

# Public Notices

Electronic v. Print Publications

Florida Association of County Attorneys Mid Year Seminar

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&

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# Acknowledgements

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Christine Limbert-Barrows, Assistant Monroe County Attorney,  
who prepared my portion of this presentation.

&

Elizabeth Alt, Senior Assistant Marion County Attorney,  
who volunteered to co-present and prepared the background materials

# Overview

- ✓ **Look at Past, Present and Future versions of the Public Notice Statutes in Chapter 50**
- **F.S. 50.011- "Where and in what language legal notices to be published" which became "Publication of Legal Notices"**
- **F.S. 50.031-Newspapers in which legal notices and process may be published and**
- **F.S. 50.051- Proof of Publication; form of uniform affidavit**
- **HB 35/Chapter 2021-17 - Effective 1/1/2022- The Present**
- **HB 7049/Chapter 2022-103 - Effective 1/1/2023 Future**
- **F.S. 50.0311 "Publication of advertisements and public notices on a publicly accessible website and governmental access channels."**
- **Pros and Cons of Newspaper publication vs. County website**

## The way it was..... F.S. 50.011 Prior to 2022 and HB 35

- Newspaper printed and published periodically *once a week* or “oftener”
- 25% of words in English language
- Entered or qualified to be admitted and entered as periodicals matter at a post office in county where published
- **For sale to the public** generally available to public for publication of notices  
and
- Contain information of a public character or interest of value to the residents or owners of property in the county







- ❖ F.S. 50.0211- Notice must also appear on newspapers website at no additional charge and placed on the statewide website, [www.floridapublicnotices.com](http://www.floridapublicnotices.com)
- ❖ F.S. 50.031 - (minimum requirements)  
Newspaper must have been **in existence for 1 year and shall have been entered as periodicals matter at a post office in the county** where published or in a newspaper which is a direct successor of a newspaper
- ❖ F.S. 50.061 Amounts Chargeable- No change to rates in current or future statutes

## The way it was prior to 2022

# The way it is.....Newspaper Requirements- F.S. 50.011 in effect now (HB 35)

**F.S. 50.011**- Published at least once a week; contained at least 25% of its words in the English language.

- Must Satisfy one of the following:
  - 1) Has an audience of at least 10% of the households in the county or municipality as determined by the most recent decennial census of which 25% of print copies are delivered to individuals' home or business addresses as certified biennially by a certified independent third-party auditor and the total number of online unique monthly visitors. The newspaper must be sold or otherwise available to the public, at no less than 10 publicly accessible outlets.
  - 2) Hold a periodicals permit as of March 1, 2021
  - 3) for *fiscally constrained* counties, hold periodical permit and meet all other requirements of this chapter.

# The way it is.....

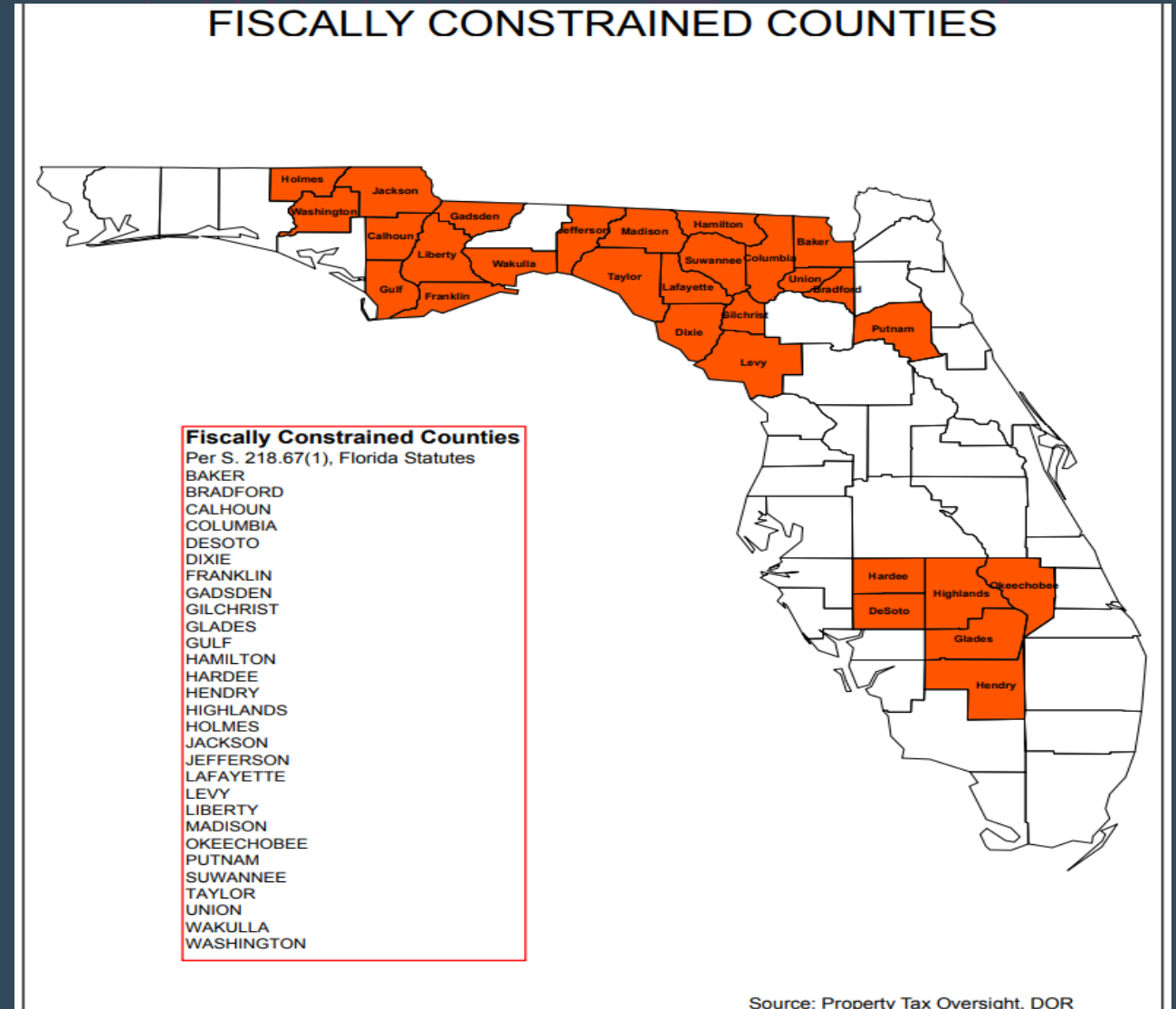
- **Limitations on Advertising**: Available to the public generally for publication of notices with no more than 75% of its content dedicated towards advertising as measured in ½ of newspaper issues during 12-month period.
- **Newspaper Information**: Continually publishes in a prominent manner the name, street, address, phone number, website URL of the newspaper's approved print auditor, the newspapers most recent statement of ownership, and a statement of the auditor certifying the veracity of the newspaper's print distribution and the number of the website monthly unique visitors, or the newspapers periodicals permit, if applicable, within the first five pages of the print editions and bottom portion of the newspaper's website.

