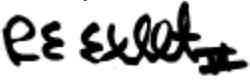


Date: 08/17/2017		AGENDA ITEM				Item: 10	
<input type="checkbox"/> Ordinance		<input checked="" type="checkbox"/> Resolution		<input type="checkbox"/> Budget Resolution		<input checked="" type="checkbox"/> Other	
County Goals							
<input checked="" type="checkbox"/>	Thriving Communities	<input checked="" type="checkbox"/>	Economic & Financial Vitality	<input type="checkbox"/>	Excellence In Government	<input type="checkbox"/>	NA
Department: Aviation And Economic Resources							
Division: Economic Development							
Subject: Proposed 2018 state legislative agenda.							
Rick Karl Director Aviation and Economic Resources  Department Approval				Legal Jamie E. Seaman Deputy County Attorney  Approved as to Form and Legality		County Manager's Office Donna de Peyster Deputy County Manager 	
Robert Ehrhardt Director Economic Development  Division Approval							
Council Action:							
Modification:							
Account Number(s): NA							
Total Item Budget: NA							
Staff Contact(s):				Phone:		Ext.	
Rick Karl				386 248 8030		18319	
Arlene Smith				386 248 8030			
Summary/Highlights: GrayRobinson, the county's state lobbying firm, and staff have developed the attached 2018 state legislative agenda for consideration. The 2018 state legislative session convenes January 9, 2018, and concludes March 9, 2018. GrayRobinson will provide regular updates on these issues and the status of progress toward securing funding for our member project requests, with recommendations for action as the legislative process evolves. In addition, as directed by the county council, staff has added the request to impose stricter penalties for animal cruelty to the legislative agenda, and has attached a proposed resolution in support thereof.							
Recommended Motion: Approval							

RESOLUTION 2017 - ____

A RESOLUTION OF THE COUNTY COUNCIL OF VOLUSIA COUNTY, URGING MEMBERS OF THE STATE LEGISLATURE TO ADOPT LEGISLATION AMENDING CURRENT ANIMAL CRUELTY LAWS TO IMPOSE STRICTER, HARSHER PUNISHMENT AND PENALTIES FOR ACTS OF ANIMAL CRUELTY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, it is a priority of the County of Volusia to promote the health, safety and welfare of animals in the County and within the State of Florida; and

WHEREAS, animal cruelty is a shameful act and no animal should feel endangered from abuse, forced violence, or neglect; and

WHEREAS, the County Council supports legislative efforts to impose harsher penalties on those who engage in acts of animal cruelty; and

WHEREAS, the County Council supports legislative efforts to improve the quality of life for all animals through love, compassion, education and legislation.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNTY COUNCIL OF VOLUSIA COUNTY, FLORIDA, IN AN OPEN MEETING DULY ASSEMBLED AT THE THOMAS C. KELLY ADMINISTRATION CENTER, COUNTY COUNCIL CHAMBERS, 123 W. INDIANA AVENUE, DELAND, FLORIDA, THIS ____ DAY OF _____, 2017, AS FOLLOWS:

SECTION 1. That the County Council of Volusia County hereby urges members of the Florida Legislature to consider imposing stricter, harsher punishment and penalties for acts of animal cruelty, including amending the penalty in section 828.12(2), Florida Statutes, for aggravated animal cruelty from a third degree felony to a second degree felony.

SECTION 2. That a copy of this resolution be sent to Governor Rick Scott, State Senators Dorothy Hukill and David Simmons, and State Representatives Patrick Henry, Tom Leek, Paul Renner, and David Santiago.

SECTION 3. This Resolution shall take effect immediately upon its adoption.

DONE AND ORDERED IN OPEN MEETING.

