

**2007**

**INTERGOVERNMENTAL**

**IMPACT REPORT**

**(Mandates and Measures Affecting**

**Local Government Fiscal Capacity)**

**December 2007**

Florida  
Legislative Committee on Intergovernmental Relations



# Florida Legislative Committee on Intergovernmental Relations

(As of November 2007)

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## What is the LCIR?

The Florida Legislative Committee on Intergovernmental Relations (LCIR) is a legislative entity that facilitates the development of intergovernmental policies and practices. The Florida LCIR strives to improve coordination and cooperation among state agencies, local governments, and the federal government.

## What Issues Have Been Addressed by the LCIR?

The LCIR completes several publications annually, including the Local Government Financial Information Handbook, Finalized Salaries of County Constitutional Officers and Elected School District Officials, and Intergovernmental Impact Report (Mandates and Measures Affecting Local Government Fiscal Capacity). In addition, the LCIR has addressed the following issues:

- Municipal Incorporations and Annexation
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If you would like additional copies of this report or if you have comments or questions pertaining to the information contained herein, please contact the LCIR at (850) 488-9627 or Suncom 278-9627. We welcome your input or suggestions. Our mailing address is:

**Florida LCIR**  
c/o Legislative Mail Services  
Tallahassee, Florida 32399-1300  
Homepage: <http://www.floridalcir.gov>

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## **2007 LCIR Intergovernmental Impact Report**

### **I. INTRODUCTION**

The purpose of this report is to comply with s. 11.70(4)(i), F.S., which requires the Legislative Committee on Intergovernmental Relations (LCIR) to analyze legislative action that “substantially increases the expenditures of or reduces the revenue or revenue-producing ability of counties or municipalities.” The law requires that the LCIR “send its analysis and report to the Governor and presiding officers of the Legislature before the convening of the next regular legislative session.” Since 1978, the LCIR and its predecessor<sup>1</sup> have issued a series of annual reports identifying statutory mandates on municipalities and counties.

In order to maintain consistency in the annual review of mandates conducted by this Committee, this report follows the same format as used in prior years. This is done by categorizing mandates and updating tables with new laws that impact local governments. As in earlier reports, laws requiring expenditures or revenue reductions of counties and municipalities in the last fiscal year, 2006-07, are the focus of the mandate section.

This report also includes a section citing those legislative actions that increase the revenue or revenue generating capacity of local governments. These actions are not considered mandates, but help offset, to some extent, the fiscal impact of new mandates. In addition, sections of the report discuss mandates on constitutional officers and other measures that may not be classified as a mandate under Florida law. Finally, this report contains a list of laws passed during the regular and special legislative sessions of 2007, that either decrease the required expenditures of counties or municipalities, preempt county or municipal authority, or grant additional explicit local discretionary authority to counties or municipalities.

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<sup>1</sup>Chapter 96-311, Laws of Florida, repealed the Advisory Council on Intergovernmental Relations and created the Legislative Committee on Intergovernmental Relations.

## II. DEFINING A MANDATE

It is important to understand how a “mandate” is defined for purposes of inclusion in this report, and how that definition compares with what constitutes a mandate subject to the requirements of the Florida Constitution. This section of the report describes the constitutional provisions pertaining to mandates and the legislative process for determining provisions of law subject to the constitutional requirements. LCIR staff’s definition used to identify those mandates cited in this report will also be set forth.

### **A. Definition of a Mandate in the Florida Constitution**

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 or municipalities 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 and municipalities. (See Appendix 1.)

While the constitution denotes that no county or municipality shall be bound by any general law which requires them to spend funds or take actions requiring the expenditure of funds unless certain conditions are met, there are several EXCEPTIONS provided in Article VII, section 18 of the Florida Constitution. These exceptions, if met, provide that local governments must comply with a provision requiring expenditures. An EXCEPTION occurs when the Legislature has determined that the law fulfills an important state interest and one of the following situations is present: (1) funds to offset the costs of implementing the law have been appropriated; (2) the law was approved by a two-thirds membership vote of each house; (3) the Legislature finds that the expenditure is required to comply with a law that applies to all persons similarly situated; (4) the Legislature authorizes or has authorized a county or city to enact a funding source not available on 2/1/89; or (5) the expenditure is required to comply with a federal requirement or entitlement which contemplates action by cities or counties.

EXEMPTIONS from the requirements of the constitution, for example, include laws “adopted to require funding of pension benefits existing on the effective date of this section, criminal laws, election laws, the general appropriations act, special appropriations act, laws reauthorizing but not expanding then-existing statutory authority, laws having insignificant fiscal impact, and laws creating, modifying, or repealing noncriminal infractions.”<sup>2</sup>

Consequently, the Legislature may enact mandates as long as certain conditions are met. The constitutional language does not provide detail on identifying mandates or on how such terms as “insignificant fiscal impact” are to be determined.

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<sup>2</sup> FL. CONST. art.VII, §18 (d).

## **B. Legislative Process for Identifying Mandates Subject to the Provisions of the Constitution**

There have been no laws enacted by the Legislature to specifically address the constitutional language of mandates.<sup>3</sup> However, since passage of the constitutional amendment in 1990, the Legislature has addressed the mandate issue in three specific manners. First, the presiding officers of the Legislature issued memoranda to legislative staff to guide them in identifying bills containing mandates. Secondly, bill analysis forms were modified to include a section requiring staff to address the potential fiscal impact on counties and cities as well as note if the bill meets the constitutional criteria as a mandate. Finally, rules in the House and Senate broadly address the constitutional mandate issue. Generally, these processes are established to identify whether a provision of law is a mandate, whether the mandate is exempt, or whether the bill includes an exception.

### 1. Legislative Memoranda

The President of the Senate and the Speaker of the House of Representatives issued a joint memorandum on March 7, 1991, to legislative members and staff addressing the implementation of constitutional language referring to mandates. On March 6, 1997, then Speaker of the House Daniel Webster issued a memorandum re-affirming and refining the process set forth in the 1991 memorandum. The purpose of these memoranda were to instruct legislative staff in analyzing bills that potentially fall under Article VII, section 18 of the Florida Constitution and the provisions related to county and municipality mandates. The instructions provided criteria that legislative staff were instructed to use to determine if a bill contains a mandate. The criteria closely followed the constitutional definition of a mandate. These memoranda provided that any bill that met one or more of the following criteria should be identified as a mandate:

- 1) It requires cities or counties to spend funds or to take action requiring expenditure;
- 2) It reduces the authority of cities or counties to raise revenues in the aggregate as such authority existed on February 1, 1989; or
- 3) It reduces the percentage of a state tax shared with cities and counties as an aggregate on February 1, 1989.

The guidelines instruct that if the reviewed legislation meets a criterion specified in the constitutional mandate restriction, it is initially classified as a mandate. This is required even if later it is determined to fall under an *exception* or *exemption* to the constitutional restriction. The memoranda further defined terms such as “insignificant fiscal impact,” and denoted how staff is to determine if the law is excepted or exempted. Clarification of terms such as: “criminal laws,” “election laws,” “laws creating, modifying, or repealing noncriminal infractions,” and “similarly situated” is also provided in the guidelines.<sup>4</sup> (The 1991 and 1997 memoranda, often referenced as the original sources for the mandate policies and guidelines, are provided at the end of this report as Appendix 2 and Appendix 3, respectively. In addition to the guidance provided in the memoranda,

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<sup>3</sup> In 1991 the Florida Legislature passed language for Article VII, Section 18 that was vetoed by then Governor Lawton Chiles. In his veto message, the Governor explained his action by saying the primary concern with the bill was that it placed extraordinary burdens on local governments that elect to avail themselves of the protections afforded by the constitutional provision.

<sup>4</sup> At this time, the extent to which legislative staff currently rely on the 1991 memorandum guidelines is unclear.

the Legislature developed a form labeled the “3-8-3” Local Mandate Analysis Procedure for use by legislative staff, which is labeled Appendix 4 of this report.)

## 2. Bill Staff Analysis Format

The format used by House and Senate staff for bill analyses includes a section for identifying the applicability of the mandate constitutional provisions. In the Senate bill analysis, the relevant section is labeled **IV. Constitutional Issues**, with a specific category for identifying “Municipality/County Mandates Restrictions.” The analysis often uses a standard statement when bills do not meet any of the consequences of the constitutional mandate restriction. In the House bill analysis format, the relevant section is labeled **III. Comments. Subsection A. Constitutional Issues** addresses the applicability of the mandates provision, the reduction of revenue raising authority and the reduction of state tax shared with counties and municipalities.

In addition to the applicability of the mandate constitutional provisions section, there is a fiscal note or economic impact statement in the bill analyses. In the Senate bill analysis, the fiscal information is presented in **Section V. Economic Impact and Fiscal Note**, the impacts on local governments are presented in the Subsection C. “*Government Sector Impact*” of the document. In the House bill analysis, the presentation of the fiscal information is contained in **Section II. Fiscal Analysis and Economic Impact Statement**; the impacts on local governments are specifically identified in *Subsection B. “Fiscal Impact on Local Governments”* with the non-recurring, recurring, and long-run effects noted separately for both revenues and expenditures if applicable. For purposes of legislative application the term “insignificant” means an amount not greater than the average statewide population for the applicable fiscal year times ten cents. On April 1, 2006, the official state population estimate according to the University of Florida Bureau of Business and Economic Research was 18,349,132.<sup>5</sup> Thus, for fiscal year 2006-07, a bill that would have a statewide annual fiscal impact on counties and municipalities in the aggregate of \$1.8 million or less is exempt from the conditions of Article VII, section 18 of the Florida Constitution.<sup>6</sup>

At this time, the quality and consistency of constitutional mandate review by legislative staff has not been formally addressed. There is little doubt that substantial progress in the handling of mandate legislation was realized shortly after the 1990 passage of the mandate constitutional amendment. Leadership policy and the revisions to the bill analysis formats are evidence of the progress. The information compiled by the LCIR for the purpose of this report provides some insight into the legislative review of mandates. It appears, however, that ambiguities in the process might deserve a periodic examination by legislative staff and legislators.

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<sup>5</sup> Florida Estimates of Population 2006, Bureau of Economic and Business Research, Warrington College of Business Administration, University of Florida (2006).

<sup>6</sup> The use of the term “aggregate” is significant because it clarifies that fiscal estimates relating to a bill will be made on the basis of its effect on all local governments grouped together. See Senate Comprehensive Planning, Local and Military Affairs Committee, *Interim Project Report 2000-24, Review of Legislative Staff Guidelines for Screening Bills for Mandates on Counties and Municipalities* (September 1999).



### 3. House and Senate Rules

The current House and Senate rules do not specifically address how a mandate is defined. However, the rules do contain general provisions regarding mandates. For example, Senate Rule 4.8 states that all “bills which are affected by Article VII, section 18 of the Florida Constitution shall be referred to the Committee on Community Affairs.” (See Appendix 5 for the 2006-2008 Senate and House Rules involving appropriations, fiscal notes and tax measures.)

#### **C. LCIR Staff Definition of a Mandate**

When doing their analysis, LCIR staff use a broad definition in identifying mandates. If any function is made “mandatory” for local governments by the Legislature, even if funded, of negligible cost, or exempt from the provisions of the constitution, it is considered a mandate and included in this report. The definition is essentially consistent with the definitions in the constitution and the 1991 legislative memorandum. Reporting what may seem to be insignificant fiscal impacts is useful in understanding the cumulative effects that numerous mandates potentially may have over time.

#### 1. Other Types of Mandates

There are some measures which at first appear to be mandates until they are categorized using the constitutional provisions and legislative staff guidelines. Problems can emerge in determining whether any action that might cause a local government expenditure of time or money can be labeled a mandate under Florida law. Two categories of questionable mandates include “conditional” and “incidental” mandates. Even though generally these categories are not considered mandates under legislative staff guidelines, in some circumstances they are classified as mandates in this report.

##### a. Conditional Mandates:

Even considering the breadth of the implied constitutional definition of mandate, questions arise as to its applicability under certain circumstances. One example is conditional mandates which are interpreted by LCIR staff as those costs incurred by a local government only if it chooses to take certain actions. Conditional mandates, also known as “if-then” mandates, may be categorized as reporting requirements for optional services or activities not under local government control, routine but not required activities, required but not routine activities, and requirements on newly authorized activities.

A special type of conditional mandate is referred to as a “condition of aid.” Under a strict definition, conditions of aid are not true mandates, and LCIR staff do not consider them mandates for the purposes of this report. This type of conditional mandate reflects demands induced by a “donor” government body that are voluntarily accepted by the recipient of funding for a specified purpose. These demands may add new administrative functions or set higher service standards for a local government, but they only have the force of law when the local government elects to provide the service or function.

Conditional mandates may be exempted or excepted by the constitution for a number of reasons, but first there is the question of whether they can be classified as mandates. Florida Senate and House mandates analysis guidelines do not address the treatment of these provisions, and in the absence of implementing legislation for the constitutional restrictions, conditional mandates are inadequately examined.

**b. Incidental Mandates:**

Incidental mandates are not specifically mentioned in Article VII, section 18 of the Florida Constitution. Yet, incidental mandates include legislation placing new restrictions, regulations, and fees on private companies that contract with local government agencies. Even without being considered incidental, these mandates usually affect state and local governments, and their fiscal impact is often insignificant. Generally, legislative staff agrees incidental mandates occur when the legislature passes a law that requires a municipality or county to expend additional local funds and that expenditure is incidental to the main purpose of the law.

Several of the health insurance and Health Maintenance Organization coverage bills that have passed in Florida contain good examples of incidental mandates. The mandated coverage in these bills increased costs for local governments in their health care plans, but all other employers that provide health insurance benefits have incurred the same costs. In the bill analyses, these health insurance mandates were exceptions to the constitutional mandate provisions because they apply to all persons similarly situated including state and local government employers.

**2. Impacts of Federal Decisions**

Mandates resulting from federal requirements are exempted from the provisions of Article VII, section 18 of the Florida Constitution. However, some state-imposed mandates result from federal action. Often, Congress passes legislation with new requirements for states. States in turn pass legislation to implement the new federal requirements, and in doing so may impose mandates on local governments. Also, federal funding for certain functions, most notably education and transportation, are made contingent on states following federal guidelines.

### III. REVIEW OF 2007 LEGISLATION AFFECTING COUNTIES AND MUNICIPALITIES

The intergovernmental impacts embedded in legislation are often complex, numerous, and difficult to document. However, it is possible to identify and categorize session laws that impact counties and municipalities using five major categories that focus on:

- Reviewing legislation that contains mandates which require additional local government expenditures, reduce local government revenue capacity or authority, or reduce the percentage of state taxes shared with counties and municipalities;
- New or expanded revenue sources for counties and municipalities;
- Reducing required expenditures for counties and municipalities;
- State preemptions; and
- Identifying legislation that grants explicit discretionary authority to counties and municipalities.

#### A. MANDATES ON COUNTIES AND MUNICIPALITIES

Table 1 lists those laws enacted during the 2007 Regular and Special Sessions A, B, C, and D requiring local government expenditures or resulting in revenue reductions, reductions in revenue generating authority, or reductions in the percentage of state taxes shared with local governments. LCIR staff identified these mandates after the close of Special Session D. This information is presented with column headings identifying the relevant material within the table. It is important to note that column seven summarizes each mandate or provision contained in the legislation.<sup>7</sup>

This table is a quick reference guide to the fiscal impact of current legislation on local governments as noted in the bill analysis or as determined by the Fiscal Impact Conference.<sup>8</sup> It also identifies the status determination made in the bill analysis concerning the constitutional mandate provisions. That is, if legislative staff recognized the provision as potentially applicable to Article VII, section 18 of the Florida Constitution it is declared an EXCEPTION or an EXEMPTION, or identified as requiring a determination of “Important State Interest” and/or noted a needed passage of the bill by a two-thirds vote of each house to be binding.