# Special provision for “fiscally constrained” counties (F.S. 50.011(1)(c)(3.) (removed in HB 7049)

The newspaper must:

- hold a periodicals permit
- meet all other ch. 50 requirements

But does not need to meet the criteria under subparagraph F.S. 50.011(1)(c)(1.) so long as the newspaper continues to hold a periodicals permit.






Is entered or qualified to be admitted and entered as periodical class mail at a post office in the county where published

Does your local Newspaper have a permit?!

Application For Permit

<https://about.usps.com/forms/ps3500.pdf>

 UNITED STATES  
POSTAL SERVICE®

See instructions on pages 3 and 4

Application for Periodicals  
Mailing Privileges

Filing Status	Type of Publication—See DMM® 207.6 (Check only one):		<input type="checkbox"/> Foreign Publication—Complete Parts A and B
	<input type="checkbox"/> General Publication—Complete Parts A and B <input type="checkbox"/> Requester Publication—Complete Parts A and C <input type="checkbox"/> Publication of State Department of Agriculture—Complete Parts A and D <input type="checkbox"/> News Agents—Complete Part A and attach a separate sheet listing the publications you handle and where they are published.		<input type="checkbox"/> Publication of Institutions and Societies With Publisher's Advertising Only—Complete Parts A and D <input type="checkbox"/> Publication of Institutions and Societies With General Advertising—Complete Parts A, D, and E <input type="checkbox"/> Request for Permission to Mail at Special Periodicals Rates—Complete Part F and all other applicable parts
Publication Information	<b>Part A</b>		
	1. Title of Publication as Shown on Publication	2. Name of Publisher (Agent for Foreign Publication)	3. ISSN (if already assigned)
	4. Frequency of Issue (Be specific. For example, "weekly," "monthly except June")	5. Number of Issues Published Annually	6. Basic Annual Subscription Price
	7. Full Name of Owner (Individual, partnership, or corporation)		8. Complete address of Known Office of Publication, including County. For foreign publications, agent's address (not a Post Office™ box address)
	9. If owned by a corporation, list the names of all stockholders owning or holding 1 percent or more of the total stock. (Attach a separate sheet if necessary)		
	10. Are any of the owners or stockholders interested financially in any business or trade represented by the publication? (Check one)		<input type="checkbox"/> Yes If response is "Yes," explain the interest. <input type="checkbox"/> No
	11. Do any of the persons or concerns that advertise in the publication have any interest therein? (Check one)		<input type="checkbox"/> Yes If response is "Yes," explain the interest. <input type="checkbox"/> No
	12. Is more than one copy of each issue furnished to any one advertiser therein? (Check one)		<input type="checkbox"/> Yes If response is "Yes," how many copies are furnished and what are the reasons. <input type="checkbox"/> No
	13. Date of issue on which application is based. (Usually issue published closest to date of filing)		14. Total Number of Copies Printed (For foreign publications, number of copies imported into United States)
	15. Contact's Name		16. Contact's Address
Postmaster	17. Contact's Telephone Number		18. Signature of Publisher (or Agent for Foreign Publication)
	I hereby certify that all information furnished on this form is in support of this application, including the Business Plan supporting an application under the New Launch procedure (if applicable), and other supporting documentation, is accurate, truthful, and complete. I understand that anyone who furnishes false or misleading information or who omits material information requested on this form may be subject to criminal sanctions (including fines and imprisonment) and/or civil actions (including multiple damages and civil penalties).		
	20. Date of First Mailing Under Deposits After Application Was Filed		21. Amount of Application Fee Paid
	22. Date Fee Paid		23. Name of Postal Employee to Contact With Any Questions About This Application (Print)
	24. Signature of Postmaster		25. Date Signed
26. Post Office Address		27. Area Code/Telephone Number	
Check if Centralized Acceptance Post Office			
<b>Part B</b> Check if Applicable: <input type="checkbox"/> Application under New Launch procedure (attach publisher's signed business plan) <input type="checkbox"/> Initial Audit of circulation by Authorized Audit Bureau Requested <input type="checkbox"/> Electronic Copies — Initial Audit of circulation by Authorized Audit Bureau Required			