COUNTY COUNCIL
VOLUSIA COUNTY, FLORIDA

ATTEST:

By _____
ED KELLEY, County Chair

JAMES T. DINNEEN, County Manager



2018 State Legislative Agenda

	Requested	Total Cost
<ul style="list-style-type: none"> <p>High Tech Economic Development Infrastructure Funding Request <i>Support</i> public infrastructure improvements to attract high tech companies with high paying jobs.</p> 	\$10,000,000	\$10,000,000
<ul style="list-style-type: none"> <p>Indian River/Mosquito Lagoon Water Quality Funding Request <i>Support</i> design of sanitary sewer collection system for elimination of onsite septic systems.</p> 	\$ 200,000	\$ 400,000
<ul style="list-style-type: none"> <p>Transportation Economic Development Funding Request <i>Support</i> Williamson Boulevard 4-Laning Project.</p> 	\$8,000,000	\$10,279,000
<ul style="list-style-type: none"> <p>Home Rule Authority <i>Oppose</i> removal of home rule authority, e.g., removing charter government authority for selection of charter officers.</p> 		
<ul style="list-style-type: none"> <p>Consultants' Competitive Negotiation Act <i>Support</i> increasing continuing contract limits.</p> 		
<ul style="list-style-type: none"> <p>Local Control of Septic Tank Distances in Vulnerable Areas <i>Support</i> local government authority to regulate location and functionality of new septic systems in critical areas where water quality is concern.</p> 		
<ul style="list-style-type: none"> <p>Water Quality Improvements <i>Support</i> additional funding to improve surface and ground water quality.</p> 		
<ul style="list-style-type: none"> <p>Fracking <i>Oppose</i> high pressure well stimulation, commonly known as hydraulic fracturing or fracking, and the preemption of local control thereof.</p> 		
<ul style="list-style-type: none"> <p>Additional Transportation Funding Options <i>Support</i> allowing local governments to implement sustainable transportation funding by endorsing revenue options defined in Florida MPO Advisory Council Transportation Revenue Study.</p> 		
<ul style="list-style-type: none"> <p>Certificate of Public Convenience and Necessity <i>Oppose</i> dilution of county authority relating to issuance of COPCN for emergency medical service providers.</p> 		
<ul style="list-style-type: none"> <p>Cancer presumption <i>Oppose</i> creation of presumption for firefighters, paramedics, and/or law enforcement officers that cancer is incurred in the line of duty.</p> 		
<ul style="list-style-type: none"> <p>Worker's Compensation <i>Support</i> increase in attorney fees allowable for workers' compensation claims.</p> 		
<ul style="list-style-type: none"> <p>Unfunded Mandates <i>Oppose</i> codifying state budget shortfalls through cost shifts to local governments.</p> 		
<ul style="list-style-type: none"> <p>Animal Cruelty Penalties <i>Support</i> increasing penalty for aggravated animal cruelty to second degree felony.</p> 		
<ul style="list-style-type: none"> <p>Florida Association of Counties <i>Support</i> the Florida Association of Counties (FAC) Legislative Program, absent conflicts.</p> 		



High Tech Economic Development Infrastructure Funding
Support Public Infrastructure Improvements to Attract High Tech Companies with High Paying Jobs
\$10,000,000 project

Current Situation

The annual average wage in Volusia County of \$37,804 is 20% lower than the state average, and 29% lower than the national average. (U.S. Bureau of Labor Statistics for jobs covered by unemployment insurance, third quarter 2016) Volusia County's economic development strategy includes an intentional focus on attracting private-sector aviation or aerospace companies that bring high-wage job opportunities for local university graduates, including those from Embry-Riddle Aeronautical University (ERAU).

The county owns approximately 300 acres of commercially zoned land located near ERAU and its newly developed research park. The property is located near the intersection of Interstate 95 and Interstate 4, on and adjacent to county owned and operated Daytona Beach International Airport (DAB), making it ideally suited as a regional employment center in the aviation and aerospace industry. The property is not related to DAB's daily operation but current environmental and engineering constraints have made this property non-competitive for commercial development in recent proposals. This has led the interested companies to consider other states that offer sites without these impediments to development.