Occasionally, bill analyses do not explicitly or conclusively address a mandate provision, or may cite it as “None” or “Not Applicable,” which means that staff did not note any applicability to the constitutional mandate restrictions. In these cases, an EXCEPTION or an EXEMPTION from the Article VII, section 18 of the Florida Constitution may apply, but it is not documented in the Constitutional Mandate Restriction sections of all staff analyses.

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<sup>7</sup> A “provision” for the purposes of this report refers to an article or clause in a bill that specifies an “intergovernmental impact.” A single mandate provision might be addressed in more than one section of a bill. A bill may also contain more than one provision.

<sup>8</sup> This conference meets weekly during the session and is composed of legislative and executive agency staff familiar with a variety of revenue and expenditure issues. The final outcome of the conference deliberations is documented in a spreadsheet from the Office of Economic and Demographic Research, entitled *Measures Affecting Revenues and Tax Administration-2007 Regular Session*.

## 1. General Mandates

During the 2007 Regular and Special Legislative Sessions A, B, C and D, the Legislature passed a total of 296 general bills that were not vetoed by the Governor. Of these bills, LCIR staff identified 168 mandate provisions in 78 bills impacting counties or municipalities. Not all of the bills containing mandates have an overall negative impact on local governments. In fact, some mandates accompany provisions benefiting local governments as part of a compromise, or as constructive requirements related to desired legislative actions.

LCIR staff categorizes mandates by the following types:

- 1) Programmatic - creates programs or sets quality standards for existing programs.
- 2) Procedural - tells the locality how to conduct the business of government. (Examples: record keeping, reporting, and personnel.)
- 3) Constraint - limits the rate at which government can raise revenue, the base from which revenues can be raised, or the way in which revenues may be spent. (Examples: tax exemptions, and expenditure limits.)
- 4) Physical - sets standards on construction, inspection, or maintenance of public facilities.

The most frequent type of mandate listed in Table 1 is procedural mandates. Chart 3 on page 14 indicates that there were 57 bills passed in the 2007 legislative sessions which contained a total of 96 provisions in the procedural mandate category. This type of mandate typically impacts county constitutional officers. The mandate type containing the second highest number of provisions was programmatic with 46 provisions. Twenty-five provisions were constraint, and one provision was identified as physical.

## 2. Mandates on County Constitutional Officers

Some mandates are imposed on county constitutional officers, who are those officers specified in Article I of the Florida Constitution, including the Sheriff, Supervisor of Elections, Tax Collector, Property Appraiser, and Clerk of Court (County Comptroller). Mandates on these officers usually take the form of additional duties, although frequently the new duties are accompanied by authorization to levy additional fees. Mandates affecting the Supervisors of Elections are often exempted from the constitutional requirement under the election law exemption, just as those regarding the Sheriff's office are often exempted as bills pertaining to criminal law. The following chart categorizes by officer the 8 bills containing a total of 15 provisions from the 2007 sessions which impose mandates on these officers.

**CHART 1**

Mandates on County Constitutional Officers						
	Clerk of Court	Supervisor of Elections	Sheriff	Property Appraiser	Tax Collector	Total
Number of Bills	4	1	1	2	0	8
Number of Provisions	5	1	1	8	0	15

Note: Bills may contain more than one provision and/or provisions may affect more than one constitutional officer.

### 3. Constraint Mandates

This section examines bills that limit the rate at which local governments can raise revenue, the base from which revenues can be raised, or the way in which revenues may be spent, as well as various tax exemptions or tax credits during the 2007 legislative sessions. Twenty-one bills containing 24 mandate provisions of this type passed. These exemptions or limitations refer to sales, ad valorem, and severance taxes. The effect of such exemptions, especially as it applies to ad valorem taxes, is a potential loss of tax revenue to local government entities. For example, ch. 2007-53 L.O.F., creates an exemption on the sales and use tax for bookstores operated on behalf of universities for tax paid on rent to the university. The Fiscal Impact Conference calculated that this bill would potentially result in a “cash” decrease of \$200,000 and an indeterminate “recurring” loss of revenue to local governments.

### 4. Summary of Mandates

A review of 2007 mandate provisions finds that three bills containing one provision each are the only provisions of the 167 total provisions identified in the legislative staff analyses or the measures affecting revenue and tax administration as having a significant fiscal impact. These three laws included for example, Ch. 2007-25, L.O.F., which provided an exemption from sales tax for a specific number of days for certain tangible personal property related to hurricane preparedness; Ch. 2007-56, L.O.F., which expands the tax exemption for electricity used for certain agricultural purposes; and Ch. 2007-144, L.O.F., which provides an exemption from sales tax for specified items related to school preparedness for twelve days during August.

Fiscal impact was considered unknown or “indeterminate” in 31 provisions and minimal or “insignificant” (less than \$1.8 million) in 19 provisions. The staff analyses for the remaining provisions either noted the law was exempted, had no fiscal impact, or the impact was not addressed in the analysis.

## **B. NEW OR EXPANDED REVENUE SOURCES FOR COUNTIES AND MUNICIPALITIES**

Table 2, “New or Expanded Revenue Sources for Counties or Municipalities,” identifies legislation that provides counties and municipalities with new or expanded revenue options. The Legislature often enacts new or expanded revenue sources to offset the costs of newly imposed mandates. In total, the Legislature enacted ten laws, each law containing one provision included in this category. Summarized below are the categories of new or expanded revenue sources enacted during the 2007 Sessions:

CHART 2

<b>Revenue Source</b>	<b>Number of Provisions</b>
Assessments	4
Grants/Loans	4
Sales	1
Other	3

Note: See Table 2 for more detail.

As illustrated in Chart 2 above, most of the 2007 revenue enhancements were legislation authorizing new or expanded assessments. Chapter 2007-65, L.O.F., for example, provides funding for county health departments on a per capita basis for coordinating tobacco education and use prevention programs.

It should be noted that the 2007 General Appropriations Acts, (Chs. 2007-72 and 2007-326, L.O.F.) and implementing bills (Chs. 2007-73; 2007-187; 2007-191; 2007-62; 2007-220; 2007-237, 2007-327, L.O.F.) also contains several funding measures that may impact local governments. Generally, these impacts could be positive. However, this report does not address provisions from the appropriations and implementing bills.

## **C. LAWS THAT DECREASE EXPENDITURES FOR COUNTIES AND MUNICIPALITIES**

In addition to laws authorizing enhanced revenue opportunities to counties and municipalities, the Legislature enacts laws that may reduce required expenditures of these local governments. During the 2007 Regular Legislative Session, there were six bills containing ten provisions which decreased the required expenditures of counties and municipalities. Each of these laws may reduce the amount local governments will expend to perform the duties of government. For instance, Ch. 2007-191, L.O.F., eliminates the requirement for financially disadvantaged small local governments to provide a 50 percent match of cash or in-kind services towards the implementation of the surface water improvement and management (SWIM) projects. (See Table 3). Similarly, Ch. 2007-196, L.O.F., creates the Enhanced Bridge Program for Sustainable Transportation to match up to 50 percent of the costs to improve sufficiency rating of local bridges, and to improve congestion on the state highway system and local corridors.

#### **D. LAWS THAT PREEMPT COUNTY OR MUNICIPAL AUTHORITY**

The U.S. Advisory Commission on Intergovernmental Relations (U.S. ACIR) defined preemption as, “(A)n appropriation or seizure for oneself to the exclusion of others.”<sup>9</sup> On the federal level, preemption involves congressional assertion of the Supremacy Clause of the U.S. Constitution. The Supremacy Clause states:

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.<sup>10</sup>

Reading the Supremacy Clause into federal preemptions requires interpreting the congressional powers enumerated in the U.S. Constitution. In its report entitled, Federal Statutory Preemption of State and Local Authority: History, Inventory, and Issues, the U.S. ACIR asserted that because of the importance of this interpretation, the classic definition seldom applies to federal preemption: “Federal preemption usually displaces state or local laws that already occupy a field - laws that reflect the preferences of the citizens of states and localities as expressed through their elected legislators.”<sup>11</sup>

As in the federal model, state preemption of local laws in Florida also happens in a manner that often displaces local laws already in existence. Based on language in the Florida Constitution, legislative preemptions are limits on home rule authority or legislative restrictions on administering or conducting a particular program or action. Briefly, home rule authority is provided by the Florida Constitution and grants counties and municipalities broad structural and functional authority, except when expressly prohibited by law.<sup>12</sup> Legislative enactments in 1969 and 1973, as well as several Florida Supreme Court decisions, have further clarified the extent of local government discretionary authority.<sup>13</sup> Except for taxing authority, Florida municipalities and counties have the discretionary authority to control local affairs without state interference. However, it is the Legislature’s prerogative to decide what constitutes “local affairs,” often through preempting local discretionary authority.

There are many reasons cited for preempting local government discretionary authority. Preemptions are sometimes necessary to achieve state policy objectives, increase efficiency in service delivery, ensure equity, quality, and uniformity in service delivery, and avoid duplication across the state. On the other hand, state preemptions of local authority may impede innovation by restricting local control.

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<sup>9</sup> Federal Statutory Preemption of State and Local Authority: History, Inventory, and Issues, U.S. Advisory Commission on Intergovernmental Relations, 5 (September 1992) [Hereinafter Federal Preemption].

<sup>10</sup> U.S. CONST. art. VI.

<sup>11</sup> Federal Preemption, *supra*, note 10, at 5-6.

<sup>12</sup> FL. CONST. art VIII, §§ 1, 2 and §§ 125.01(1), and 166.021(1), F.S.

<sup>13</sup> See Gallant v. Stephens, 358 So.2d 536 (Fla. 1978); Florida City of Boca Raton v. State of Florida, 595 So.2d 25 (Fla. 1992); and Chs. 69-45 and 73-290, LO.F (adoption of charter and charter commission changes, respectively).

Table 4 lists the 2007 legislation that preempts city or county discretionary authority. The table lists 20 bills, with 23 provisions preempting local authority.

#### **E. LAWS THAT GRANT EXPLICIT DISCRETIONARY AUTHORITY**

As stated earlier, Florida counties and municipalities generally have the discretionary authority, with the exception of taxation authority, to control local affairs without state interference. However, local governments are limited by the Florida Statutes. The Legislature may grant explicit discretionary authority to Florida counties and municipalities. In most cases, the authority granted is new or expanded. However, particularly in regard to municipalities, the grant of explicit discretionary authority in the Florida Statutes sometimes has existed previously as home rule authority.

Table 5 identifies 31 bills with 42 provisions containing explicit discretionary authority granted to municipalities or counties in the 2007 Regular and Special Legislative Sessions.



#### IV. SUMMARY

This report fulfills the statutory requirement that the LCIR annually review actions that substantially increases the expenditures or reduces the revenue or revenue-producing ability of counties or municipalities. It also identifies legislative provisions that might offset the cost accompanying mandates or ease the ability of local governments to meet the fiscal demands resulting from new requirements. Contributing to the understanding of the intergovernmental implications of legislation, the report also identifies and describes several other legislative provisions having intergovernmental significance. Specifically, these refer to preemptions by the State of local authority and examples of legislation granting explicit local government authority.

This report does not consider those bills that were passed during the Legislative Sessions but subsequently vetoed by the Governor. Therefore, the Legislature enacted 78 laws containing 168 provisions placing mandates on counties and municipalities. As illustrated in Chart 3, most of the mandates identified in this report were characteristically procedural. The majority of the mandate provisions affected both counties and municipalities, but a large number of mandate provisions affected counties only (see Chart 4). A review of the mandate provisions finds that the largest category of mandates involved procedural mandates (96) telling localities how to conduct the business of government.

**CHART 3  
SUMMARY OF INTERGOVERNMENTAL IMPACTS  
IN LEGISLATION PASSED DURING THE 2007 SESSIONS**

Category		Number of Bills	Number of Provisions
<b>Mandates - Table 1*</b>	<i>Type of Mandate</i>		
	Programmatic	29	46
	Procedural	57	96
	Constraint	22	25
	Physical	1	1
	<b>Total</b>	<b>109</b>	<b>168</b>
<b>Increased Revenues - Table 2**</b>			
	<b>Total</b>	<b>9</b>	<b>12</b>
<b>Decreased Expenditures - Table 3**</b>			
	<b>Total</b>	<b>8</b>	<b>11</b>
<b>Preemptions - Table 4**</b>			
	<b>Total</b>	<b>18</b>	<b>21</b>
<b>Granting Authority - Table 5**</b>			
	<b>Total</b>	<b>28</b>	<b>40</b>

Notes: \*Bills may contain more than one category of mandate and in some cases, a provision may contain more than one type of mandate. Thus, the number of types and provisions of mandates does not necessarily equal the total number of bills with mandates.

\*\*The provisions in Tables 2-5 illustrate impacts and not mandates; in some cases the impacts may be classified as mandates and may be captured in Table 1, as well.

**CHART 4  
SUMMARY OF INTERGOVERNMENTAL IMPACTS IN  
LEGISLATION PASSED DURING THE 2007 SESSIONS BY TYPE OF LOCAL GOVERNMENT IMPACTED**

Category		Number of Bills	Number of Provisions
<b>Mandates - Table 1***</b>	<i>Type of Local Govt. Impacted</i>		
	Cities	2	3
	Counties	25	47
	Counties & Municipalities	55	115
	Groups of Counties & Municipalities	3	3
	<b>Total</b>	<b>85</b>	<b>168</b>
<b>Increased Revenues - Table 2***</b>	<i>Type of Local Govt. Impacted</i>		
	Cities	0	0
	Counties	2	2
	Counties & Municipalities	7	10
	Groups of Counties & Municipalities	0	0
	<b>Total</b>	<b>9</b>	<b>12</b>
<b>Decreased Expenditures - Table 3***</b>	<i>Type of Local Govt. Impacted</i>		
	Cities	1	1
	Counties	2	2
	Counties & Municipalities	4	7
	Groups of Counties & Municipalities	1	1
	<b>Total</b>	<b>8</b>	<b>11</b>
<b>Preemptions - Table 4***</b>	<i>Type of Local Govt. Impacted</i>		
	Cities	1	1
	Counties	6	6
	Counties & Municipalities	11	14
	Groups of Counties & Municipalities	0	0
	<b>Total</b>	<b>18</b>	<b>21</b>
<b>Granting Authority - Table 5***</b>	<i>Type of Local Govt. Impacted</i>		
	Cities	2	2
	Counties	8	9
	Counties & Municipalities	17	28
	Groups of Counties & Municipalities	1	1
	<b>Total</b>	<b>28</b>	<b>40</b>

Notes: \*\*\*Bills and provisions may impact more than one type of local government category. Thus, the number of bills and provisions impacting local governments may differ from the numbers in Chart 3.