# Periodicals Permit – F.S. 50.11

❖ **Eligibility Categories** (General, Requester, State Dept of Agriculture etc.)

General publications are paid publications with at least 50 percent of the publication's distribution going to persons who have paid above a nominal price. The amount paid for a valid subscription must be half or more of the basic subscription price. Newsstand, vending machine, over-the-counter, and other single-copy sales count as subscriptions. Advertising content is restricted to no more than 75 percent advertising in more than half the issues published during any 12-month period.

Requester publications are publications with at least 50 percent of the total distribution going to individuals who have made a request to receive copies of the publication. Paid subscriptions may also be included as part of the qualification for the minimum 50 percent. They may contain more than 75 percent advertising in no more than 25 percent of the issues published during any 12-month period. Requester publications are not entitled to in-county prices or special prices (on PS Form 3500 you cannot check the box for special prices or complete Part F), and each issue must contain at least 24 pages.

# Why is periodicals permit important and why requiring them to obtain might be a best practice....

IN THE CIRCUIT COURT OF THE 16<sup>TH</sup>  
JUDICIAL CIRCUIT IN AND FOR  
MONROE COUNTY, FLORIDA

APG-EAST, LLC d/b/a  
THE KEY WEST CITIZEN,

Plaintiff

CASE NO.

v.

THE WEEKLY NEWSPAPERS, INC.,  
d/b/a THE KEYS WEEKLY, THE  
MARATHON WEEKLY and THE UPPER  
KEYS WEEKLY,

Defendant.

COMPLAINT

Local, legacy "Daily" newspaper sued upstart "Weekly" paper in September of 2021 after issuing a cease-and-desist letter in May.

The basis of the lawsuit is that the Weekly paper:

- did not possess a periodicals permit
- was not "for sale" to the public (required at time)
- diverted business

Declaratory relief under FDUTP Act

Injunctive Relief

Damages for Unfair Competition

Tortious Interference with Prospective Economic Advantage

Queries - what are the ramifications for the Keys Weekly publishing legal notices and ads if it is determined to not have met the statutory requirements? Why am I on the witness list?

# **ELECTRONIC PUBLICATIONS**

**The Future**



# WHAT Can Be Published Electronically, F.S. 50.0311

## #1. Legal Ads / Public Notices.

- In **searchable** form.
- Indicate the **date first published** on the website.
- Bid advertisements made on website **must include method to accept** electronic bids.



# WHERE You Can Publish Electronically, F.S. 50.0311

## #2. Publicly Accessible Website.

- Dfn.
- Your County's **official** website,  
OR
  - Other private website **designated** by your County for this purpose & that is accessible via the internet.

# WHO

## Can Publish Electronically, F.S. 50.0311

### #3. **Govt. Agency.**

- a) Advertiser = a **governmental agency** that **lies within your county**.
- b) Dfn. "Governmental agency" = a county, municipality, school board, or other unit of local government or political subdivision in this State.
- c) Note, a multi-county special district must publish on website of each county in which it lies.

# WHO - SMALL POPULATION

## Advertiser Publishing Electronically, F.S. 50.0311

### #4. Population.

Advertiser with at least **75%** of population located within a county with a population of less than **160,000** may public electronically only after:

1. A **public hearing** that has been noticed in the newspaper.
2. At which it is determined that residents have:
  - a) **Broadband service** as defined in F.S. 364.02.
  - b) **Sufficient access** to the internet.

# A. "Broadband Service," F.S. 364.02

## MEANS:

Any service that consists of or includes the offering of the capability to transmit or receive information:

1. At a rate that is **not less than 200 kilobits [.2 megabits] per second,**  
AND
2. Is used to provide access to the Internet,  
OR  
Provides computer processing, information storage, information content, or protocol conversion in combination with the service.