Project

The county is pursuing \$10 million in funding to design, engineer and construct needed infrastructure so that the property can be made "shovel ready" for consideration by one or more large regional employers. The project will be comprised of infrastructure improvements that include:

- Surveys and Mapping
- Environmental Assessment and Mitigation
- Flood Plain Modeling and Compensatory Storage
- Wetland Permitting and Mitigation
- Internal Roadway Design and Construction
- Regional Stormwater System Design and Construction

Community Impact and Benefits

This project will:

- Provide "shovel-ready" sites for potential large aviation and aerospace industries
- Create opportunities to bring high paying, high-tech jobs thereby retaining the talent graduating from the area's universities
- Diversify the local tourist-based economy and raise the standard of living in the region
- Compliment the research park at Embry-Riddle Aeronautical University

Contact for more information

Rick Karl, Director of Aviation and Economic Resources at (386) 248-8030 or RKarl@volusia.org.



Indian River/Mosquito Lagoon Water Quality Funding
Support Design of Sanitary Sewer Collection System for the Elimination of Onsite Septic Systems
\$200,000 request for \$400,000 project

Current Situation

The Mosquito Lagoon is part of the 156 mile long Indian River Lagoon (IRL) Estuary. The IRL has experienced several devastating algae blooms in recent years, which have contributed to dozens of fish kills, mass die off of hard clams, and unprecedented mortality of dolphins, brown pelicans, and manatees. The IRL ecosystem is under increasing pressure from nutrient and bacteria pollution from a number of sources, including leaching from septic systems.

The northern portion of the IRL, located partially in Volusia County, is currently under nutrient Total Maximum Daily Loads (TMDLs) and a Basin Management Action Plan (BMAP) for both total nitrogen and total phosphorus pollutants.

Project

The project is for design of a sanitary sewer collection system for the future removal of up to 300 onsite treatment and disposal (septic) systems, located in Oak Hill, Florida, along canals leading to the north portion of the Indian River Lagoon Estuary. The proposed scope consists of engineering, design, and permitting of a central sewer collection system in order to prepare “shovel-ready” plans necessary in applying for cost share funding opportunities provided by state agencies.

Due to the high lot density within the community and its location relative to the canals leading directly to the lagoon, it is ranked as the top priority for the conversion of onsite septic systems in Southeast Volusia County.

Community Impact and Benefits

The eventual construction of the proposed collections system will provide an efficient and cost effective means for significant nutrient reductions critical for improved water quality and the protection of the lagoon ecosystem by eliminating up to 300 onsite septic systems. The project will:

- Reduce the loading of nitrogen between 7-9 tons/year and phosphorus between 2-3 tons/year
- Improve the lagoon’s water quality and sea grass beds
- Help preserve the ecosystem and natural habitat within the lagoon

State Return on Investment

The Indian River Lagoon (IRL) is considered a valuable ecological and economic asset for the state of Florida.

- The IRL is considered the most biologically diverse estuary in North America
- The lagoon directly and indirectly supports a large part of the region’s and state’s economy, valued at \$3.7 billion lagoon-wide
- This project helps achieve state goals and objectives for improved water quality within the IRL through quantifiable reductions in total nitrogen and total phosphorus nutrients

Contact for more information: Michael Ulrich, Water Resources and Utilities Director, at 386-943-7027 or mulrich@volusia.org



Transportation Economic Development Funding
Support Williamson Boulevard 4-Laning Project
\$8,000,000 million request for \$10,279,000 project

Current Situation

- Federal Functional Classification: Urban Principal Arterial.
- The daily traffic volumes are currently 13,300 and are projected by the regional Transportation Planning Organization (TPO) to almost double in the future.
- Nearly 1,000 acres of vacant property, zoned office and commercial/retail, is adjacent to this corridor.
- A recently completed major hospital facility (Florida Hospital) is located between Interstate 95 and this section of Williamson Boulevard which provides its only access. Daytona State College has a satellite campus that also directly accesses this section of Williamson Boulevard. Tanger Outlet Mall, a \$100 million, 350,000 square-foot retail destination, has recently been completed near the southern end of this road project. The \$24 million, 264 unit, Sands Parc luxury apartment complex is nearing completion on 14 acres in that same area. An \$8 million Sam's Club (135,000 square-foot wholesale club) is proposed in the vicinity, with probability of 100 new jobs.