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## TABLES

- I. TABLE 1 - MANDATES
  
- II. TABLE 2 - NEW OR EXPANDED REVENUE SOURCES
  
- III. TABLE 3 - DECREASED EXPENDITURES
  
- IV. TABLE 4 - PREEMPT DISCRETIONARY AUTHORITY
  
- V. TABLE 5 - GRANTS OF AUTHORITY

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Table 1  
Mandates-2007 General Session

Chapter Law	Bill #*	Subject	Type of Local Government Impacted	Type of Mandate	Section #	Description of Provisions	Fiscal Impact (As stated in bill analysis or impact conference)	Applicability of Art. VII, § 18, Fla. Const. (As stated in bill analysis)
2007-2	146	Anti-Murder Act/Violent Offenders	Counties and Municipalities	Programmatic, Procedural	2-5	Creates s. 903.0351, F.S., and amends s. 948.06, F.S., to incorporate details of the Anti-Murder Act and restrictions against pretrial release. Prohibits bail or other pretrial release for specified violent felony offenders of special concern and certain arrested persons pending a probation-violation or community-control-violation hearing. Provides for notification to the criminal justice system of offender's status as an offender of special concern or other specified offender. Revises the worksheet computations of the Criminal Punishment Code.	The impact on local government is indeterminate but could be significant. The bill requires a violent felony offender and other designated offenders to be detained in a county jail at county expense. One factor that makes it difficult to estimate the financial impact upon local government is a lack of data concerning how many affected offenders are jailed pending a violation hearing under current practice. (Senate Bill Analysis 146, 2/23/07)	Exempt because it is a criminal law. (Senate Bill Analysis 146, 2/23/07)
2007-25	211	Hurricane Preparedness Sales Tax Holiday	Counties and Municipalities	Constraint	1	Sales tax exemption on certain hurricane preparedness items June 1 through June 12, 2007.	Decrease Local cash: \$4.5 to \$4.6 million. Decrease Local recurring: \$0. (House Bill Analysis 211, 3/23/07)	This bill will reduce the authority of counties to raise revenues in the aggregate through local option sales taxes. No exemption applies. Therefore, it may be a mandate requiring a two-thirds vote of the membership of each house. (House Bill Analysis 211, 3/23/07). [Senate Passed: Yeas 40, Nays 0; House Passed: Yeas 114, Nays 0]
2007-26	7167	Municipal Incorporation Mitigation	Miami-Dade County	Constraint	1	Prohibits counties from requiring municipalities formed after January 1, 2000 to pay charges, assessments, fees, or other considerations as a condition for incorporation. Miami-Dade County is the only county with constitutional authority to create municipalities within county boundaries.	Government Efficiency and Accountability Council staff analysis report that the bill will have no fiscal impact on local governments (House Bill Analysis 7167, 4/16/07)	1. Not applicable because this bill does not appear to: require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties. 2. The Legislature may enact general acts applying to Miami-Dade County and one or more other counties, or to cities within and without Miami-Dade County. The Legislature does not have power to enact a local bill that relates only to Miami-Dade County. The proposed legislation appears to have statewide application. (House Bill Analysis 7167, 4/16/07)
2007-27	547	Employment Requirements for Law Enforcement Personnel	Counties and Municipalities	Programmatic, Procedural	1-2	Amends ss. 943.13 and 943.137, F.S., to revise presumption of disability for certain law enforcement, correctional, and correctional probation officers. Requires these officers to successfully pass a physical examination in order to demonstrate that total or partial disability or death was accidental and suffered in the line of duty. Authorizes an agency that employs law enforcement personnel to establish tobacco-use standards.	None. (House Bill Analysis 547, 3/15/07)	None. (House Bill Analysis 547, 3/15/07)

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Table 1  
Mandates-2007 General Session

Chapter Law	Bill #*	Subject	Type of Local Government Impacted	Type of Mandate	Section #	Description of Provisions	Fiscal Impact (As stated in bill analysis or impact conference)	Applicability of Art. VII, § 18, Fla. Const. (As stated in bill analysis)
2007-30	537	Elections	Counties and Municipalities	Programmatic, Procedural	3	Reschedules Florida's presidential primary election from the second Tuesday in March to the first Tuesday in February. This will require local governments that hold concurrent elections as a cost saving measure to coordinate elections to continue this practice.	1. Revenues: This bill should have a positive effect on sales tax, rental car, and hotel tax revenues. 2. Expenditures: The cost of holding a statewide election at the polls is about \$19 million, traditionally paid by the counties. This would not change under this bill. Some cities have concurrent local elections to save money and may need to coordinate their election dates so that they may continue to realize these cost savings. (House Bill Analysis 537, 3/14/07)	Election laws are exempt from the mandates requirements of Art. VII, s. 18(a), Fla. Const. (House Bill Analysis 537, 3/14/07)
			Municipalities	Procedural	4	Allows municipalities to move date of general election to date concurrent with the presidential preference primary.		
			Counties	Programmatic, Procedural	5	Authorizes counties to employ a ballot on demand production system at early voting sites to print individual ballots.		
			Counties	Programmatic, Procedural	6	Requires that all voting, except voting by persons with disabilities, be by marksense ballot.		
			Counties	Programmatic, Procedural	7	Requires a voting system audit immediately after the certification of each election, provides specific requirements.		
			Counties and Municipalities	Procedural	10	Allows the Secretary of State to act as an agent for local governments for the purchase, sale, or exchange of touchscreen voting equipment. Allows counties to opt out of this arrangement by filing a notice with the Department of State by June 30, 2007.		
			Counties and Municipalities	Procedural	19, 33	Specifies that county commissioners are "elected" on the date that the county canvassing board certifies the results of the election. Requires that county canvassing boards submit preliminary results to the Secretary of State by 11:59 p.m. on election night.		
			Counties	Procedural	25	Requires that Supervisors of Elections follow specific procedures concerning the placement of initiatives on ballot.		
Counties	Programmatic, Procedural	56	Requires that all write-in candidates live within the district represented by the office at the time of qualification.					

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Table 1  
Mandates-2007 General Session

Chapter Law	Bill #*	Subject	Type of Local Government Impacted	Type of Mandate	Section #	Description of Provisions	Fiscal Impact (As stated in bill analysis or impact conference)	Applicability of Art. VII, § 18, Fla. Const. (As stated in bill analysis)
2007-31	90	Motor Fuel Taxes/ Commercial Aviation	Counties and Municipalities	Constraint	1	Authorizes a refund of local-option fuel taxes for motor fuel used in the operation of aviation ground support vehicles and equipment. Requires that none of the fuel is used in vehicles or equipment operated on public roads.	Insignificant recurring loss of local-option fuel tax revenues to local governments. (Senate Bill Analysis 90, 4/11/07)	None. (Senate Bill Analysis 90, 4/11/07)
2007-32	156	Periods of Wartime Service for Veterans	Counties and Municipalities	Procedural	1	Amends the definition of "veteran" to include persons who served under Operation Enduring Freedom and Operation Iraqi Freedom.	Likely to be negligible. (Senate Bill Analysis 156, 3/8/07)	None. (Senate Bill Analysis 156, 3/8/07)
2007-36	1026	Ad Valorem Taxation	Counties	Procedural	1	Allows certain disabled veterans to claim additional homestead exemptions.	A local government may experience a reduction in ad valorem tax revenues. The estimated statewide recurring impact would be \$20.1 million, assuming no off-setting changes in millage rates by local governments. (Senate Bill Analysis 1026, 3/9/07)	None. (Senate Bill Analysis 1026, 3/9/07)
2007-44	111	Title Insurance	Counties and Municipalities	Constraint	2	Authorizes title insurance agents to discount their portion of the title insurance premiums.	If title insurance agents discount their portion of the title insurance premium, there may be a reduction in insurance premium tax revenues. (House Bill Analysis 111, 04/14/07)	This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. This bill does not reduce the percentage of a state tax shared with counties or municipalities. This bill does not reduce the authority that counties and municipalities have to raise revenue. (House Bill Analysis 111, 04/14/07)
2007-48	431	Tourist-Oriented Directional Signs	Counties and Municipalities	Physical	3	Requires signs to conform with Manual on Uniform Traffic Control Devices and rules established by the Department of Transportation.	Indeterminate. Local governments are authorized to issue permit fees to offset sign construction, maintenance, and program operation costs. (House Bill Analysis 431, 4/20/07)	None. (House Bill Analysis 431, 4/20/07)
2007-51	699	Veterans Preference	Counties and Municipalities	Procedural	2	Requires local governments to allow veterans to claim veterans' preference when applying for any non-exempt government position.	Indeterminate negative fiscal impact due to possible increase in complaints. (House Bill Analysis 699, 3/24/07)	Not applicable. (House Bill Analysis 699, 3/24/07)
2007-53	721	Sales and Use Tax/Post Secondary Bookstores	Counties and Municipalities	Constraint	1	Creates an exemption on sales and use tax for bookstores operated on the behalf of universities for tax paid on rent or lease to the university.	Decrease Local cash: \$200,000 Decrease Local recurring: Indeterminate. (Measures Affecting Revenue and Tax Administration - 2007 Regular Session)	The mandates provision appears to apply because the bill reduces the authority of municipalities or counties to raise revenues in the aggregate; however an exemption applies. The bill represents an insignificant fiscal impact because the reduced revenue raising authority is less than \$.10 times the population of Florida. (House Bill Analysis 721, 4/17/07)
2007-56	1199	Tax on Sales, Use, and Other Transactions	Counties and Municipalities	Constraint	1	Expands the tax exemption for electricity used for certain agricultural purposes.	Fiscal Year 2007-2008: Local cash: (\$0.2) Million Local recurring: (\$0.2) Million Fiscal Year: 2008-2009: Local cash: (\$0.2) Million Local recurring: (\$0.2) Million (Measures Affecting Revenue and Tax Administration - 2007 Regular Session)	The mandates provision appears to apply because the bill reduces the authority of municipalities or counties to raise revenues through local option sales taxes; however, the amount of the reduction is insignificant and an exemption applies. Accordingly, the bill does not require a two-thirds vote of the membership of each house. (House Bill Analysis 1199, 4/20/07)

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Table 1  
Mandates-2007 General Session

Chapter Law	Bill #*	Subject	Type of Local Government Impacted	Type of Mandate	Section #	Description of Provisions	Fiscal Impact (As stated in bill analysis or impact conference)	Applicability of Art. VII, § 18, Fla. Const. (As stated in bill analysis)
2007-60	1060	Educational Facilities	Counties	Programmatic, Procedural	2	Expedites the receipt of gross receipts utility tax revenues by moving the due date from the last day of each month to the 20th for utility companies to submit these revenues. This will result in a compatible advance of the Public Education Capital Outlay (PECO) Trust Fund bonding capacity into earlier years from later years. The bill will also increase recurring general revenue by \$105 million by eliminating the required transfer to PECO.	Recurring General Revenue will increase by \$105 million as a result of eliminating the transfer to the PECO Trust Fund. The speed-up in the receipt of gross receipts tax revenues will move bonding capacity from later years into earlier years. In FY 08-09 the maximum available PECO is estimated to be \$1,152.0 million as projected by the March 5, 2007 PECO Estimating Conference. There could be a net increase in overall bonding capacity to the extent that bonds are issued at lower near term interest rates rather than the higher rates projected for the later years over the forecast period. The net gain in bonding capacity through FY 10-11 based on currently projected interest rates is \$48.7 million. (Chart omitted) (Senate Bill Analysis 1060, 3/28/07)	None. (Senate Bill Analysis 1060, 3/28/07)
2007-62	1088	Due Process	Counties and Municipalities	Programmatic, Procedural	1	Amends s. 27.40, F.S., with respect to court appointed counsel appointments and revises the process by which indigent persons and other eligible individuals are provided criminal and civil representation at state expense. Provides for Offices of Criminal Conflict and Civil Regional Counsel to be appointed to represent persons in certain cases in which a public defender is unable to provide representation. It also amends the provision regarding conflicts of interest in representation of indigent defendants.	Counties will absorb costs for facilities, communications, and security for the regional counsels. The cost is indeterminate. (Senate Bill Analysis 1088, 3/28/07)	None. (Senate Bill Analysis 1088, 3/28/07)
			Counties and Municipalities	Programmatic, Procedural	2-4	Creates ss. 27.405, 27.425, and 27.511, F.S., to stipulate reporting requirements of the Justice Administrative Commission on court appointed counsel. Establishes due process service rates and the criminal conflict and civil counsel regional counsels. Creates these offices within the boundaries of each of five the district courts of appeal.		
			Counties and Municipalities	Programmatic, Procedural	5-11	Amends s. 27.512, F.S., to change the requirements for orders of no imprisonment; amends s. 27.52, F.S., regarding indigent status determinations by regional counsels; amends s. 27.525, F.S., to permit the legislature to make appropriations from the Indigent Criminal Defense Trust fund to regional counsels; amends s. 27.53, F.S., to permit regional counsels to hire assistants and needed staff; amends s. 27.5301, F.S., to require the salary of the regional counsels to be established by the legislature; and amends s. 27.5304, F.S., regarding payments to private court counsel.		

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Mandates-2007 General Session

Chapter Law	Bill #*	Subject	Type of Local Government Impacted	Type of Mandate	Section #	Description of Provisions	Fiscal Impact (As stated in bill analysis or impact conference)	Applicability of Art. VII, § 18, Fla. Const. (As stated in bill analysis)
2007-62 Cont'd	1088	Due Process	Counties and Municipalities (Clerks of Courts)	Constraint	14	Amends s. 28.24, F.S., to prohibit the clerk of the court from charging for documents which are to be provided to regional counsels. Allows the \$2 recording fee provided to the counties for court system technology to be used by regional counsels.	Counties will absorb costs for facilities, communications, and security for the regional counsels. The cost is indeterminate. (Senate Bill Analysis 1088, 3/28/07)	None. (Senate Bill Analysis 1088, 3/28/07)
			Counties and Municipalities	Programmatic, Procedural	19	Amends s. 29.008, F.S., to include the regional counsels in the term public defenders, as it relates to county funding for facilities, communications, and security.		
			Counties and Municipalities	Programmatic, Procedural	26	Amends s. 125.69, F.S., to allow counties to contract with the regional counsel for defense of local ordinance violations.		
2007-66	1134	Transportation	Orange and Osceola Counties	Programmatic	7	Establishes a pilot program in Orange and Osceola counties whereby the distance between permitted signs on the same side of an interstate highway may be decreased to 1,000 feet if certain criteria are met.	Not specifically addressed. (Senate Bill Analysis 1134, 3/28/07)	None. (Senate Bill Analysis, 1134, 3/28/07)
2007-71	2162	Local Government Funding	Counties and Municipalities	Procedural	1	Authorizes the continued use of a revenue source which was scheduled to terminate. Also authorizes certain counties to concurrently impose another traffic-infracton surcharge that may be used to fund state-court facilities.	None. (Senate Bill Analysis, 2162, 4/20/2007)	None. (Senate Bill Analysis, 2162, 4/20/2007)
2007-78	919	Emergency Communications Systems	Counties	Procedural	1	Requires counties to use the funds specifically for capital expenditures directly attributable to establishing and provisioning E911 services.	Staff's preliminary estimate is that this bill will have an indeterminate fiscal impact on local governments. (House Bill Analysis 919, 04/23/07)	None. (House Bill Analysis 919, 04/23/07)
2007-79	921	Wireless Communications Funds	Counties	Procedural	1	Requires counties to remit to the State Treasury, by a specified date, all revenues derived from a fee levied on local exchange subscribers. Also requires counties to return money to the fund under certain circumstances.	Staff's preliminary estimate is that this bill will have an indeterminate fiscal impact on local governments. (House Bill Analysis 921, 04/23/07)	None. (House Bill Analysis 921, 04/23/07)
2007-80	7031	Community Associations and Insurance	Counties and Municipalities	Constraint	1	Insurance provisions may lower insurance premiums to cooperative associations and homeowners associations. This could lead to a slight reduction in insurance premium taxes.	Safety and Security Council staff analysis reports no fiscal impact to local governments; Fiscal comments: It is possible that the insurance provisions of this bill may lower insurance premiums to cooperative associations and homeowner associations. This could lead to a slight reduction in insurance premium taxes collected by the state. (House Bill Analysis 7031,3/16/2007) Revised Final Revenue Estimating Conference reported an indeterminate fiscal impact to local governments. (Measures Affecting Revenue and Tax Administration - 2007 Regular Session)	This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities. (House Bill Analysis 7031,3/16/2007)