## DOES NOT MEAN:

Any intrastate telecommunications services that have been tarified with the Florida Public Service Commission on or before January 1, 2005.

### Take Florida's Broadband Speed Test

**Note:** Before you answer the questions below, *please* make sure no other internet or streaming devices are being used in your household while you take the test. If you are connected to a network in a public place for *school or work*, if applicable, please turn off your *Virtual Private Network (VPN)* during this test. VPN provides a secure (private) connection over the internet from a device to a network often used in an educational or professional setting.

Please provide the address where you are taking the test, unless you would like to provide an address where there is no internet service available.

Select the action you wish to take below:

- ☒ Provide my exact address
- ☐ Provide part of my address due to privacy concerns
- ☐ Provide an address with no available service

Your contact email (optional)

Start

We **do not** use tracking cookies, which transfers information from your web browser to your computer. We **will not** store your address; however, We **will** store your location and speed test results

[Please review this Disclaimer.](#)

- ✓ Take DEO's Broadband Speed Test:
- <https://floridajobs.org/community-planning-and-development/broadband/office-of-broadband>

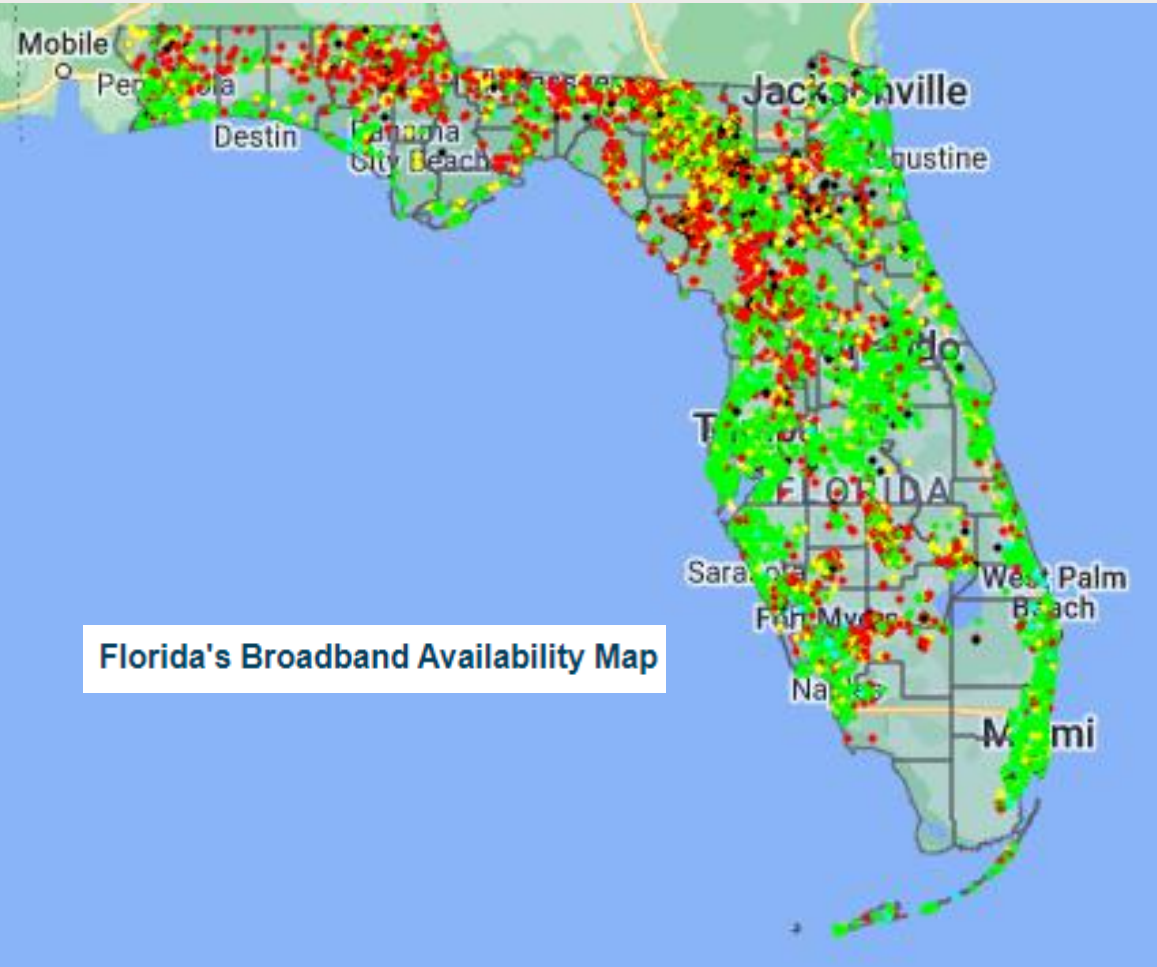
# A. Broadband - Test Your Speed.