Project

This project will widen a 1 mile section of Williamson Boulevard (CR 4009) from 2 lanes to 4 lanes beginning just north of Strickland Range Road in Daytona Beach and ending just north of Hand Avenue in Ormond Beach.

- 100% engineering & surveying is complete.
- 100% environmental permitting is complete.
- Right of way is acquired, with exception of one parcel for a stormwater pond.
- \$8 million is requested in funding assistance for right of way and construction including construction, engineering, and inspection (CEI). Local contribution consists of \$925,000 expended for engineering, survey & permitting and \$1,354,000 expended for right of way. Total estimated project cost is \$10,279,000.

Community Impact and Benefits

This project will:

- Enhance office and commercial/retail development opportunities for the corridor
- Allow for creation of jobs in new development area
- Allow easy access to and from Interstate 95
- Improved rapidly increasing traffic flow and safety along the corridor

State Return on Investment

The economic benefits of the Williamson Boulevard expansion will be tremendous with the potential for significant job creation from office and commercial/retail development. The demand for locating along this corridor has already begun with the availability of land linked to appropriate land use classification and close proximity to Interstate 95. Potential development is likely to increase assessed value for tax purposes approximately \$70 million and could result in the creation of more than 500 jobs.

Contact for more information Gerald Brinton, P.E., County Engineer at (386) 736-5967 or gbrinton@volusia.org.



Home Rule Authority

Oppose Removing Charter Government Authority for Selection of Charter Officers

Current Situation

Volusia County's Home Rule Charter was approved by Volusia voters in a special countywide referendum on 1970. During the mandated charter reviews in 1975, 1985, 1995, 2005, and 2015, citizens did not come forward to propose amendments to the county officers' policies.

In Volusia County, the sheriff, property appraiser, and supervisor of elections are elected officials that serve as charter officers and department directors. The tax collector functions have been transferred to the Department of Finance. Volusia's system allows for both fiscal and functional efficiencies, including:

- Budgets are established by a single elected body from an overall countywide perspective.
- Overhead costs are reduced because administrative functions are performed centrally, eliminating redundancy.
- Fixed costs, startup costs and any required infrastructure costs have already been incurred by the county.
- Staff managed by the charter officers are county employees, creating consistency and fairness for benefits.
- Protections are provided by the county's self-funded insurance program.
- Borrowing capability for capital improvements is greatly enhanced.
- Transparency is enhanced when the government, as a whole, is able to share information with the public eliminating the need for citizens and other stakeholders piecing together data from multiple sources.

These efficiencies have led to Volusia County's expenses per capita being below the benchmark for counties our size for the last ten years.

Possible Changes

Legislation was filed in the last two years that would have required the sheriff, property appraiser, supervisor of elections, and tax collector to be constitutional officers rather than charter officers and department directors. Similar legislation related to one or more of Volusia's charter officers may be filed again in 2018.

Negative Impact to Volusia Taxpayers

Changing the sheriff, property appraiser, supervisor of elections, and tax collector to constitutional officers would have a collective negative impact on Volusia County taxpayers of approximately \$10 million, conservatively.

Contact for more information: Donna DePeyster, Deputy County Manager, at 386-736-5933 or ddePeyster@volusia.org



Consultants' Competitive Negotiation Act Support Increasing Continuing Contract Limits

Current Situation

Florida Statute 287.055 provides that a "continuing contract" is a contract for professional services whereby the firm provides professional services to the agency for projects in which the estimated construction cost of each individual project under the contract does not exceed \$2 million, and for study activity if the fee for professional services for each individual study under the contract does not exceed \$200,000. Firms providing professional services under continuing contracts are not required to bid against one another.