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Table 1  
Mandates-2007 General Session

Chapter Law	Bill #*	Subject	Type of Local Government Impacted	Type of Mandate	Section #	Description of Provisions	Fiscal Impact (As stated in bill analysis or impact conference)	Applicability of Art. VII, § 18, Fla. Const. (As stated in bill analysis)
2007-87	746	Workers' Compensation for First Responders	Counties and Municipalities	Constraint	1	Provides standards for determining benefits for employment-related accidents and injuries of "first responders," which generally increase the amount and likelihood of eligibility for workers' compensation benefits.	The National Council on Compensation Insurers (NCCI) estimates the costs for first responder classes would increase 5.4 percent (\$11 million) if this proposal were enacted in its current form. The impact on overall loss costs in Florida would be approximately +0.3 percent. Individual self-insureds do not report data to the NCCI and are therefore not included in this estimate. As a result, additional costs are expected from individual self-insureds that employ first responders, which includes a number of major governmental agencies across the state. (Senate Bill Analysis 746, 4/17/07)	The bill may cause local governments to incur expenses, (i.e., to pay additional workers' compensation benefits). Section 18(a), Art. VII of the State Constitution provides that a city or county is not bound by any general law requiring the city or county to spend funds or to take an action to expend funds, unless the Legislature has determined the law fulfills an important state interest and unless, for purposes relevant to this bill, the expenditure is required to comply with a law that applies to all persons similarly situated or the law requiring the expenditure is approved by two-thirds of the membership of each house of the Legislature. The bill fulfills an important state interest and applies to all similarly situated persons. (Senate Bill Analysis 746, 4/17/07) [Senate Passed: 40 Yeas, 0 Nays; House Passed: 109 Yeas, 2 Nays]
2007-93	816	Public records	Counties and Municipalities	Procedural	1	Amends exemption from public records law to include certain information indicating that a request by a law enforcement agency has been made.	None. (Senate Bill Analysis 816, 3/23/07)	None. (Senate Bill Analysis 816, 3/23/07)
2007-95	886	Public records	Counties and Municipalities	Procedural	1	Reenacts the public records exemption of various materials related to certain structures.	None. (Senate Bill Analysis 886, 3/16/07)	None. (Senate Bill Analysis 886, 3/16/07)
2007-97	1178	Local Business Taxes	Counties and Municipalities	Conditional - Programmatic	1	Allows municipalities to reclassify businesses, professions, and occupations in establishing new business tax rate structures under certain circumstances. Also authorizes municipalities and counties to decrease or repeal any business tax authorized under ch. 205, F.S.	None. (Senate Bill Analysis 1178, 3/28/07)	None. (Senate Bill Analysis 1178, 3/28/07)
2007-104	1950	Public records	Counties and Municipalities	Procedural	1	Reenacts the public records exemption for the identity of a parent who leaves a newborn at a hospital, fire station, or emergency medical services station.	None. (Senate Bill Analysis 1950, 3/29/07)	None. (Senate Bill Analysis 1950, 3/29/07)

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Table 1  
Mandates-2007 General Session

Chapter Law	Bill #*	Subject	Type of Local Government Impacted	Type of Mandate	Section #	Description of Provisions	Fiscal Impact (As stated in bill analysis or impact conference)	Applicability of Art. VII, § 18, Fla. Const. (As stated in bill analysis)
2007-106	2482	Tax Administration	Counties (Property Appraisers)	Constraint, Procedural	2	Requires assessment at less than just value of certain properties which were damaged by the named storms of 2004 for which repairs commence by January 1, 2008.	Decrease Local cash: \$500,000. Decrease Local recurring: \$500,000. (Measures Affecting Revenue and Tax Administration - 2007 Regular Session)	None. (Senate Bill Analysis 2482, 4/19/07)
			Counties (Property Appraisers) and Municipalities	Constraint	3	Requires property owned by a Limited Liability Corporation whose sole member is a tax-exempt entity to be treated as though it is directly owned by the tax-exempt entity.	Indeterminate and Insignificant decrease in cash and recurring revenues. (Measures Affecting Revenue and Tax Administration - 2007 Regular Session)	None. (Senate Bill Analysis 2482, 4/19/07)
			Counties (Property Appraisers)	Procedural	3	Requires property owned by a Limited Liability Corporation whose sole member is a tax-exempt entity to be treated as though it is directly owned by the tax-exempt entity.	Indeterminate and Insignificant decrease in cash and recurring revenues. (Measures Affecting Revenue and Tax Administration - 2007 Regular Session)	None. (Senate Bill Analysis 2482, 4/19/07)
			Counties (Property Appraisers)	Procedural	4	Requires Property Appraisers to clearly state the basis for denial of an exemption on the notice of denial and provides that failure to comply with this requirement invalidates the denial.	Indeterminate and Insignificant recurring impact. (Measures Affecting Revenue and Tax Administration - 2007 Regular Session)	None. (Senate Bill Analysis 2482, 4/19/07)
			Counties and Municipalities	Constraint	5	Requires that property is deemed to be used for religious purposes if the exempt entity that owns the property has taken steps that demonstrate a commitment to use the property as a public house of worship.	Decrease Local cash: \$1.5 million. Decrease Local recurring: \$1.5 million. (Measures Affecting Revenue and Tax Administration - 2007 Regular Session)	None. (Senate Bill Analysis 2482, 4/19/07)
			Counties (Property Appraisers)	Procedural	5	Requires that property is deemed to be used for religious purposes if the exempt entity that owns the property has taken steps that demonstrate a commitment to use the property as a public house of worship.	Decrease Local cash: \$1.5 million. Decrease Local recurring: \$1.5 million. (Measures Affecting Revenue and Tax Administration - 2007 Regular Session)	None. (Senate Bill Analysis 2482, 4/19/07)
			Counties (Clerks of Courts)	Procedural	6	Requires that property dedicated as a conservation easement will remain a dedicated easement if sold due to a tax lien.	None. (Senate Bill Analysis 2482, 4/19/07)	None. (Senate Bill Analysis 2482, 4/19/07)
			Counties and Municipalities	Procedural	12	Specifies that data used for local communications services tax conversion rates in 2001-2002 shall be considered complete when the Department of Revenue has audited dealers who account for no less than 80% of communications services tax revenue for fiscal year 2005/2006.	None. (Senate Bill Analysis 2482, 4/19/07)	None. (Senate Bill Analysis 2482, 4/19/07)

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Table 1  
Mandates-2007 General Session

Chapter Law	Bill #*	Subject	Type of Local Government Impacted	Type of Mandate	Section #	Description of Provisions	Fiscal Impact (As stated in bill analysis or impact conference)	Applicability of Art. VII, § 18, Fla. Const. (As stated in bill analysis)
2007-106 (Cont'd)	2482	Tax Administration	Counties and Municipalities	Procedural	12	Beginning on July 1, 2007, adjustments to communications services tax conversion rates may only be made if the Department of Revenue or a dealer allocates money away from the local government and then no later than 6 months after notification that data is complete.	None. (Senate Bill Analysis 2482, 4/19/07)	None. (Senate Bill Analysis 2482, 4/19/07)
			Counties and Municipalities	Procedural	20	Clarifies rates for taxing coin-operated amusement machines in counties imposing and not imposing discretionary sales surtax.	Not specifically addressed. (Senate Bill Analysis 2482, 4/19/07)	None. (Senate Bill Analysis 2482, 4/19/07)
			Counties and Municipalities	Constraint	21	Provides that a service warranty will be exempt from sales and use tax if parts and labor used to repair tangible personal property are exempt.	Indeterminate and Insignificant decrease in Local cash and Local recurring. (Measures Affecting Revenue and Tax Administration - 2007 Regular Session)	None. (Senate Bill Analysis 2482, 4/19/07)
			Counties and Municipalities	Procedural	22	Clarifies rates for taxing tangible personal property obtained from vending machines in counties imposing and not imposing discretionary sales surtax.	Not specifically addressed. (Senate Bill Analysis 2482, 4/19/07)	None. (Senate Bill Analysis 2482, 4/19/07)
			Counties (Property Appraisers)	Procedural	38	Authorizes reimbursement of a portion of the annual ad valorem levy for residences rendered uninhabitable by the February 2, 2007 tornadoes and specifies procedures for application and reimbursement.	None, the Legislature appropriated \$922,500 for the purposes of this act.	None. (Senate Bill Analysis 2482, 4/19/07)
			Counties (Property Appraisers)	Procedural	39	Authorizes reimbursement of sales tax paid on replacement units for mobile homes rendered uninhabitable by the February 2, 2007 tornadoes and specifies procedure for application and reimbursement.	None, the Legislature appropriated \$309,000 for the purposes of this act.	None. (Senate Bill Analysis 2482, 4/19/07)
2007-107	55	Domestic Violence	Counties and Municipalities	Programmatic, Procedural	1	Creates s. 741.313, F.S. Defines terms "domestic violence," "employee," "employer," "family or household member," and "victim." Requires that certain employers permit employee to take leave from work to undertake activities resulting from an act of violence. Requires private employers to keep relative information pertaining to an employee's leave confidential and governmental agencies to keep such information confidential and exempt to the extent authorized by statute.	Indeterminate. (House Bill Analysis 55, 4/21/07)	None. (House Bill Analysis 55, 4/21/07)

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Table 1  
Mandates-2007 General Session

Chapter Law	Bill #*	Subject	Type of Local Government Impacted	Type of Mandate	Section #	Description of Provisions	Fiscal Impact (As stated in bill analysis or impact conference)	Applicability of Art. VII, § 18, Fla. Const. (As stated in bill analysis)
2007-108	63	Public Records	Counties and Municipalities	Procedural	1	Amends s. 741.313, F.S., to create a public records exemption for certain records and time sheets submitted to an agency, as defined in ch. 119, F.S., by an employee who is the victim of domestic violence. Provides for future legislative review and repeal and statement of public necessity. This bill is tied to HB 55, which requires the provision of documentation as a basis for granting an employee leave for domestic violence.	Indeterminate. (House Bill Analysis 63, 4/21/07)	None. (House Bill Analysis 63, 4/21/07)
2007-110	123	Investigations of Law Enforcement and Correctional Officers	Counties and Municipalities	Procedural	1	Amends s. 112.532, F.S., regarding the rights of law enforcement and correctional officers. Requires that all identifiable witnesses to a complaint against a law enforcement or correctional officer be interviewed, whenever possible, prior to an investigative interview of the accused officer. Requires, among other things, that a political subdivision that initiates or receives a complaint against a law enforcement officer or correctional officer must forward the complaint to the officer's employer within a specified period. Also permits the accused officer to voluntarily waive the right to review witness statements.	None. (House Bill Analysis 123, 4/11/07)	None. (House Bill Analysis 123, 4/11/07)
2007-111	143	Criminal Justice Standards and Training Commission	Counties and Municipalities	Programmatic	1	Creates s. 943.132, F.S., to implement the federal Law Enforcement Officers Safety Act of 2004.	None. (House Bill Analysis 143, 3/23/07)	None. (House Bill Analysis 143, 3/23/07)
2007-112	339	Federal Law Enforcement Officers	Counties and Municipalities	Programmatic	1	Amends s. 784.07, F.S., relating to assault/battery on a law enforcement officer or other specified officers. Redefines the term "law enforcement officer" to include federal law enforcement officer for purposes of certain enhanced penalties imposed for offense of assault or battery of a law enforcement officer.	None. (House Bill Analysis 339, 4/11/07)	Exempt because it is a Criminal Law. (House Bill Analysis 339, 4/11/07)
			Counties and Municipalities	Programmatic	2	Amends s. 843.08, F.S., regarding the false personation of an officer. Adds federal law enforcement officer to the offense of false personation and makes it a third degree felony.		

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2007-115	449	Criminal Offenses	Counties and Municipalities	Programmatic, Procedural, and Constraint	1-2	Amends ss. 810.02, and 812.014, F.S., to provide enhanced penalties for specified burglaries and thefts involving authorized emergency vehicles. Provides enhanced penalties for specified burglaries and thefts committed during a state of emergency and facilitated by conditions arising from an emergency. Prohibits the release of individuals who are arrested for burglary offenses during a state of emergency until they are able to appear before a magistrate. Provides for the reclassification of these offenses one level above the current ranking.	Impact on local law enforcement indeterminate. May increase local government expenditures due to increased jail bed time (House Bill Analysis 449, 3/23/07)	Exempt because it is a Criminal Law. (House Bill Analysis 449, 2/23/07)
2007-118	723	Correctional and Law Enforcement Officer Discipline	Counties and Municipalities	Procedural	1	Amends s. 112.533, F.S., regarding the receipt and processing of complaints. Requires that certain investigative reports include a statement relating to compliance with specified provisions and that these reports be verified. Requires that certain statements be made under oath and subject to prosecution for perjury.	None. (House Bill Analysis 723, 3/21/07)	None. (House Bill Analysis 723, 3/21/07)
2007-125	1325	Entertainment Industry Economic Development Incentives	Counties and Municipalities	Constraint	1, 6	Provides for tax credit programs affecting sales and use taxes that reduce revenue sharing and local government half-cent distributions, and local option tax revenues.	Staff estimates that the bill will have the following [recurring] negative fiscal impact on local governments: Revenue Sharing \$0.4 Million, Local Gov't Half-Cent \$1.1 Million, Local Option \$1.0 Million. Total Local Impact \$2.5 Million. (House Bill Analysis 1325, 4/5/07)	This bill does not require counties or municipalities to spend funds or take action requiring the expenditure of funds. The provisions of this bill appear to reduce the authority that cities and counties have to raise revenue through local option sales taxes. The bill does not appear to qualify for an exemption. Therefore, the constitutional mandate provision may be applicable and this bill may require a two-thirds vote of the membership of each chamber for passage. (House Bill Analysis 1325, 4/5/07) [Senate Passed: Yeas 40, Nays 0; House Passed: Yeas 120, Nays 0]
2007-127	7111	Guardianship	Counties and Municipalities	Programmatic, Procedural	1	Amends s. 744.3135, F.S., to revise the provisions relating to the criminal history record checks for professional and nonprofessional guardians. Grants rulemaking authority, revises terminology, deletes obsolete language and revises the language concerning investigations of credit histories of professional guardians and certain of their employees.	None. (House Bill Analysis 7111, 4/2/07)	None. (House Bill Analysis 7111, 4/2/07)