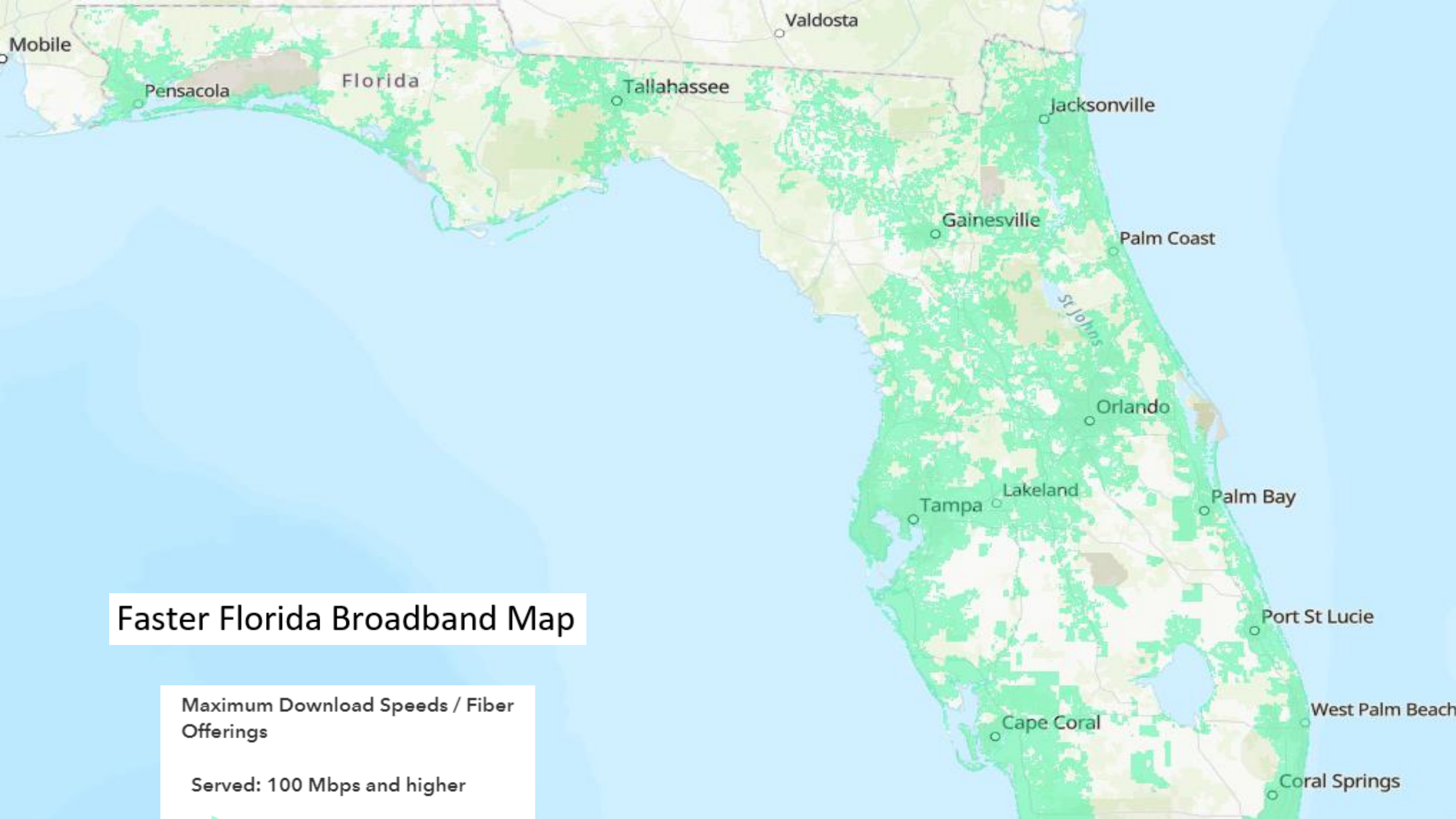
- ✓ You may need to engage a consultant to help and support your Board in making this determination.

## **B. Sufficient Access - How determine?**



- ✓ Check Faster Florida Broadband Map:
- <https://deolmsgis.maps.arcgis.com/apps/instant/basic/index.html?appid=43e39ada50bf436baa72622b91008a0e>