These limits for continuing contracts have been in place since 2009. Construction costs have significantly increased since that time, reducing the number of projects allowed without requiring a full bid process. Consultant fees are averaging approximately 8% of the total project, which translates to a \$200,000 consultant fee for a \$2.5 million project. The bidding of projects increases the time and money required to complete the development. Construction costs expected to be within these limits sometime exceed them, triggering a bidding process midstream, which jeopardizes the integrity of the project.

Proposed Changes

Legislation that would increase the continuing contract allowable limits to \$2.5 million in construction costs from \$2 million would streamline the development process for more projects.

Impact Analysis and Benefits

Raising the continuing contract limits to \$2.5 million in construction costs would bring the consultant fees and construction costs more in line with current costs. The ability to utilize a continuing contract for a higher valued construction project would reduce the number of projects that require the full bidding process. This would speed the time required to complete development and reduce the overall costs.

Contact for more information: George Recktenwald, Deputy County Manager, at 386-740-5295 or grecktenwald@volusia.org



Local Control of Septic Tank Distances in Vulnerable Areas
Support Local Government Authority to Regulate Location and Functionality of New Septic Systems in
Critical Areas where Water Quality Is Concern

Current Situation

The Volusia County Health Department estimates that there are approximately 90,000 on-site sewage disposal systems (septic tanks) in the county. Septic tanks discharge liquid waste, high in nutrients (nitrogen), bacteria, and other harmful substances, into the soil through a drainfield. Traditional septic tanks do not treat nutrients, however, there are alternative systems that provide for nutrient removal.

Septic tank placement is solely regulated by the Florida Department of Health through Chapter 381, Florida Statute. New septic tanks continue to be permitted in vulnerable areas, exacerbating water quality degradation.

Several water bodies in Volusia County have been, or are in the process of being, identified as impaired for nutrients and/or bacteria. Volusia Blue Spring is subject to additional standards (Total Maximum Daily Loading or TMDL) to reduce the amount of nitrogen in the spring. The Florida Department of Environmental Protection has estimated that at least 54% of the nitrogen in Blue Spring is attributed to septic tanks within the springshed. The Indian River Lagoon system, including Mosquito Lagoon, has experienced algae blooms and negative impacts to fish and other wildlife species. Nitrogen has been documented as a contributing factor to decline in water quality.

It is imperative that Volusia County have the ability to limit the location and functionality of new septic systems near critical water bodies to meet regulatory standards and improve water quality.

Proposed Changes

Support changes to state law that would allow Volusia County, as well as other local governments, to limit the location and functionality of new septic systems in critical areas, based on the vulnerability of the site. Volusia County would develop a vulnerability index, in cooperation with the Florida Department of Health, to identify those sites that are not suitable for traditional septic systems. New traditional septic systems would be prohibited on sites determined to be unsuitable.

In spring systems, which are primarily groundwater fed, the vulnerability index would include distance to the spring, hydraulic conductivity of the soil, and recharge rate into the Floridan Aquifer. In surface water systems such as the Indian River Lagoon, the vulnerability index would include soil type and distance to surface water.

The local Health Department would permit, regulate and enforce the locational restrictions as determined by the vulnerability index.

Impact Analysis and Benefits

The requested change is one part of the effort to improve water quality in Volusia County. The implementation will increase the cost to the end user since alternative systems can be more expensive than a standard septic system. The benefits are many: better water quality, improve ecosystems, and expansion of development opportunities.

Contact for more information: Ginger Adair, Environmental Management Director, at 386-736-5927 or gadair@volusia.org.



Water Quality Improvements

Support Additional Funding to Improve Surface and Ground Water Quality

Current Situation

Several water bodies in Volusia County have been, or are in the process of being, identified as impaired for nutrients and/or bacteria. Volusia County has identified four primary ways to improve water quality: 1) Eliminate septic tanks in watersheds/springsheds of priority water bodies; 2) Improve stormwater conveyance and treatment systems to reduce nutrient pollution; 3) Develop meaningful education and outreach programs to inform citizens about water quality, and (4) Reduce nutrients from wastewater plant discharges to surface or ground water.

