	176,787
Alternative Dispute Resolutions - Operating Expenses	12,093
Guardian ad Litem - Operating Expenses	3,547,171
Other Circuit Court-Juvenile - Operating Expenses	232,955
Other Circuit Court-Juvenile - Grants and Aids	1,469,520
Courthouse Security - Personnel Services	679,358
Courthouse Security - Operating Expenses	40,947
Courthouse Facilities - Operating Expenses	1,040,148
Courthouse Facilities - Capital Outlay	767,139
Information Systems - Personnel Services	964,522
Information Systems - Operating Expenses	631,706
Information Systems - Capital Outlay	451,839
Legal Aid - Grants and Aids	301,478
Clerk of Court Related Technology - Personnel Services	555,268
<u>Other Operating Court Costs - Operating Expenses</u>	<u>10,015</u>
Total	462,687,623

REVENUE

Ad Valorem Taxes	149,729,466
Local Option Taxes	4,772,574
County Ninth-Cent Voted Fuel Tax	1,312,790
First Local Option Fuel Tax	3,384,518
Second Local Option Fuel Tax	2,696,239
Discretionary Sales Surtaxes	4,981,418
Utility Service Tax – Electricity	7,398,484
Utility Service Tax – Water	1,158,679
Utility Service Tax – Gas	527,540
Utility Service Tax - Fuel Oil	772
Utility Service Tax – Other	(28,460)
Communications Service Tax (Chapter 202)	2,834,383
Other General Taxes	5,013,473
Interest	2,771,406
Net Increase (Decrease) in Fair Value of Investments	941,452
Rents and Royalties	1,627,113
Disposition of Fixed Assets	438,514
Sale of Surplus Materials and Scrap	146,281
Contributions and Donations from Private Sources	318,792
Licenses	342,223
Settlements	72,762
Other Miscellaneous Revenues	368,103
Inter-Fund Group Transfers In	155,406,091
Installment Purchases & Capital Lease Proceeds	663,719
<u>Debt Proceeds</u>	<u>6,142,065</u>
Total	353,020,397

ⁱ On behalf of Florida Association of Counties, Mr. David Heedy, at the time a law clerk for the Florida Association of Counties completed the research for the initial publication dated November 2016.

ⁱⁱ On behalf of Florida Association of County Attorneys, the Growth Management & Environmental, General Governmental, and Public Safety Committees completed the primary research and writing in 2016. Rebecca Lavie, Senior Assistant County Attorney for St. Johns County and Melissa Hernandez, Assistant County Attorney for Seminole County completed the subsequent research and revisions in 2021.