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2007-129	989	Crime Victims	Counties and Municipalities	Programmatic, Procedural	1-3	Amends ss. 960.001, 960.003, and 960.28, F.S., to provide that alleged victims of sexual offenses shall not be required to submit to a polygraph or other truth-telling examination as a condition of proceeding with an investigation. Provides that the refusal of an alleged victim to submit to such examination does not preclude the investigation, charging, or prosecution of an alleged offense. Provides for the presence of victim advocates during forensic medical examinations. Requires that HIV testing of certain defendants be ordered within a specified period. Revises the definition of "crime" for the purposes of the Florida Crimes Compensation Act. Revises provisions relating to the payment of initial forensic examinations of alleged victims of certain sexual offenses.	None. (House Bill Analysis 989, 4/23/07)	None. (House Bill Analysis 989, 4/23/07)
2007-133	184	Strangulation/ Domestic Battery	Counties and Municipalities	Programmatic, Procedural	1	Amends s. 784.041, F.S., to provide that a person commits domestic battery by strangulation if the person knowingly and intentionally impedes the normal breathing or circulation of blood of a family member, household member or person with whom he or she has a dating relationship. Makes it a third degree felony. Provides exception, definitions and criminal penalties.	None. (Senate Bill Analysis 184, 2/27/07)	Exempt because it is a Criminal Law. (Senate Bill Analysis 184, 2/27/07)
			Counties and Municipalities	Programmatic, Procedural	2	Amends s. 921.0022, F.S., to add domestic battery by strangulation to the list of third degree felonies in the severity ranking chart of the Criminal Punishment Code.		
2007-137	426	False, Deceptive, or Misleading Advertising	Counties	Procedural	1	Makes the use of a false, deceptive, or misleading statement of affiliation between a performing group and a recording group a misdemeanor.	Potential costs for prosecution and punishment which may be offset by civil penalties, court costs, and attorney's fees. (Senate Bill Analysis 426, 4/18/07)	Exempt because it is a Criminal Law. (Senate Bill Analysis 426, 4/18/07)

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2007-143	1004	Cibercrimes Against Children Act of 2007	Counties and Municipalities	Programmatic, Procedural	4-10	Amends s. 16.56, F.S., to provide for the jurisdiction of the Office of the Statewide Prosecutor over certain obscenity offenses. Also, provides for the jurisdiction over offenses facilitated by or connected to use of the Internet and reclassifies certain offenses involving child pornography. Revises prohibitions on the use of certain computer services to facilitate certain sexual conduct to include electronic storage devices, additional persons, and additional conduct. Charges each conversation in which conduct occurs as a separate offense.	None. (Senate Bill Analysis 1004, 4/18/07)	None. (Senate Bill Analysis 1004, 4/18/07)
2007-144	1456	Sales Tax/School Supplies and Clothing	Counties and Municipalities	Constraint	1	Provides an exemption from sales and use tax for books, clothing, wallets, and certain bags less than \$50, and for school supplies less than \$10 from August 4 to August 15, 2007.	Decrease Local cash: \$8.5 million. Decrease Local recurring: \$0. (Measures Affecting Revenue and Tax Administration - 2007 Regular Session)	This bill provides a sales tax exemption that will reduce municipalities and counties sales tax collections, thereby reducing revenue-raising authority. Because of the significant impact to local governments, this bill may require a two-thirds vote of the membership of each house of the Legislature. (Senate Bill Analysis 1456, 3/28/07) [Senate Passed: Yeas 40, Nays 0; House Passed: Yeas 114, Nays 0]
2007-156	1155	Controlled Substances	Counties and Municipalities	Programmatic, Procedural	1	Amends s. 893.147, F.S., to create a provision that makes it unlawful to sale, manufacture, alter, deliver, or be in possession of counterfeit-resistant prescription blanks for controlled substances. Violators commit a felony of the third degree. Further clarifies the terms under which controlled substances may be dispensed by pharmacists. Promotes the implementation of electronic prescribing by health care practitioners and pharmacies as a deterrent against drug abuse and to improve patient safety. Provides that it is a second degree felony to use, or possess with intent to use, drug paraphernalia to manufacture, compound, convert, produce, process, or prepare methamphetamine in violation of ch. 893, F.S. Clarifies that the permissible sentence for an initial offense with no other sentencing factors would range from any non-state prison (jail, probation, or a fine) up to fifteen years in prison.	None. (House Bill Analysis 1155, 4/24/07)	None. (House Bill Analysis 1155, 4/24/07)

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2007-160	1491	Community Development Districts (CDDs)	Counties	Constraint	2	A CDD submits an application to a municipality whose boundaries the proposed CDD is located, reducing filing fees collected by county government.	Revised Final Revenue Estimating Conference reported a negative fiscal impact and recurring impact of \$200,000 to local governments. (House Bill Analysis 1491, 4/18/07)	The bill does not appear to require counties or municipalities to take action requiring the expenditure of funds, does not appear to reduce the authority that counties or municipalities have to raise revenue in the aggregate, and does not appear to reduce the percentage of state tax shared with other counties or municipalities. (House Bill Analysis 1491, 4/18/07)
2007-162	7181	Immigrant Survivors of Human Trafficking and Other Serious Crimes	Counties and Municipalities	Programmatic, Procedural	1	Creates s. 414.156, F.S., to require the Department of Children and Family Services to provide services to immigrant survivors of human trafficking, domestic violence, and other serious crimes. Provides for the same state and local benefits that refugees receive. Grants supportive services to survivors of serious crimes and provides that a sworn statement by a victim is sufficient evidence for the purposes of determining eligibility for services if supported by at least one piece of additional evidence.	None. (House Bill Analysis 7181, 4/23/07)	None. (House Bill Analysis 7181, 4/23/07)
2007-164	116	Unauthorized Use of Name or Likeness	Counties	Procedural	2	Makes the unauthorized use of the name or likeness of a member of the armed forces a misdemeanor.	Small fiscal impact may result from prosecuting violators. However, the impact may be at least partially offset by the imposition of fines and court fees. (Senate Bill Analysis 116, 3/9/07)	Exempt because it is Criminal Law. (Senate Bill Analysis 116, 3/9/07)
2007-166	174	Prohibition on Practice of Law	Counties (Clerks of Courts and Sheriffs)	Constraint	1	Prohibits full time deputy clerks of the court and deputy sheriffs from practicing law.	None. (Senate Bill Analysis 174, 3/27/07)	None. (Senate Bill Analysis 174, 3/27/07)
2007-170	448	Court Personnel	Counties	Programmatic, Procedural	1	Clarifies the benefits status of county funded circuit court personnel. Permits the county to aggregate these personnel with other county employees for purposes of a flexible benefits plan. Clarifies that when counties provide personnel to the court system, the court is responsible for those employees' compliance with federal and state employment laws.	None. (Senate Bill Analysis 448, 4/13/07)	None. (Senate Bill Analysis 448, 4/13/07)
2007-177	1644	Theft	Counties and Municipalities	Programmatic, Procedural	1-3	Amends ss. 812.014, 812.015, and 921.0022, F.S., to provide enhanced penalties for retail theft exceeding specified amount for persons who individually, or in concert with others, coordinate activities of one or more persons in committing the offense, as in the case of organized retail crime.	Impact on local law enforcement indeterminate. (Senate Bill Analysis 1644, 4/13/07)	None. (Senate Bill Analysis 1644, 4/13/07)

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2007-184	2052	Environmental Protection	Counties	Procedural	1	Increases the population for counties which are encouraged to develop a regional approach to administering and coordinating their litter control and prevention programs from 75,000 to 100,000.	None. (Senate Bill Analysis 2052, 4/13/07)	None. (Senate Bill Analysis 2052, 4/13/07)
			Counties and Municipalities	Procedural	13	Requires local governments that conduct the burning of storm-generated yard trash and to notify the Department of Environmental Protection in writing describing information related to materials burned including the location and method of burning.		
			Counties and Municipalities	Procedural	16	Clarifies that local governments owning or operating landfills shall establish a fee, or other appropriate revenue-producing mechanisms, to ensure financial resources for the proper closure of the landfill including provisions and procedures for correspondence with the Department of Environmental Protection.		
2007-186	2346	Myakka River Wild and Scenic River Designation	Selected Counties	Procedural	1	Requires at least one public hearing to be held in each of the affected areas of Manatee, Sarasota, and Charlotte counties.	None. (Senate Bill Analysis 2346, 04/24/07)	None. (Senate Bill Analysis 2346, 04/24/07)

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2007-188	1	Drug Related Task Forces	Counties and Municipalities	Programmatic	1	Creates the Drug Paraphernalia Abatement Task Force within the Executive Office of the Governor. Provides for meetings, duties, per diem and travel reimbursement for prescribed membership. Also, requires the Office of Drug Control to provide staff support to the task force and cooperation by state agencies.	None. (House Bill Analysis 1, 4/2/07)	None. (House Bill Analysis 1, 4/2/07)
			Counties and Municipalities	Programmatic	2	Creates the Task Force for the Remediation of Illicit Drug Labs within the Executive Office of the Governor. Also, requires the Office of Drug Control to provide staff support to the task force and cooperation by state agencies.		
2007-190	131	Public Records	Selected County (Orange)	Procedural	1	The bill creates s. 288.9626, F.S., to provide a public records and public meetings exemption for certain proprietary information relating to venture capital investment in Florida businesses. Allows for a petition to the appropriate court in Orange County, Florida, for the disclosure of any record made confidential and exempt by the Florida Opportunity Fund or the Institute for the Commercialization of Public Research. The bill provides for future review and repeal of the exemptions and provides statements of public necessity.	The bill may have a fiscal impact on Orange County because staff responsible for complying with public records requests will require training relating to the newly created public records exemption. In addition, Orange County could incur costs associated with redacting the confidential and exempt information prior to releasing a record. (House Bill Analysis 131, 04/23/07)	None. (House Bill Analysis 131, 04/23/07)
2007-196	985	Transportation	Counties (Clerks of Courts)	Procedural	21	Requires the Clerk to forward \$25 out of the \$100 fine levied for failing to pay a required toll for use of a toll-road to the governing entity who issued the ticket or on whose behalf the ticket was issued.	Not specifically addressed. (House Bill Analysis 985, 4/18/07)	None. (House Bill Analysis 985, 4/18/07)
			Counties and Municipalities	Procedural	30	Prohibits local governments from amending their comprehensive plans without considering information provided by the Department of Transportation relating to the impact of the amendment on the supply of aggregate; and from imposing a moratorium on aggregate mining longer than one year.	Not specifically addressed. (House Bill Analysis 985, 4/18/07)	None. (House Bill Analysis 985, 4/18/07)

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2007-196 (Cont'd)	985	Transportation	Counties and Municipalities	Procedural	46	Requires each public transit provider's report on productivity and performance measures to be submitted annually by January 1 and to specifically address enhancements which could increase firebox recovery ratio.	Not specifically addressed. (House Bill Analysis 985, 4/18/07)	None. (House Bill Analysis 985, 4/18/07)
			Selected Counties and Municipalities	Constraint	52	Exempts businesses situated along the turnpike system from paying commercial rental tax on capital improvements.	Decrease Local cash: \$200,000 Decrease Local recurring: \$200,000 (Measures Affecting Revenue and Tax Administration - 2007 Regular Session)	None. (House Bill Analysis 985, 4/18/07)
			Counties and Municipalities	Procedural	62	Authorizes local governments to permit and regulate wall murals in specific areas. Sets standards for state approval and for compatibility with state and federal agreements and federal law.	Not specifically addressed. (House Bill Analysis 985, 4/18/07)	None. (House Bill Analysis 985, 4/18/07)
2007-198	1375	Incentives, Including Tax Credits to Encourage Affordable Housing	Counties and Municipalities	Procedural	1-4	Provides for amendments to local comprehensive plans.	The Revenue Estimating Conference (REC) has adopted an indeterminate negative estimate with regard to a couple of these provisions. In particular, these provisions relate to utilizing the rental income approach for assessing just valuation of rental affordable housing properties and the community land trust valuation provision. Additionally, the conference adopted 80 percent of the low estimate (-\$8.3 million) with regard to the affordable housing property exemption requiring that the owner be a corporation not for profit or a limited partnership the sole general partner of which is a not for profit corporation. It also authorizes a local government to offer incentives and assistance to promote the financial viability, successful development, and ongoing maintenance of approved CWHIP housing projects. (Senate Bill Analysis 198, 4/26/2007)	The bill does not reduce the percentage of a state tax shared with counties or municipalities. The REC adopted a negative fiscal impact estimate of -\$8.3 million with regard to exemptions for certain affordable housing properties meeting specified income limits and owned entirely by a nonprofit entity that meets certain qualifications and land that is owned by an exempt entity subject to a 99-year ground lease for the purpose of providing permanently affordable housing. In addition, the bill may reduce the authority that counties and municipalities have to raise revenue due to the tax provisions related to assessing just valuation of rental affordable housing properties and assessing improvements used for permanently affordable housing subject to a 99-year ground lease. Thus, the bill may be a mandate requiring a two-thirds vote of the membership of each house. (Senate Bill Analysis 198, 4/26/2007) [Senate Passed: 39 Yeas, 0 Nays; House Passed: 119 Yeas, 0 Nays]
				Constraint	6-7	Changes just valuation for certain affordable housing properties.		
				Procedural	18	Increases affordable housing advisory committee membership and expands responsibilities.		
2007-200	1477	Forensic Mental Health	Counties	Conditional - Programmatic	1-5	Authorizes counties to compete for grants from the Criminal Justice, Mental Health, and Substance Abuse Reinvestment Grant Program created within the Department of Children and Family Services.	Requires local governments to provide matching funds equal to the grant award. (House Bill Analysis 1375, 4/24/07)	Not applicable. (House Bill Analysis 1375, 4/24/07)

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2007-204	7203	Growth Management	Counties and Municipalities	Procedural	4	Prohibits a local government from adopting amendments to its local comprehensive plan until the evaluation and appraisal report amendments have been adopted and transmitted to the state land planning agency.	None. (House Bill Analysis 7203, 4/23/07)	None. (House Bill Analysis 7203, 4/23/07)
			Selected Counties and Municipalities	Procedural	8	Provides for certain counties to participate in the Alternative State Review Process Pilot Program. Provides that municipalities within the pilot counties may elect by super majority vote of the governing body not to participate in the pilot program.		
2007-205	2	Leaving a Child in a Vehicle	Counties	Procedural	1	Makes leaving a child unattended or unsupervised in a motor vehicle a misdemeanor, and if child suffers great bodily harm, disability, or disfigurement, makes such act a felony.	Impact on local law enforcement is indeterminate. Not specifically addressed (Senate Bill Analysis 2, 3/19/07)	Exempt because it is Criminal Law. (Senate Bill Analysis 2, 3/19/07)
2007-207	988	High Risk Offenders	Counties and Municipalities	Programmatic, Procedural	1-5	Amends s. 322.141, F.S., to require distinctive markings for driver's licenses and ID cards issued to persons who are designated as sexual predators or subject to registration as sexual offenders. Requires predators and offenders to obtain an updated or renewed driver's license or ID card.	None. (House Bill Analysis 988, 4/9/07)	None. (House Bill Analysis 988, 4/9/07)
			Counties and Municipalities	Programmatic, Procedural	6	Amends s. 1012.465, F.S., to clarify the background screening requirements for certain noninstructional school district employees and contractors, and provides for the submission of fingerprints, unless exempted.		
			Counties and Municipalities	Programmatic, Procedural	7-8	Creates a new section in the Florida School Code addressing access by noninstructional contractors to school grounds when students are present; and exempts specified noninstructional contractors from fingerprint screening.		
			Counties and Municipalities	Programmatic, Procedural	9	Exempts instructional personnel for whom level 2 background screenings have already been satisfied from the screening requirements of s. 1012.32, F.S., if they work with disabled children. Sets forth additional requirements for this exemption.		