The Volusia County Health Department estimates that there are approximately 90,000 on-site sewage disposal systems (septic tanks) in the county. Septic tanks discharge liquid waste, high in nutrients, bacteria, and other harmful substances, into the soil through a drainfield. Septic tanks are documented to contribute to nutrient and bacteria pollution of our groundwater and surface waters.

Stormwater systems control and treat rainfall for flood control and pollution reduction. Modern stormwater systems rarely remove more than 50% of the nutrients. The remaining nutrients are added to the groundwater or discharged downstream.

Individual citizens make important decisions every day that impact water quality. Educating citizens about their choices, particularly related to the use of fertilizer, yard waste and reclaimed water, is an important component of water quality improvement.

Surface water discharges by several cities in Volusia County are contributing to the degradation of the Halifax/Mosquito Lagoon estuary. West Volusia utilities are discharging wastewater into groundwater within the Blue Spring springshed. Reclaimed water used for irrigation with fertilizer is also adding to the groundwater nutrient load.

Proposed Changes

Volusia County has identified priority areas for extension of sewer service, stormwater improvements, and a public outreach campaign, designed to protect and improve water quality. Water quality is a regional and state issue, and local governments need funding partnerships to implement costly infrastructure improvements.

Analysis

Legislation that provides assistance to homeowners and local government to fund important water quality improvement projects may preserve ecosystems and protect human health in our surface and groundwater.

Contact for more information: Ginger Adair, Environmental Management Director, at 386-736-5927 or gadair@volusia.org.



Fracking

Oppose High Pressure Well Stimulation, Commonly Known as Hydraulic Fracturing or Fracking, And the Preemption of Local Control Thereof

Current Situation

The Department of Environmental Protection (DEP) currently issues permits for oil and gas exploration, production, and storage.

In February 2016, Volusia County Council passed Ordinance 2016-07 to prohibit high-pressure well stimulation, citing the detrimental impact fracking could have on clean water, the environment, and the economy.

Possible Changes

In 2016, legislation was filed that would preempt all fracking regulation to the state. In 2017, several bills were filed that would have prohibited fracking.

This legislation failed the last two years but may be refiled in some manner in 2018.

Impact to Volusia

As a charter county, Volusia has adopted minimum standards for environmental protection as a way to ensure the long-term viability of our critical resources, including groundwater. The Volusia County Charter also authorizes county-wide pollution control ordinances to protect the health, safety, and welfare of its citizens. The proposed legislation would restrict the county's ability to protect the sole source aquifer upon which we rely.

Request

Volusia respectfully requests that modified legislation:

- Prohibit fracking; or
- Allow for existing local ordinances to prohibit fracking; and
- Allow for local control and prohibition through existing and future zoning and land use regulations.

Contact for more information: George Recktenwald, Deputy County Manager, at 386-740-5295 or grecktenwald@volusia.org



Additional Transportation Funding Options

Support Allowing Local Governments to Implement Sustainable Transportation Funding by Endorsing Revenue Options Defined in Florida MPO Advisory Council Transportation Revenue Study

Current Situation

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

Proposed Changes

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

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

Impact Analysis

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

Contact for more information: John Angiulli, Public Works Director, at 386-736-5965 or jangiulli@volusia.org



**Certificate of Public Convenience and Necessity (COPCN)
Oppose Dilution of County Authority Relating to Issuance of COPCN for Emergency Medical Service
Providers**

Current Situation

The state has long delegated authority to counties under chapter 125, and subsequently chapter 401, Florida Statutes, to regulate and manage certain areas of healthcare. Among these responsibilities is the comprehensive and coordinated delivery of emergency medical services through local oversight using reasonable standards to obtain a COPCN. Volusia's local ordinance provides ample opportunity to stakeholders to comment upon the issuance of a new, or renewal of an existing, COPCN. Stakeholders not only include municipalities as required under existing law, but the system medical director who provides the requisite clinical oversight. This legislative authority was upheld in 1982 (County of Volusia v. City of Daytona Beach, 420 So. 2d 606, 610-11 (Fla. 5th DCA 1982)).