## B. Sufficient Access - How determine?



## Faster Florida Broadband Map

Maximum Download Speeds / Fiber Offerings

Served: 100 Mbps and higher



# Map results for Monroe County

## Maximum Download Speeds/Fiber Offerings- Lower Keys



Maximum Download Speeds / Fiber Offerings

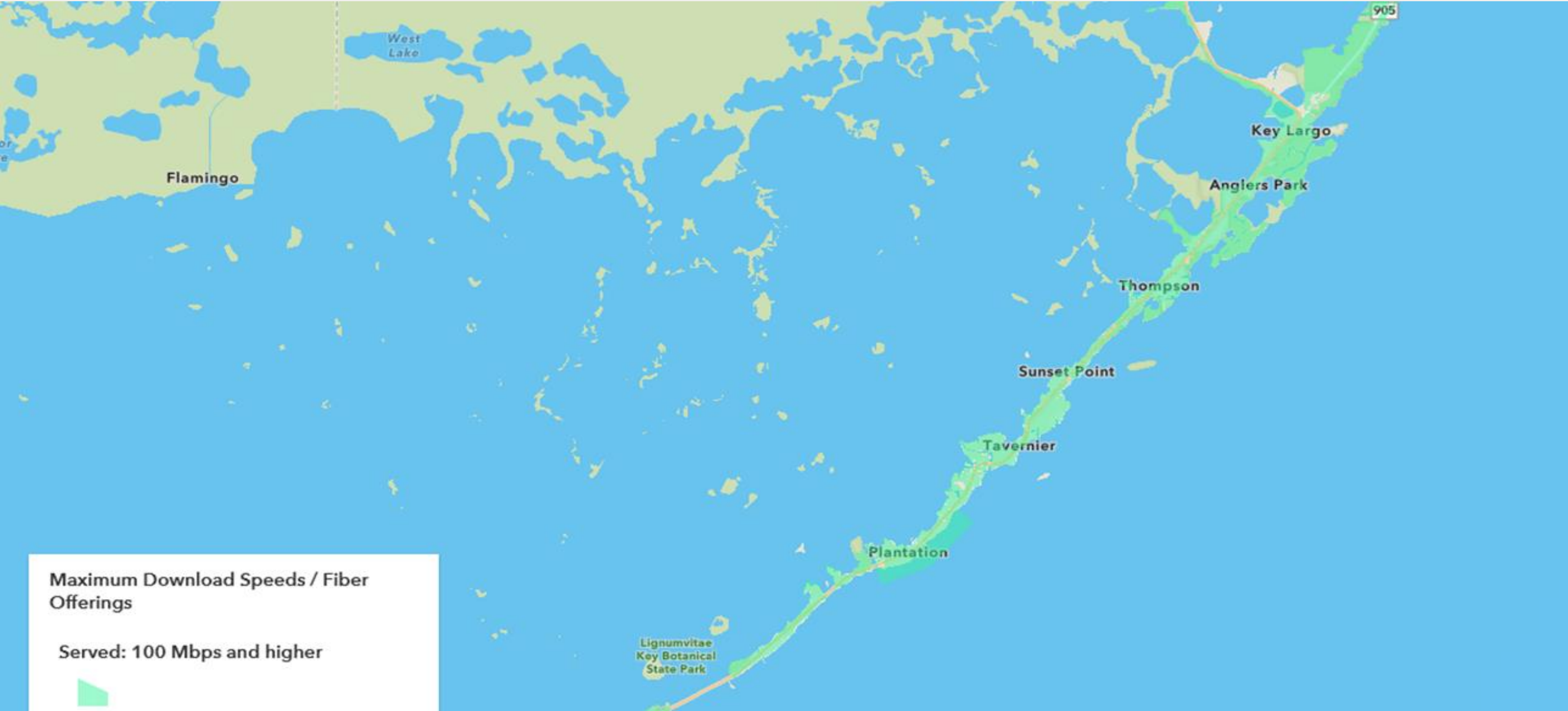
Served: 100 Mbps and higher



# Map results for Monroe County

## Maximum Download Speeds/Fiber Offerings-

### Upper Keys





**When publishing electronically you:**  
**May do 1 thing &**  
**Must do 3 things . . . .**



**MAY**  
-----  
**MCTV-**  
**Governmental**  
**Access Channel**

**For** those that have a **governmental access channel** authorized under F.S. 610.109- Public, educational, and governmental access channels.

**May** include on the channel a **summary** of all ads and public notices that are published on a publicly accessible website.

**#1 – MUST**

-----

**Ascertain Costs.**

**FS 50.0311(3)**

The **cost** of advertising on the website **must be less** than publishing in the newspaper.

#2 - MUST

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Provide  
Conspicuously  
Placed Link

**BOTH**

COUNTY & ADVERTISER



Each conspicuously place a link to Ad / Notice on its **homepage** or on a **page accessible through a direct link** from the homepage.

# #3 - MUST

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## Registry, FS 50.0311(6)

**Dfn.** Roster of County residents & property owners that have indicated a written **preference** to receive Ads / Notices **via e-mail or first-class mail.**