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2007-209	1604	Sexual Offenders & Predators	Counties and Municipalities	Programmatic, Procedural	2, 10-11	Amends s. 943.0435, F.S., and creates ss. 985.481, and 985.4815, F.S., to revise criteria for designation as sexual predator and brings Florida's laws regarding registration of sexual predators and sexual offenders into compliance with the federal Adam Walsh Child Protection and Safety Act of 2006. Expands the population of offenders required to register to now include some juveniles, which is a major change to Florida registration laws. Requires predators to register with the Florida Department of Law Enforcement (FDLE) through the sheriff's office and in the county where designated as a predator. Increases the frequency of the reregistration requirement for predators and allows certain sexual predators and offenders to petition for the removal of the registration requirement. Provides for notification upon the release of specified offenders.	Potential implementation issues involving the placement of juvenile sex offenders within schools. (Senate Bill Analysis 1604, 4/11/07)	None. (Senate Bill Analysis 1604, 4/11/07)
2007-210	1792	Department of Corrections	Counties and Municipalities	Programmatic, Procedural	1-6	Amends ss. 316.003, 945.215, and 948.06, F.S. Includes vehicles operated by the Department of Corrections (DOC) within the term "authorized emergency vehicles" for purposes of the Florida Uniform Traffic Control Law. Authorizes the Department to operate vehicles that have emergency lights and sirens. Provides for funds in the Employee Benefit Trust Fund to be used for certain additional purposes and requires the chief judge of each judicial circuit to request that the DOC use a notification letter to the court when reporting a violation of probation that involves an new criminal offense. Authorizes the court to issue a notice to appear for certain violators. Based on an OPPAGA recommendation, directs DOC to study the impact of caseload restrictions and management for probation officers.	Decrease costs to counties due to use of notices to appear, which will reduce arrests and jailing of eligible offenders pending a violation hearing. (Senate Bill Analysis 1792, 4/13/07)	None. (Senate Bill Analysis 1792, 4/13/07)

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2007-211	25	Vehicular Incidents Involving Death or Personal Injuries	Counties and Municipalities  Counties and Municipalities	Programmatic, Procedural  Programmatic, Procedural	2  3	Amends s. 316.027, F.S., regarding leaving the scene of an accident which results in injury or death. Allows assessment of victim injury points for specified offenses.  Amends s. 316.193, F.S., regarding driving under the influence. Requires court to sentence motorists to a minimum term of imprisonment if, while driving under the influence, the driver leaves the scene of a crash that results in death.	None. (House Bill Analysis 25, 4/11/07)	Exempt because it is a Criminal Law.
2007-212	409	Criminal Sentencing	Counties and Municipalities  Counties and Municipalities  Counties and Municipalities	Programmatic  Programmatic  Programmatic	1  2  3	Amends s. 775.0823, F.S., regarding violent crimes against law enforcement officers, state attorneys, assistant state attorneys, justices, or judges. Also conforms the worksheet of the Criminal Punishment Code to reflect these changes.  Amends s. 921.0024, F.S., regarding the Criminal Punishment Code. Prohibits suspending, deferring, or withholding adjudication of guilt or imposition of sentence if the offense is attempted felony murder committed against a law enforcement officer, correctional officer, state attorney, assistant state attorney, justice, or judge.  Amends s. 947.146, F.S., relating to "Control Release Authority," providing for those inmates who are ineligible for control release.	None. (House Bill Analysis 409, 4/24/07)	Exempt because it is a Criminal Law. (House Bill Analysis 409, 4/24/07)
2007-213	1405	Relating to Public Recreation/U.S. Department of Interior/National Historical Landmark	Counties and Municipalities	Procedural	1	Requires publicly owned house museums designated by the United States Department of Interior as a National Historic Landmark to keep certain donor information anonymous.	The bill likely could create a minimal fiscal impact on publicly owned house museums, because staff responsible for complying with public records requests will require training related to the creation of the current public records exemption. In addition, such museums could incur costs associated with redacting the confidential and exempt information prior to releasing a record. The costs, however, should be absorbed as they would be part of the day-to-day responsibilities for the museum. (House Bill Analysis 1405, 4/18/07)	None. (House Bill Analysis 1405, 4/18/07)
2007-218	1624	Owner Controlled Insurance Program (OCIPs) for Public Construction Projects	Counties and Municipalities	Procedural	1	Provides limitations on a series of related capital projects that can qualify for a OCIP. OCIPs are less expensive for private contractors and these savings may be passed on as lower construction costs to governmental entities.	To the extent that public entities save on construction costs by the use of OCIPs, the restriction on the kinds of projects on which OCIPs may be used could result in higher construction costs to those public entities. The amount of those costs is indeterminate. (Senate Bill Analysis 1624, 4/25/07)	None. (Senate Bill Analysis 1624, 4/25/07)

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2007-222	1315	County Boundaries	Selected Counties	Procedural, Constraint	1	This bill revises the boundary between Broward and Palm Beach counties. It amends general law to extend the boundaries of Broward County and decrease the boundaries of Palm Beach County, thus transferring the property at issue, and also annexes a portion of this property into the City of Parkland in Broward County.	Revenues: Palm Beach County will lose any revenues associated with taxes and assessments paid by the property transferred to Broward County, while Broward County will gain any such revenues. Expenditures: Palm Beach County will no longer have expenditures associated with the property transferred to Broward County, while Broward County may now have such expenditures. (House Bill Analysis 1315, 4/16/07)	None. (House Bill Analysis 1315, 4/16/07)
2007-227	404	Housing and Construction Industry	Counties and Municipalities	Procedural	1, 2	Amends the licensure requirements for building code inspectors or plans examiners. Does not prohibit such person holding a limited certificate who is employed by a small county from providing services to another jurisdiction within a small county.	None. (Senate Bill Analysis 404, 3/16/07)	None. (Senate Bill Analysis 404, 3/16/07)
			Counties and Municipalities	Procedural	3, 4	Limits the building code enforcement officials' bill of rights to actions related to the licensee's official duties.		
			Counties and Municipalities	Procedural	7	Allows manufactured homes to be placed in mobile home parks if permitted by the park owner, with the manufactured homes being taxed as mobile homes.		
2007-229	650	Health Regulation	Counties	Procedural	2	Increases the penalty for willfully employing an osteopathic physician person who is not properly registered with the Department of Health.	None. (Senate Bill Analysis 650, 4/19/07)	Exempt because it is criminal law. (Senate Bill Analysis 650, 4/19/07)
2007-230	902	Community Associations	Counties and Municipalities	Procedural	1	Prohibits a local government from adopting an ordinance or regulation that precludes unit owners public access to beaches contiguous with their units barring a public health or safety concern.	None. (Senate Bill Analysis 902, 4/19/07)	None. (Senate Bill Analysis 902, 4/19/07)
			Counties and Municipalities	Procedural	7	Prohibits a local government from adopting a zoning or building law that discriminates against equity facilities clubs.		
2007-233	2038	Real Property Electronic Recording	Counties (Clerks of Courts)	Programmatic, Procedural	1, 2	Authorizes County Clerks to accept records in electronic form. Creates a nine-member Electronic Recording Advisory Committee which the Department of State will consult when adopting standards for electronic recording.	The bill specifies that the Florida Association of County Clerks and Comptrollers will provide administrative support and technical expertise to the Electronic Recording Advisory Committee and the Department of State. The bill requires the Department of State to adopt rules to implement standards for electronic recording of documents. (Senate Bill Analysis 2038, 4/19/07)	None. (Senate Bill Analysis 2038, 4/19/07)

\*Even-numbered bills are Senate and odd-numbered bills are House

Table 1  
Mandates-2007 General Session

Chapter Law	Bill #*	Subject	Type of Local Government Impacted	Type of Mandate	Section #	Description of Provisions	Fiscal Impact (As stated in bill analysis or impact conference)	Applicability of Art. VII, § 18, Fla. Const. (As stated in bill analysis)
2007-241	2866	Sexually Violent Predators	Counties and Municipalities	Programmatic, Procedural	1-4	Amends ss. 394.913 and 916.1091, F.S., and creates ss. 394.9221 and 394.9223 F.S., to provide for information concerning sexual acts and motivational triggers in a person's criminal history to be provided to multidisciplinary teams providing treatment to predators through the Sexually Violent Predator Program. Allows for use of non-lethal force by an employee or agent of a secure facility, or an employee of a state or local law enforcement agency, against a person confined in a secure facility under certain circumstances and for criminal penalties when force is used with malicious intent by an agency employee. The bill clarifies that the Department of Children and Family Services, the Agency for Persons with Disabilities, and entities that contract to operate a forensic facility or secure facility are employing agencies for certified correctional officers within the meaning of ch. 943, F.S.	Insignificant. (Senate Bill Analysis 2866, 4/10/07)	None. (Senate Bill Analysis 2866, 4/10/07)
2007-244	1427	Agritourism	Counties and Municipalities  Counties and Municipalities	Constraint  Procedural	1  2	Requires local governments and agricultural representatives to meet and discuss the benefits of agritourism, opportunities for cooperation, conflict resolution, and incentives.  Increases penalties for second or subsequent offense of breaking or injuring fences enclosing land not his or her own.	Unknown. (House Bill Analysis 1427, 04/23/07)	The mandates provision may apply because the bill could reduce the authority that cities and counties have to raise revenues in the aggregate by providing that no permit, license, approval, or authorization by any governmental entity or jurisdiction is required to engage in agritourism. (House Bill Analysis 1427, 04/23/07)
2007-250	7193	Public Records Exemption	Counties and Municipalities	Procedural	1, 2	Creates a public records exemption for U.S. Census Bureau address information held by an agency pursuant to the Local Update of Census Addresses Program (LUCA). Local governments participating in LUCA may experience a fiscal impact related to staff training to comply with this exemption.	The bill likely could create a minimal fiscal impact on state and local governments participating in LUCA, because staff responsible for complying with public records requests will require training related to the creation of the public records exemption. In addition, state and local government could incur costs associated with redacting the confidential and exempt information prior to releasing a record. The costs, however, should be absorbed as they would be part of the day-to-day responsibilities for those agencies. (House Bill Analysis 7193, 4/23/07)	The bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. The bill does not reduce the percentage of state tax shared with counties or municipalities. The bill does not reduce the authority that municipalities have to raise revenue. (House Bill Analysis 7193, 4/23/07)

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Table 1  
Mandates-2007 General Session

Chapter Law	Bill #*	Subject	Type of Local Government Impacted	Type of Mandate	Section #	Description of Provisions	Fiscal Impact (As stated in bill analysis or impact conference)	Applicability of Art. VII, § 18, Fla. Const. (As stated in bill analysis)
2007-252	1047	Slot Machine Gaming	Counties and Municipalities	Constraint	1	Increases the number of slot machines a licensee may make available for play. Also increases the hours that slot machine gaming areas may be open.	Fiscal Year 2007-2008 - Local cash: (\$0.4) million; Local recurring: (\$0.7) million. Fiscal Year 2008-2009 - Local cash: (\$0.2) million; Local recurring: (\$0.2) million. (Measures Affecting Revenue and Tax Administration - 2007 Regular Session)	None. (Senate Bill Analysis 1047, 4/25/07)
2007-253	392	Everglades Restoration	Counties and Municipalities	Programmatic, Procedural	1	Amends s. 373.4595, F.S., to modify the Lake Okeechobee Protection Plan. Creates new water protection programs and provides procedures for operation.	None. (Senate Bill Analysis 392, 3/16/2007)	None. (Senate Bill Analysis 392, 3/16/2007)
2007-254	506	Tampa Bay Area Regional Transportation Authority	Citrus, Hernando, Hillsborough, Manatee, Pasco, Pinellas, and Sarasota Counties and municipalities within their boundaries	Procedural	1	Creates the Tampa Bay Area Regional Transportation Authority, encompassing Citrus, Hernando, Hillsborough, Manatee, Pasco, Pinellas, and Sarasota counties and provides for board membership and powers of the authority.	None. (Senate Bill Analysis 506, 4/15/07)	None. (Senate Bill Analysis 506, 4/15/07)
2007-255	606	South Florida Regional Transportation Authority	Broward, Miami-Dade, and Palm Beach counties	Procedural	3	Specifies that the \$2.67 million currently dedicated to the authority from each of the three member counties must be transferred by October 1 of each fiscal year.	Not specifically addressed. (Senate Bill Analysis 606, 4/24/07)	None. (Senate Bill Analysis 606, 4/24/07)
				Constraint	3	Deletes authorization for counties to levy an annual license tax of \$2 on vehicle registration.	Indeterminate. (Senate Bill Analysis 606, 4/24/07)	None. (Senate Bill Analysis 606, 4/24/07)
				Procedural	3	Directs at least \$45 million of a state-authorized local-option funding source available to all three counties for capital, operating, and maintenance expenses of the authority.	Increase in local government revenues of at least \$45 million. (Senate Bill Analysis 606, 4/24/07)	None. (Senate Bill Analysis 606, 4/24/07)
2007-322	5B	Special Election	Counties (Supervisors of Elections)	Conditional - Procedural	1	Provides for a special election to be held January 29, 2008. Relating to increasing homestead exemption and other personal property assessments.	Supervisors of Elections may incur additional costs from adding one additional issue to the ballot. These costs are expected to be minimal. (House Bill Analysis 5B, 6/13/07)	The bill is exempt from the mandates provision because it is an elections law. (House Bill Analysis 5B, 6/13/07)

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Table 1  
Mandates-2007 General Session

Chapter Law	Bill #*	Subject	Type of Local Government Impacted	Type of Mandate	Section #	Description of Provisions	Fiscal Impact (As stated in bill analysis or impact conference)	Applicability of Art. VII, § 18, Fla. Const. (As stated in bill analysis)
2007-323	1C	Property Taxes	Municipalities	Procedural	1	Amends the definition of "municipality of special financial concern" in s. 200.185, F.S., so that a municipality must have been in a state of financial emergency, since June 30, 2002, in order to qualify .	None. (House Bill Analysis 1C 10/05/07)	None. (House Bill Analysis 1C 10/05/07)
			Municipalities	Procedural	1	Provides that the maximum millage rate for Fiscal Year 2008-09 for a municipality that no longer qualifies as a municipality of special financial concern will be determined as if the municipality had never been a municipality of special financial concern.	A municipality affected by the provisions of this bill will have to levy a lower millage rate in Fiscal Year 08-09 unless it can adopt the millage by a super majority vote of the governing body. (House Bill Analysis 1C 10/05/07)	Unclear. (House Bill Analysis 1C 10/05/07)
2007-339	4D	Ad Valorem Taxation	Counties	Procedural	9	Requires each fiscally constrained county to apply to participate in the distribution of the appropriation and provide documentation supporting the county's estimated reduction in ad valorem tax revenue to the Executive Office of the Governor.	None. (Senate Bill Analysis 4D, 10/15/07)	None. (Senate Bill Analysis 4D, 10/15/07)
			Counties (Property Appraisers)	Conditional - Constraint	10-14	Contingent upon the approval of SJR 2-D or HJR 7001-D. Requires property appraiser to perform a duties related to the assessment of certain nonhomestead and homestead properties.		