Possible Changes

Legislation was filed in the last two years that would have altered the current procedures, e.g., local governments would have been required to consider quality and cost of service when reviewing applications for COPCNs. This proposal would have created a judicial pathway for denied applicants to repeal the local government's decision. It would have effectively usurped the local legislative process and negated the elected representation of local constituents. The proposed legislative appeal would have placed the onus of determining *public convenience and necessity* on a single individual to determine if the applicant would provide "superior service" over an existing provider.

Similar legislation may be filed in 2018.

Impact Analysis

Over the course of more than thirty years, a number of municipalities within Volusia County have pursued a COPCN for transport. Despite these ongoing efforts, the County has been resolved in its effort to maintain a non-fragmented, comprehensive, and coordinated countywide emergency medical services delivery system. It is that premise that has allowed Volusia County to contain costs involved in this vital service.

At 1,207 square miles and with more than 500,000 residents, Volusia County ranks the tenth and eleventh largest county in the state, respectively. Population density covers the spectrum of more densely populated urban areas to rural forest. Some special events within the county purportedly double the county population for the given period. All of this has caused the county to implement many strategies to effectively provide coverage to all areas of the county.

Fiscal impact is challenging to anticipate. Among the many variables are the number of other providers that could pursue a COPCN under modified legislation and the potential disproportionate shift in expenses and revenue to the existing provider; future payer policies still evolving as a result of the *Patient Protection and Affordable Care Act*; and the evolution of traditional roles in emergency medical services with the advent of mobile integrated healthcare/community paramedicine.

Contact for more information: Jim Judge, Director of Emergency Management, at 386-254-1500 or jjudge@volusia.org.



Cancer Presumption
Oppose Creation of Presumption for Firefighters, Paramedics, and/or Law Enforcement Officers
That Cancer Is Incurred in the Line of Duty

Current Situation

Florida Statute (FS) 112.18 provides a presumption that heart, hypertension, and tuberculosis conditions are the result of work related activities for firefighters, law enforcement officers, and corrections officers. The presumption changes the burden of proof and means that these conditions are considered to be the result of job duties unless evidence is provided of a specific non-occupational cause. No proof is required by the employee. If no other cause can be specifically identified, the employees are entitled to the full benefits of workers' compensation and any other in-line-of duty benefits.

Possible Changes

In the last two years legislation was introduced that would create a presumption that certain types of cancer that a firefighter develops is also an in-the-line-of-duty injury. The firefighters would be entitled to all benefits for an in-the-line-of-duty injury for any cancer unless scientific evidence could be shown of some other specific cause for the cancer.

It is expected that some form of this legislation will be reintroduced in 2018. Thirty-three states have a firefighter cancer presumption law, according to the International Association of Fire Fighters, a labor union with 300,000 members in the U.S. and Canada. A 34th state, Arkansas, provides death benefits to the family of a firefighter with cancer. Most presumptive laws are inclusive but some are restricted to specific types or forms of cancer in order to qualify for the coverage.

Impact

Since the specific cause of a cancer is usually unknown, the presumption would apply and these individuals would be automatically entitled to benefits for certain types of cancer. The potential cost impact is so enormous that even the National Council on Compensation Insurance (NCCI), could not estimate it. The cost for work compensation coverage could be expected to increase substantially with adoption of the presumptive coverage. However, according to the National Cancer Society, half of all men and one-third of all women in the U.S. will develop cancer during their lifetimes and, per the U.S. Department of Health and Human Services, cancer is ranked as the most expensive medical condition per person. In addition to the medical costs, the County would owe lost-wage benefits including permanent total disability and death benefits.