Must: **Create & maintain.**

Provide **annual notice.**



# The Registry

**Each Advertiser, 1 X Year:**

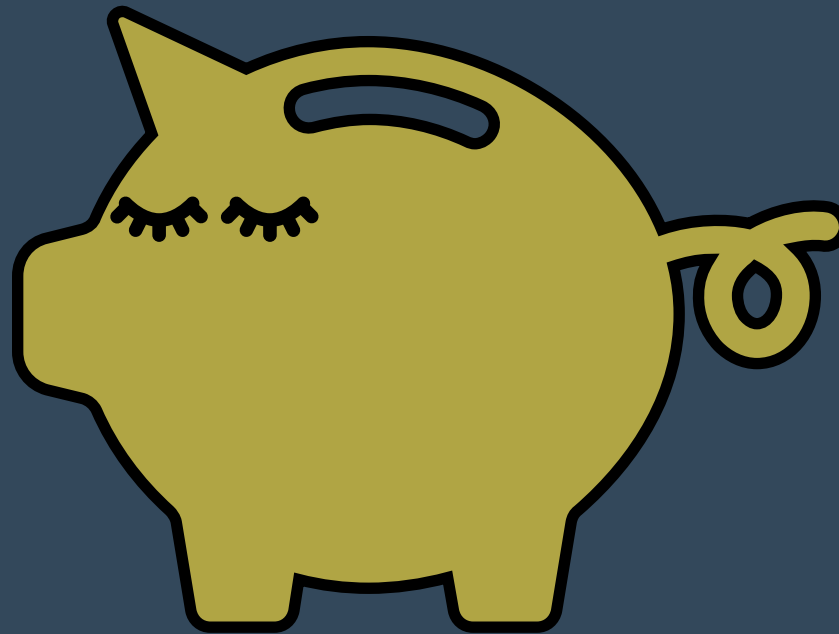
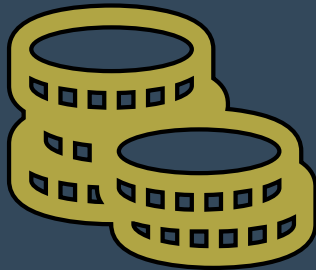
**In Newspaper of General Circulation or  
Publication Mailed or Delivered to All Residents and Property Owners throughout the  
Jurisdiction,**

**Notify they may Register on Advertiser's Website to Receive Ads/Notices,**

**By (1) First class mail or (2) Email.**

# **COSTS**

**Must Be Less Than Print, FS 50.0311(6)**



# COST

## 1. **Create, Maintain, Secure.**

- a) Webpage, Policies, Forms.
- b) Bidding Submittals.
- c) See materials for samples.

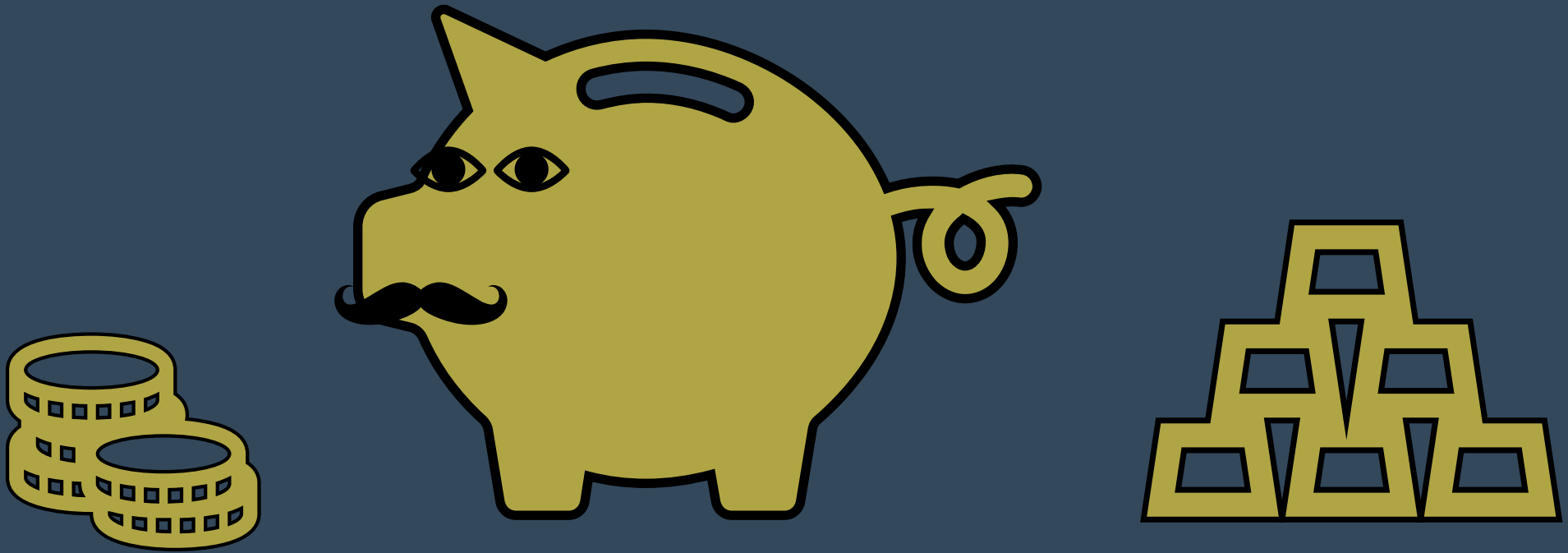
## 2. **Manage.**

- a) Accept & Manage Ads/Notices.
- b) Provide Proof of Pubs.
- c) Forms/Types/Frequency, see materials.