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Table 2  
New or Expanded Revenues-2007 General Session

Chapter Law	*Bill #	Subject	Type of Local Government Impacted	Section #	Description of Provisions	Fiscal Impact (As stated in bill analysis or impact conference)
2007-60	1060	Educational Facilities	Counties	1	Expedites the receipt of gross receipts utility tax revenues by moving the due date from the last day of each month to the 20th for utility companies to submit these revenues. This will result in a compatible advance of the Public Education Capital Outlay (PECO) Trust Fund bonding capacity into earlier years from later years. The bill will also increase recurring general revenue by \$105 million by eliminating the required transfer to PECO.	Recurring General Revenue will increase by \$105 million as a result of eliminating the transfer to the PECO Trust Fund. The speed-up in the receipt of gross receipts tax revenues will move bonding capacity from later years into earlier years. In FY 08-09 the maximum available PECO is estimated to be \$1,152.0 million as projected by the March 5, 2007 PECO Estimating Conference. There could be a net increase in overall bonding capacity to the extent that bonds are issued at lower near term interest rates rather than the higher rates projected for the later years over the forecast period. The net gain in bonding capacity through FY 10-11 based on currently projected interest rates is \$48.7 million. [Chart omitted] (Senate Bill Analysis 1060, 3/28/07)
2007-65	1126	Tobacco Education and Prevention	Counties and Municipalities	1	Requires local governments and schools to participate in certain tobacco cessation and education efforts. County health departments are eligible to receive funding on a per capita basis to coordinate tobacco education and use prevention programs.	None. (Senate Bill Analysis 1060, 3/28/07)
2007-76	411	Limited Insurance Licenses	Counties	1 and 2	Increases licensure and renewal requirements.	Department of Financial Services estimates a revenue gain for renewal of appointments every two years by Florida counties. (9,353 X \$6) = \$56,118. (House Bill Analysis 411, 4/13/07)
2007-106	2482	Tax Administration	Counties and Municipalities	13	Alters penalties for failing to report and pay the communications services tax.	Indeterminate and Insignificant increase in Local cash and Local recurring. (Measures Affecting Revenue and Tax Administration - 2007 Regular Session)
			Counties and Municipalities	25	Provides penalties for intentional avoidance of any tax or fee.	
2007-130	752	Cardrooms	Counties and Municipalities	1	Expands flexibility in hours of operation and authorizes certain tournaments with higher betting limits.	Increase Local cash: \$200,000. Increase Local recurring: \$200,000. (Measures Affecting Revenue and Tax Administration - 2007 Regular Session)
2007-150	359	Motor Vehicle Financial Responsibility	Counties and Municipalities	1	Requires individuals found guilty of DUI to carry additional auto insurance and proof of auto insurance. Provides for enforcement and penalties.	May generate additional fine revenues for local governments based on additional citations issued for failure to provide adequate proof of insurance; the amount of which is indeterminate. (House Bill Analysis 359, 4/20/07)
2007-196	985	Transportation	Counties and Municipalities	14	Deletes a provision limiting the issuance of bonds financed through discretionary sales surtax to once a year.	Not specifically addressed. (House Bill Analysis 985, 4/18/07)
			Counties and Municipalities	28	Deletes a provision limiting the issuance of bonds financed through local-option fuel tax on motor fuel and diesel fuel to once a year.	Not specifically addressed. (House Bill Analysis 985, 4/18/07)
			Counties and Municipalities	44	Allows the State Funded Infrastructure Bank to make disaster-relief loans for repairing damage to commercial seaports, public-use airports, and other public use transit and intermodal facilities within a state declaration of disaster area. Sets forth requirements and allowable terms for loans.	Not specifically addressed. (House Bill Analysis 985, 4/18/07)

Table 2  
New or Expanded Revenues-2007 General Session

Chapter Law	*Bill #	Subject	Type of Local Government Impacted	Section #	Description of Provisions	Fiscal Impact (As stated in bill analysis or impact conference)
2007-210	1792	Department of Corrections	Counties and Municipalities	5	Amends s. 316.003 F.S., 945.215, F.S., and s. 948.06, F.S., to include vehicles operated by the Department of Corrections (DOC) within the term "authorized emergency vehicles" for purposes of the Florida Uniform Traffic Control Law. Authorizes the Department to operate vehicles that have emergency lights and sirens. Provides for funds in the Employee Benefit Trust Fund to be used for certain additional purposes and requires the chief judge of each judicial circuit to request that the DOC use a notification letter to the court when reporting a violation of probation that involves a new criminal offense. Authorizes the court to issue a notice to appear for certain violators. Based on an OPPAGA recommendation, directs DOC to study the impact of caseload restrictions and management for probation officers.	Decrease costs to counties due to use of notices to appear, which will reduce arrests and jailing of eligible offenders pending a violation hearing. (Senate Bill Analysis 1792, 4/13/07)
2007-218	1624	Owner Controlled Insurance Program (OCIPs) for Public Construction Projects	Counties and Municipalities	1	Provides limitations on a series of related capital projects that can qualify for a OCIP. OCIPs are less expensive for private contractors that may be passed on as lower construction costs to governmental entities.	To the extent that public entities save on construction costs by the use of OCIPs, the restriction on the kinds of projects on which OCIPs may be used could result in higher construction costs to those public entities. The amount of those costs is indeterminate. Senate Bill Analysis 1624, 4/25/2007)



Table 3  
Decreased Expenditures-2007 General Session

Chapter Law	*Bill #	Subject	Type of Local Government Impacted	Section #	Description of Provisions	Fiscal Impact (As stated in bill analysis or impact conference)
2007-1	1A	Hurricane Preparedness and Insurance	Counties and Municipalities	41	Provides that up to 78% of the funds from the Florida Disaster Recovery Program may be used to assist local governments in hardening low-income housing against the effects of hurricanes.	None. (House Bill Analysis 1A, 1/17/07)
2007-54	851	Historic Preservation	City of St. Augustine	2	Transfers historic preservation management responsibilities from City of St. Augustine to the University of Florida	The City of St. Augustine will experience a loss in administrative fees, proceeds from the gift shop, and rental income in relation to the historic site. Expenditures: This bill will likely have a positive fiscal impact on the City of St. Augustine. According to the city, the revenues brought in by the sites do not meet the costs of maintenance and operation. The city has been using funds from its general revenue sources for maintenance of these historic sites over the past 10 years. (House Staff Bill Analysis 54, 4/20/2007)
2007-191	197	Surface Water Protection Programs	Counties and Municipalities	1	Exempts specified local governments from certain funding requirements for the implementation of surface water improvement and management projects.	Removes the requirement for financially disadvantaged small local governments to provide a 50% match of cash or in-kind services towards the implementation of the surface water improvement and management (SWIM) projects. (House Bill Analysis 197, 04/25/07)
			Counties	1	The bill removes the requirement for a financially disadvantaged small local government to provide a 50% match of cash or in-kind services towards the implementation of surface water improvement and management (SWIM) projects.	
2007-196	985	Transportation	Counties and Municipalities	25	Increases the Department of Transportation's allowable non-federal share of funding for general aviation airports from 50% state/local to 80% state and 20% local.	Not specifically addressed. (House Bill Analysis 985, 4/18/07)
			Counties and Municipalities	38	Authorizes the Department of Transportation to use funds from the State Transportation Trust Fund for county and municipal road projects which are part of the Enhanced Bridge Program for Sustainable Transportation.	Not specifically addressed. (House Bill Analysis 985, 4/18/07)
			Counties and Municipalities	41	Authorizes up to 50% of total project costs for specific public transportation facilities to be paid by Transportation Regional Incentive Program.	Not specifically addressed. (House Bill Analysis 985, 4/18/07)

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Table 3  
Decreased Expenditures-2007 General Session

Chapter Law	*Bill #	Subject	Type of Local Government Impacted	Section #	Description of Provisions	Fiscal Impact (As stated in bill analysis or impact conference)
2007-196 (Cont'd)	985	Transportation	Counties and Municipalities	42	Authorizes local governments to enter into a legally binding agreement with private developers to provide transportation infrastructure; which can later be applied as a credit against future transportation concurrency requirements.	Not specifically addressed. (House Bill Analysis 985, 4/18/07)
			Counties and Municipalities	43	Creates the Enhanced Bridge Program for Sustainable Transportation to match up to 50% of the costs to improve sufficiency rating of local bridges, and to improve congestion on the state highway system and local corridors.	Not specifically addressed. (House Bill Analysis 985, 4/18/07)
2007-255	606	South Florida Regional Transportation Authority	Broward, Miami-Dade, and Palm Beach counties	3	Releases counties from requirement to transfer \$2.67 million annually to the authority upon dedication of at least \$45 million of state-authorized, local-option sales tax.	None. (Senate Bill Analysis 606, 4/24/07)

Table 4  
Preemptions of Discretionary Authority-2007 General Session

<b>Chapter Law</b>	<b>*Bill #</b>	<b>Subject</b>	<b>Type of Local Government Impacted</b>	<b>Section #</b>	<b>Description of Provisions</b>
2007-26	7167	Municipal Incorporation Mitigation	Miami-Dade County	1	Prohibits counties from requiring municipalities formed after January 1, 2000 to pay charges, assessments, fees, or other considerations as a condition for incorporation. Miami-Dade County is only county with constitutional authority to create municipalities within county boundaries.
2007-29	529	Statewide Cable Television and Video Service Franchises	Counties and Municipalities	1	Prohibits counties and municipalities from negotiating the terms and conditions related to franchise fees or the definition of gross revenue or other definitions related to the payment or assessment of franchise fees on providers of cable or video services.
2007-32	156	Periods of wartime service for veterans	Counties and Municipalities	1	Amends the definition of "veteran" to include persons who served under Operation Enduring Freedom and Operation Iraqi Freedom.
2007-36	1026	Ad Valorem Taxation	Counties	1	Allows certain disabled veterans to claim additional homestead exemptions.
2007-43	99	Charitable Public Solicitations	Counties and Municipalities	1	Preempts local governments from requiring permits for the solicitation of charitable contributions on roadways by specified organizations as long as the persons acting on behalf of these organizations meet specific conditions.
2007-51	699	Veterans Preference	Counties and Municipalities	2	Requires local governments to allow veterans to claim veterans' preference when applying for any non-exempt government position.
2007-65	1126	Tobacco Education and Prevention	Counties and Municipalities	1	Requires local governments and schools to participate in certain tobacco cessation and education efforts. County health departments are eligible to receive funding on a per capita basis to coordinating tobacco education and use prevention programs.

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Table 4  
Preemptions of Discretionary Authority-2007 General Session

<b>Chapter Law</b>	<b>*Bill #</b>	<b>Subject</b>	<b>Type of Local Government Impacted</b>	<b>Section #</b>	<b>Description of Provisions</b>
2007-67	1372	Agriculture and Consumer Services	Counties and Municipalities	10	Preempts local governments from enacting any new ordinances that prohibit or interfere with the sale, use, purchase or possession of consumer fireworks for one year.
2007-93	816	Public Records	Counties and Municipalities	1	Amends exemption from public records law to include certain information indicating that a request by a law enforcement agency has been made.
2007-95	886	Public Records	Counties and Municipalities	1	Reenacts the public records exemption of various materials related to certain structures.
2007-104	1950	Public Records	Counties and Municipalities	1	Reenacts the public records exemption for the identity of a parent who leaves a newborn at a hospital, fire station, or emergency medical services station.
2007-137	426	False, Deceptive, or Misleading Advertising	Counties	1	Makes the use of a false, deceptive, or misleading statement of affiliation between a performing group and a recording group a misdemeanor.
2007-164	116	Unauthorized Use of Name or Likeness	Counties	2	Makes the unauthorized use of the name or likeness of a member of the armed forces a misdemeanor.
2007-198	1375	Incentives, Including Tax Credits to Encourage Affordable Housing	Counties and Municipalities		Prohibits local governments from adopting amendments to a local comprehensive plan until the evaluation and appraisal report update amendments have been adopted and submitted to the state.
2007-205	2	Leaving a Child in a Vehicle	Counties	1	Makes leaving a child unattended or unsupervised in a motor vehicle a misdemeanor, and if child suffers great bodily harm, disability, or disfigurement, makes such act a felony.

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Table 4  
Preemptions of Discretionary Authority-2007 General Session

Chapter Law	*Bill #	Subject	Type of Local Government Impacted	Section #	Description of Provisions
2007-227	404	Housing and Construction Industry	Counties and Municipalities	1, 2	Amends the licensure requirements for building code inspectors or plans examiners. Does not prohibit such person holding a limited certificate who is employed by a small county from providing services to another jurisdiction within a small county.
			Counties and Municipalities	3, 4	Limits the building code enforcement officials' bill of rights to actions related to the licensee's official duties.
			Counties and Municipalities	7	Allows manufactured homes to be placed in mobile home parks if permitted by the park owner; with the manufactured homes being taxed as mobile homes.
2007-229	650	Osteopathic Physician	Counties	2	Increases the penalty for willfully employing an osteopathic physician-resident, intern, or fellow who is not properly registered with the Department of Health.
2007-230	902	Community Associations	Counties and Municipalities	1	Prohibits a local government from adopting an ordinance or regulation that precludes unit owners from public access to beaches contiguous with their units barring a public health or safety concern.
			Counties and Municipalities	7	Prohibits a local government from adopting a zoning or building law that discriminates against equity facilities clubs.
2007-259	138	Transportation Facilities	City of Miami	26	The portion of Brickell Avenue situated within the corporate limits of Miami and lying between South East 25th Street and the south shoreline of the Miami River is designated as a state historic road. Limits are placed upon alterations that can be made to this section of the roadway.
2007-322	5B	Special Election	Counties and Municipalities	1	Limits local government authority to increase ad valorem taxes, and transitional homestead property assessments.

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Table 5  
Grants of Authority-2007 General Session

Chapter Law	*Bill #	Subject	Type of Local Government Impacted	Section #	Description of Provisions
2007-1	1A	Hurricane Preparedness and Insurance	Counties and Municipalities	13	Authorizes a local government to use self-insurance funds to insure or self-insure real or personal property against loss or damage.
2007-4	333	Homestead Exemption	Counties and Municipalities	1	Allows a jurisdiction to raise the amount of the homestead exemption up to \$50,000 beginning with the 2007 tax year if the city or county had enacted an additional exemption of up to \$25,000 under the constitution prior to the 2006 amendment.
2007-29	529	Statewide Cable Television and Video Service Franchises	Counties and Municipalities	1	Allows counties and municipalities with dedicated staff, such as a consumer complaint hotline, to continue to respond to complaints until July 1, 2009.
2007-30	537	Elections	Municipalities	4	Allows municipalities to move date of the general election to a date concurrent with the presidential preference primary.
			Counties	5	Authorizes counties to employ a ballot-on-demand production system at early voting sites to print individual ballots.
			Counties and Municipalities	6	Allows the Secretary of State to act as an agent for local governments for the purchase, sale, or exchange of touchscreen voting equipment. Allows counties to opt-out of this arrangement by filing a notice with the Department of State by June 30, 2007.
2007-34	464	Legal Holidays and Special Observances	Counties and Municipalities	1	Authorizes local governments to issue proclamations commemorating the occasion and recognizing that many residents of the state celebrate the occasion.
2007-41	2912	Historic Highways/ Miami-Dade County	Specific County (Miami-Dade)	1	Allows public funds to be used for alterations to Old Cutler Road, a State Historic Highway.
2007-48	431	Tourist-Oriented Directional Signs	Counties and Municipalities	1	Allows for placement of tourist-oriented directional signs and authorizes local governments to charge fees to offset costs.