With no statute of limitations for prior diagnosis, claims would likely be filed for cancer cases that employees and former employees developed in the last few decades. The number of potential claims and costs would be exorbitant. These claims would also result in requests for reimbursement (subrogation) from any other parties, e.g. health insurance carriers and Medicare, who already paid for treatment that the County would now be obligated to provide. The exposure of potential claims development could last for the employee's lifetime. Results in other states have demonstrated that insurance carriers will exit the market with this added exposure. The County would no longer be able to purchase excess insurance coverage leading to increases for non-presumption claims.

Contact for more information: Jim Judge, Director of Emergency Management, at 386-254-1500 or jjudge@volusia.org.



Workers' Compensation

Support Increase in Attorney Fees Allowable for Workers' Compensation Claims

Current Situation

In 2003 a fee schedule placing limits on the amount of fees attorneys could recover for successfully prosecuting petitions for benefits was passed, often times resulting in attorney's fee awards that provided an attorney with only a few dollars per hour after successfully obtaining disputed benefits. The Florida Supreme Court recently ruled the existing fee schedule unconstitutional.

The state recently approved and the courts upheld the insurance industry's request to increase workers' compensation premiums by 14.5%. The higher premiums will go into effect upon the renewal of current policies.

Possible Changes

In 2018, legislation may be filed that would modify the existing attorney fee schedule for worker's compensation cases. The County has provided language to the Chamber requiring a claimant make a good faith attempt to resolve any dispute in writing before filing a petition.

Any legislative fix will have to recognize that as the statute was held unconstitutional as a denial of access to the courts under both the state and federal constitutions, changes allowing an attorney to recover a reasonable fee for prevailing on a petition, regardless of the amount at issue in the actual dispute, will have to be seen as fair by the court. A recent appellate opinion has already held that \$245 per hour was unreasonable in South Florida, where courts have held that claimants are entitled to reasonable fees in the \$300 to \$400 per hour range.

Impact

Revision to the fee schedule would likely result in the following changes:

- Reserves for pending claims would likely have to be reset, as attorney's fee awards would increase significantly.
- Claims administration expenses would rise tremendously, as petition filings would increase with additional depositions of claims personnel and employer personnel becoming commonplace, as they were before the 2003 amendments to the statute.
- Insurance companies and large self-insureds would likely have to increase personnel for proper claims administration, while litigation costs in the form of additional deposition transcript costs, and attorney time defending an increasing number of claims will require greater reserves.

Contact for more information: Art Graham, Volusia County Assistant County Attorney, at 386-736-5950 or agraham@volusia.org



Unfunded Mandates

Oppose Codifying State Budget Shortfalls through Cost Shifts to Local Governments

Current Situation

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

Possible Changes

Legislation will likely be introduced again in 2018 to shift costs to local governments. Unless a designated corresponding funding source is shifted down, any cost would have a negative impact on the budget. Any shift of costs would require service level changes or a corresponding increase in the tax rate.

Analysis

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

Contact for more information: Donna DePeyster, Volusia County Deputy County Manager, at 386-736-5933 or ddepeyster@volusia.org



Animal Cruelty Penalties

Support Increasing Penalty for Aggravated Animal Cruelty to Second Degree Felony

Current Situation

Currently, Florida Statute 828.12(2) states that “A person who intentionally commits an act to any animal, or a person who owns or has the custody or control of any animal and fails to act, which results in the cruel death, or excessive or repeated infliction of unnecessary pain or suffering, or causes the same to be done, commits aggravated animal cruelty, a felony of the third degree, as provided in s. 775.082 or by a fine of not more than \$10,000, or both.” A person convicted of a third degree felony under 775.082 may be punished for a term of imprisonment not exceeding five (5) years.

Proposed Changes

Legislation will likely be introduced that would increase the penalty from third degree felony to second degree felony. A person convicted of a second degree felony under Florida Statute 775.082 may be punished for a term of imprisonment not exceeding fifteen (15) years.

Impact

Volusia County Council has passed a resolution in support of the above proposed change to Florida Statute. The proposed legislation would bring the penalties for aggravated animal cruelty more in line with the act.

Contact for more information: Terry Sanders, Public Protection Director, at 386-740-5120 or tsanders@volusia.org