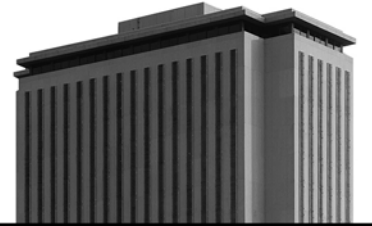




LEGISLATIVE ISSUE BRIEFS



Unfunded Mandates

The Florida Legislature must not impose additional unfunded mandates upon Florida's municipalities, and should support strengthening the current mandates provision of the Florida Constitution.

Every year, bills are enacted that contain unfunded mandates. Unfunded mandates can come from either the state or federal government. Unfunded mandates are irresponsible and misleading because local elected officials are held accountable to local taxpayers for fiscal decisions they cannot control, and because one governmental entity can freely spend the money of another governmental entity without consequence or assessment of costs versus benefits. This practice must stop, particularly in light of recent budget cuts and further fiscal uncertainties faced by cities across the state.

In addition, the legislature should support revisions to the current unfunded mandates provision of the Florida Constitution to better define what constitutes an unfunded mandate. The revision must ensure that any proposed unfunded mandates law must contain only a single subject matter and must be enacted by three-fourths vote of each house of the Legislature, only after a duly noticed public hearing at which fiscal analysis is available. The revised provision should provide for the creation of an intergovernmental council to resolve disputes regarding whether a law or rule is an unfunded mandate, and provide that no county or municipality shall be bound by any law determined to be an unfunded mandate.

Unfunded Mandates Background

The Florida Constitution prohibits unfunded mandates. The provision is intended to protect counties and municipalities from state mandates that require the expenditure of funds without providing sufficient state resources to do so, or that reduce the authority of counties and municipalities to raise revenues. The current unfunded mandates provision allows the Legislature, by two-thirds vote of each house, to enact unfunded mandates into law without any prior public notice or fiscal analysis of such law. In addition, the current provision contains exclusions that include: all criminal and election laws, general and special appropriations acts, laws deemed to have an "insignificant fiscal impact," and numerous others. As a result of these exceptions and exclusions, the state has continued to force local governments to implement programs without the funding to pay for them.

2007 Legislative Session

For fiscal year 2007-08, the Legislature imposed statutory "caps" and decreases on municipal, county, and special district property tax millage rates. This first year alone resulted in a

reduction of property tax revenues by over \$2.1 billion, with municipal property taxes being reduced by approximately \$500 million. The Legislature has also imposed restrictions on millage rates for fiscal year 2008-09 and thereafter. The long term impacts of these restrictions are unknown.

2008 Florida Constitutional Amendment – Amendment 1

On January 29, 2008, Florida voters approved Amendment 1 to the state constitution, which included provisions that: double the homestead exemption, allow for portability of the Save-Our-Homes assessment differential; provide an exemption for tangible personal property, and provide a 10% assessment cap for non-homestead property. The fiscal impact of Amendment 1 on municipalities is largely unknown, but some estimates show the statewide impact to cities, counties and schools may exceed \$9 billion. Consequently, cities must budget additional reductions or adjustments as these impacts come to light.

State Budget Outlook

It is estimated that next year's budget will be short as much as \$4 billion. In this fiscal environment, we can expect significant cuts to many trust funds and programs that fund local programs, including many that offset the costs to implement state or federally mandated requirements.

The statutory caps and rollbacks imposed in 2007 coupled with the potential impacts of Amendment 1 create a highly unstable fiscal environment for Florida's municipalities. These impacts will undoubtedly have long term and unintended consequences. Declining state revenues and corresponding cuts to trusts funds and programs that provide critical funding for housing, water and transportation capital projects further add to this uncertainty. In this environment, it is difficult if not impossible to budget for long term capital improvements and services demanded by citizens and mandated by the state.

For these reasons, it is critical that legislators avoid passing any further unfunded mandates down to cities. The League is not passing judgment on the merits of these proposals; the League simply asks the Legislature to fund its own ideas. Municipal taxpayers can no longer absorb the costs of somebody else's good idea.

Status:

In addition to the assorted retirement and presumption bills, growth management, and other laws enacted in recent years, bills and issues are being discussed in the 2008 legislative session that would impose additional unfunded mandates upon municipalities. For example, **HB 181** (Harrell) and **SB 392** (Storms) would require cities post certain contractual information online for all contracts over \$5,000. **SB 392 is on the Senate Special Order Calendar for April 16th. HB 7123 (Gov't Efficiency & Accountability Council) imposes budget transparency requirements on local governments, and will be heard April 15th by the Policy & Budget Council.** **HB 715** (Flores) and **SB 2412** (Haridopolos) require a super-supermajority vote (e.g., 4 to 1 vote on a 5-member council) of the local governing body to levy new, increase

existing, expand the tax base or area subject to, or to eliminate any exemptions from, taxes, special assessments, non-ad valorem assessments, or impact fees. It would require a 3/5 vote of the electors voting in any referendum regarding the same. HB 715 passed the House State Affairs Committee on March 26th. Several of the **Energy bills** filed this year contain mandates, including **SB 1544** (Saunders) and **HB ENRC 1** (Environment & Natural Resource Council), which mandate an ad valorem tax exemption for any improved real property upon which a renewable source energy device is installed. In addition, the bills may also mandate minimum energy efficiency and greenhouse gas emission standards for government buildings and government vehicle pools. **The Growth Management bills, PCB EEIC 08-07 and SB 474** (Garcia) mandate local governments to develop new policies for their local comprehensive plans to address expedited permits, airport compatibility, energy conservation, and affordable housing for seniors, and citizen participation. **PBC 08-11** (Policy & Budget Council) contains a provision that would restrict local governments' ability to offset losses to the tax base caused by Amendment 1 by requiring a supermajority (2/3) vote rather than a simple majority vote to levy a millage rate in the 2008-09 fiscal year that would offset the losses.

The Florida Taxation and Budget Reform Commission is considering **CP 0046**, which would clarify and strengthen the existing mandates provision of the Florida Constitution.

Contact: Rebecca O'Hara, Kraig Conn, Dee Carper, Tim Stanfield, Scott Dudley, Stephanie Usina

Updated: 04/12/08