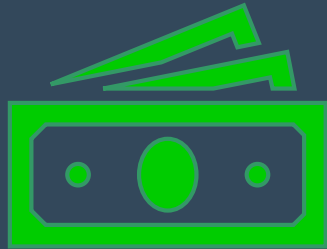
## 3. **Registry.**

- a) Provide & Maintain.
- b) Comply.

# 4 WAYS TO FUND



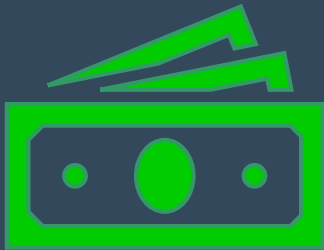
# 4 WAYS TO FUND



## 1. **Fee.**

Charge a fee for the Ad/Notice.

# 4 WAYS TO FUND



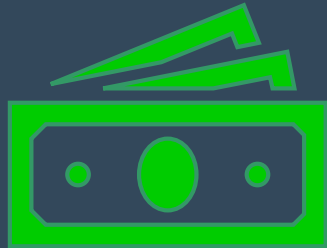
## 2) **Proof of Pub.,**

F.S. 50.0411.

- **\$2** ea.
- Paper or Electronic.
- Form in materials.



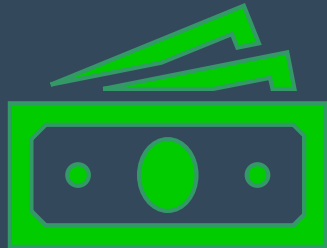
# 4 WAYS TO FUND



## 3) **Clerk Docket Fund,** F.S. 50.0711.

- Mandatory **\$1** for all Circuit civil cases.
- Fact of Filing; Certain Service of Process; & When Required of Indigent Persons.

# 4 WAYS TO FUND



4) Share costs  
with Advertisers.

# Pros and Cons

## PROS:

**Better control of the process and timing of notices.**

**No lead time to get notice to newspapers in advance of publication date.**

**Efficiency on POP maintains ordinances and other time sensitive legislative action.**

**Possible cost savings.**

# Pros and Cons

## CONS:

**It's complicated when other govt. agencies use County website.**

**Costs are unknown yet guide decision.**

**What else might the future hold?**

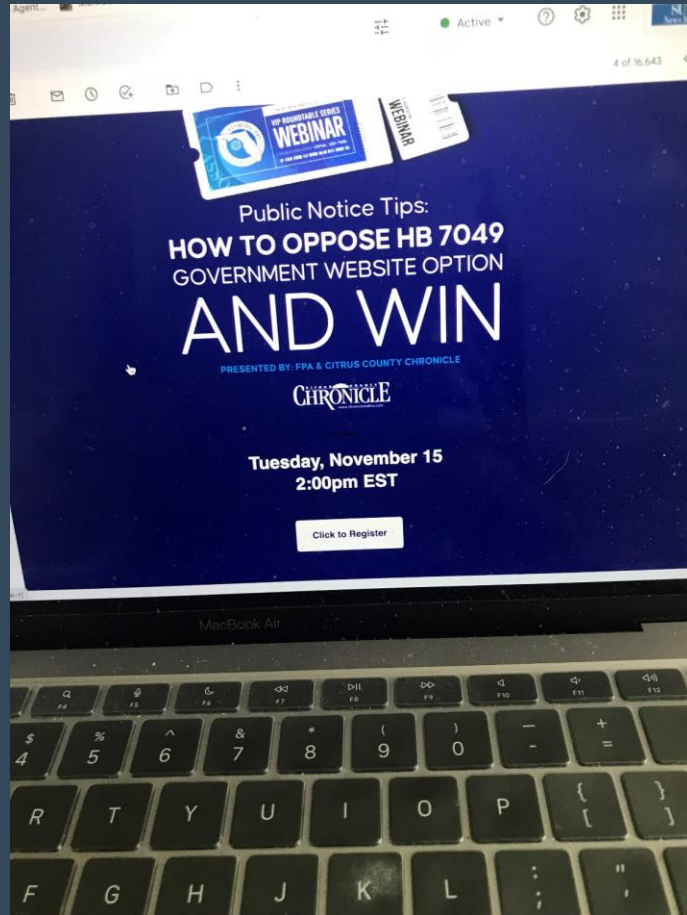
**Pitfalls. Ex. Due Process Claims.**

# For Counties without a Newspaper

## F.S. 50.021

- Prior to 2021 – post in 3 places including front door of courthouse and published in newspaper in nearest county with a newspaper.
- 2022 – same plus added options of posting on qualifying newspaper in adjoining county and F.S. 50.0211 internet publication on newspaper websites
- 2023 – reverted to post in 3 places including front door of courthouse and publication in nearest county with a qualifying newspaper or publication on government website instead of newspaper website.

# Newspapers are gearing up to oppose switch to Government Website Option



- On 11/15/22, @ 1:10 pm, I introduced the new electronic option to the Monroe BOCC.
- @ 2:08 pm, *The Key West Citizen's* local govt. reporter texted me this photo of a webinar he was watching hosted by Citrus County Chronicle and FL Press Assoc.





# Questions?!

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