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Table 5  
Grants of Authority-2007 General Session

Chapter Law	*Bill #	Subject	Type of Local Government Impacted	Section #	Description of Provisions
2007-66	1134	Transportation	Counties and Municipalities  Selected Counties (Osceola and Orange)	1  7	Expands funding source for the payment of bonds for fixed guideway transportation systems to include all funds available to the project.  Authorizes a pilot program for removal of signs from downtown, historic, redevelopment, infill, or other designated district and replacement on an interstate highway (with a reduction of the current permitted distance between signs on the same side of the road) if the local government has adopted a plan for such removal and replacement.
2007-71	2162	Local Government Funding	Counties and Municipalities	1	Authorizes certain counties to concurrently impose another traffic-infraction surcharge that may be used to fund state-court facilities.
2007-89	2224	Authorized Investments for Local Governments	Counties and Municipalities	1	Creates paragraph (f) in subsection (16) of s. 218.415, F.S. to allow local governments to invest surplus public funds in rated and unrated bonds, notes, or instruments backed by the full faith and credit of the government of Israel.
2007-97	1178	Local Business Taxes	Counties and Municipalities	1	Allows municipalities to reclassify businesses, professions, and occupations in establishing new business tax rate structures under certain circumstances. Also authorizes municipalities and counties to decrease or repeal any business tax authorized under ch. 205, F.S.
2007-106	2482	Tax Administration	Counties and Municipalities	11	Authorizes local governments to enter into a written agreement to correct for misallocation in distribution of the communication services tax provided that the amount of the misallocation was at least 90% of the average monthly distribution over the last 6 months and the agreement is approved by the Department of Revenue.
2007-127	7111	Guardianship	Counties and Municipalities	1	Amends s. 744.3135, F.S. Revises provisions relating to the criminal history record checks for professional and nonprofessional guardians. Grants rulemaking authority, revises terminology, deletes obsolete language, and revises the language concerning investigations of credit histories of professional guardians and certain of their employees. Requires the Statewide Public Guardianship Office to develop rules relating to acceptable methods for completing electronic print criminal record checks.

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Table 5  
Grants of Authority-2007 General Session

Chapter Law	*Bill #	Subject	Type of Local Government Impacted	Section #	Description of Provisions
2007-130	752	Cardrooms	Counties and Municipalities	1	Alters approval process to allow municipalities in which facility is located, or county if it is located in an unincorporated area, to extend cardroom hours by majority vote of the governing body.
2007-154	1003	Law Enforcement Vehicles	Counties and Municipalities	1	Allows local law enforcement agencies to utilize clearly marked all terrain vehicles, golf carts, and low-speed vehicles while carrying out their official duties.
2007-159	1489	Public Project Construction Bonds	Counties and Municipalities  Counties and Municipalities	1  2	Authorizes a public entity to determine the reasonable amount of a bond for contracts in excess of \$250 million.  Authorizes political subdivisions of the state to use construction management or program management entities and provides flexibility to decide when and if a guaranteed maximum price and a guaranteed completion date may be required.
2007-184	2052	Environmental Protection	Counties an Municipalities	13	Authorizes local governments or their agents to conduct the burning of storm-generated yard trash, vegetative debris, untreated wood from construction and demolition debris in air-curtain incinerators without prior notice to the Department of Environmental Protection.

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Table 5  
Grants of Authority-2007 General Session

Chapter Law	*Bill #	Subject	Type of Local Government Impacted	Section #	Description of Provisions
2007-196	985	Transportation	Counties and Municipalities	7	Authorizes Metropolitan Planning Organizations to participate in the Florida Retirement System at the discretion of their membership.
			Counties and Municipalities	12	Authorizes counties and municipalities with a backlog in transportation concurrency to create Transportation Concurrency Backlog Authorities to address this issue.
			Counties and Municipalities	13	Allows local governments to amend comprehensive plan, prior to evaluation and approval by the state land planning agency, in order to integrate a port comprehensive master plan with the coastal management element of a local comprehensive plan.
			Counties and Municipalities	14	Deletes a provision limiting the issuance of bonds financed through discretionary sales surtax to once a year.
			Counties	17	Authorizes counties to designate certain unpaved roadways for all-terrain-vehicle use through a majority vote of the governing body.
			Counties and Municipalities	28	Deletes a provision limiting the issuance of bonds financed through local option fuel tax to once a year.
			Counties	29	Expands exemptions from the competitive-bid requirement to include emergency work with a total cost less than \$400,000 and to construction of sidewalks, curbs, accessibility ramps, and appurtenances with a total cost less than \$400,000.
			Counties and Municipalities	40	Provides conditions under which an additional member can be appointed to Metropolitan Planning Organizations and authorizes an inter-local agreement pertaining to the method of selection.
Counties and Municipalities	42	Authorizes local governments to enter into legally binding agreements with private developers to provide transportation infrastructure which can later be applied as a credit against future transportation concurrency requirements.			

\*Even-numbered bills are Senate and odd-numbered bills are House

Table 5  
Grants of Authority-2007 General Session

Chapter Law	*Bill #	Subject	Type of Local Government Impacted	Section #	Description of Provisions
2007-196 (Cont'd)			Select Counties and Municipalities	50	Allows counties and municipalities not represented by a Metropolitan Planning Organization to coordinate with the Department of Transportation in setting priorities for facilities not part of the Strategic Intermodal Plan.
			Counties and Municipalities	62	Authorizes local governments to permit and regulate wall murals in specific areas. Sets standards for state approval and for compatibility with state and federal agreements and federal law.
2007-198	1375	Incentives, Including Tax Credits to Encourage Affordable Housing	Counties and Municipalities	6	Authorizes local governments to adopt an ordinance to allow for ad valorem tax deferrals and non-advalorem assessment deferrals on affordable rental housing meeting specified guidelines.
			Counties and Municipalities	15	Authorizes local governments to use State Housing Initiative Partnership Program funds to provide low-income and affordable housing.
2007-200	1477	Forensic Mental Health	Counties	1-5	Authorizes counties to compete for grants from the Criminal Justice, Mental Health, and Substance Abuse Reinvestment Grant Program created within the Department of Children and Family Services.
2007-204	7203	Growth Management	Municipalities	8	Provides that municipalities within pilot counties may elect by super majority vote of the governing body not to participate in the pilot program.
			Counties and Municipalities	8	Allows a combination of two or more counties or at least one county and one or more municipalities to establish a tax increment area for conservation lands through an interlocal agreement.
			Counties and Municipalities	8	Allows a county or municipality to create a transportation concurrency backlog authority if it has an identified transportation concurrency backlog.

\*Even-numbered bills are Senate and odd-numbered bills are House

Table 5  
Grants of Authority-2007 General Session

Chapter Law	*Bill #	Subject	Type of Local Government Impacted	Section #	Description of Provisions
2007-210	1792	Department of Corrections (DOC)	Counties and Municipalities	5	Section 948.06(1)(e), F.S., requires the chief judge of each judicial circuit to request that the DOC use a notification letter to the court when reporting a violation of probation that involves a new criminal offense. Authorizes the court to issue a notice to appear for certain violators.
2007-223	7173	Florida Wildlife Conservation Commission (Tax Collectors)	Counties	15	Authorizes any tax collector in this state to collect donations when selling a recreational license or permit authorized under s. 372.57 F.S. All donations collected must be deposited in the State Game Trust Fund.
2007-233	2038	Real Property Electronic Recording	Counties	1	Authorizes County Clerks to accept records in electronic form. Creates a nine-member Electronic Recording Advisory Committee which the Department of State will consult when adopting standards for electronic recording.
2007-339	4-D	Ad Valorem Taxation	Counties	14	Authorizes counties to waive the requirement that an annual application or statement be made for assessment of property with the county under s. 193.1554 or s. 193.1555 F.S., after an initial application is made and such assessment is granted.

\*Even-numbered bills are Senate and odd-numbered bills are House

## APPENDICES

- Appendix 1: Article VII, Section 18, Florida Constitution
- Appendix 2: Content of Memorandum Addressing the Implementation of Constitutional Language Referring to Mandates (Legislative Leadership Memorandum, 1991)
- Appendix 3: Content of Memorandum Addressing the Implementation of Constitutional Language Referring to Mandates also adopted 1991 Leadership Memorandum (Florida House of Representatives Memorandum, 1997)
- Appendix 4: “3-8-3” Local Mandate Analysis Procedure
- Appendix 5: Rules of the Florida Senate and House

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## **APPENDIX 1**

### **FLORIDA CONSTITUTION**

#### **ARTICLE VII, FINANCE AND TAXATION**

SECTION 18. Laws requiring counties or municipalities to spend funds or limiting their ability to raise revenue or receive state tax revenue.-

(a) No county or municipality shall be bound by any general law requiring such county or municipality to spend funds or to take an action requiring the expenditure of funds unless the legislature has determined that such law fulfills an important state interest and unless: funds have been appropriated that have been estimated at the time of enactment to be sufficient to fund such expenditure; the legislature authorizes or has authorized a county or municipality to enact a funding source not available for such county or municipality on February 1, 1989, that can be used to generate the amount of funds estimated to be sufficient to fund such expenditure by a simple majority vote of the governing body of such county or municipality; the law requiring such expenditure is approved by two-thirds of the membership in each house of the legislature; the expenditure is required to comply with a law that applies to all persons similarly situated, including the state and local governments; or the law is either required to comply with a federal requirement or required for eligibility for a federal entitlement, which federal requirement specifically contemplates actions by counties or municipalities for compliance.

(b) Except upon approval of each house of the legislature by two-thirds of the membership, the legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenues in the aggregate, as such authority exists on February 1, 1989.

(c) Except upon approval of each house of the legislature by two-thirds of the membership, the legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the percentage of a state tax shared with counties and municipalities as an aggregate on February 1, 1989. The provisions of this subsection shall not apply to enhancement enacted after February 1, 1989, to state tax sources, or during a fiscal emergency declared in a written joint proclamation issued by the president of the senate and the speaker of the house of representatives, or where the legislature provides additional state-shared revenues which are anticipated to be sufficient to replace the anticipated aggregate loss of state-shared revenues resulting from the reduction of the percentage of the state tax shared with counties and municipalities, which source of replacement revenues shall be subject to the same requirements for repeal or modification as provided herein for a state-shared tax source existing on February 1, 1989.

(d) Laws adopted to require funding of pension benefits existing on the effective date of this section, criminal laws, election laws, the general appropriations act, special appropriations acts, laws reauthorizing but not expanding then-existing statutory authority, laws having insignificant fiscal impact, and laws creating, modifying, or repealing noncriminal infractions, are exempt from the requirements of this section.

(e) The legislature may enact laws to assist in the implementation and enforcement of this section.

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## APPENDIX 2

### CONTENT OF MEMORANDUM ADDRESSING THE IMPLEMENTATION OF CONSTITUTIONAL LANGUAGE REFERRING TO MANDATES (Circulated by House Speaker Wetherell and Senate President Margolis, March 7, 1991)

#### COUNTY AND MUNICIPALITY MANDATES ANALYSIS

The purpose of this document is to assist legislative staff in analyzing bills that potentially fall under Article VII, Section 18 of the Florida Constitution, the provisions relating to county and municipality mandates. This constitutional provision contains three criteria which describe types of bills considered to be mandates on municipalities and counties. There are eight exemptions contained in subsection (d) which, if applicable, exempt the bill from the constitutional restrictions. In addition, under each criterion there are exceptions which, if met, also exclude the bill from the restrictions. For the second and third criteria, one of the exceptions is passage of the bill by a two-thirds vote of the membership of each house. For an exception to the first criterion, that vote must be coupled with a legislative determination of an important state interest.

In preparing a staff analysis, any bill which meets one or more of the criteria should be identified as a mandate, even if an exemption or an exception applies. The analysis should describe the issue causing the mandate and state the constitutional criterion which is met. If appropriate, a fiscal analysis of the required expenditures and/or revenue impacts should be provided. If one of the “substantive” exemptions or exceptions (other than the two-thirds vote) apply, this should be stated and explained. If the exemptions or exceptions do not apply, leaving the two-thirds vote as the only possibility for exception, this should also be stated.

#### OVERVIEW:

The accompanying chart provides a procedure for doing a mandates analysis. The bill should first be analyzed to determine if it or one of its provisions meet the constitutional criteria. If not, the bill is not a mandate. If one of the criteria is met, the analyst should then examine the exemptions. If one or more are applicable, the bill is exempt from the mandates requirements. If not, the exceptions under each applicable criterion should be examined. If any exception other than the two-thirds vote applies, this should be stated. If the only exception available is for the Legislature to pass the bill by a two-thirds vote, this should also be stated.

#### GENERAL CONSIDERATIONS:

- \* In analyzing a bill or amendments to a bill for an Article VII, Section 18 impact, each issue of the bill or amendment must be analyzed individually.
- \* The mandates analysis applies only to general laws and not to special laws (local bills).
- \* The requirements of Article VII, Section 18 apply only to cities and counties.

**CRITERIA:**

The bill should first be analyzed to determine if it or any of its provisions meet one or more of the mandates criteria. These are:

- A. **A law requiring cities or counties to spend funds or to take action requiring expenditure.**
- B. **A law that reduces the authority of cities or counties to raise revenues in the aggregate as such authority existed on 2/1/89.**

1. In analyzing this criterion, the term “in the aggregate” means that effects on cities and counties are to be considered together. It also means that decreases in the authority to raise revenues should be offset against increases in such authority.

2. The term “authority” applies to:

- a) the power to levy a tax;
- b) the vote required to levy the tax, e.g., increasing the required vote from majority to majority plus one;
- c) the tax rate which can be levied; and
- d) the base against which the tax is levied, e.g., a bill providing a sales tax exemption should be considered a reduction in authority because counties have authority to levy local option sales taxes against the state sales tax base.

- C. **A law that reduces the percentage of a state tax shared with cities and counties as an aggregate on 2/1/89.**

This criterion indicates that the percentage of each shared state tax that the counties and cities receive cannot be reduced. Provisions that reduce the base of a shared tax while leaving the percentage shared with cities and counties unchanged, however, do not meet this criterion.

**If it is determined, after an initial reading, that a bill falls within one of the above, the analysis outlined in the remainder of this paper should be performed. If it does not fall within one of these criteria, no further mandates analysis need be done.**

**EXEMPTIONS:**

Determine whether the bill's provisions fall under one of the following exemptions set out in subsection (d) of Article VII, Section 18:

1. **Requires Funding of Pension Benefits Existing on January 8, 1991** -- This applies only to additional funding that is necessary to assure the actuarial soundness of pension funds in

providing only those benefits that existed on January 8, 1991. In order to qualify for exemption, the funding cannot apply to an expansion of either specific benefits or classes of people receiving the benefits.

2. **Criminal law** -- This applies to any bill relating to the following:
  - \* Defining the types of behaviors for which individuals are subject to arrest and criminal sanction and the penalties associated with these behaviors.
  - \* Relating to the processes of arrest and pretrial detention.
  - \* Relating to defense and prosecution.
  - \* Relating to adjudication, sentencing, and implementation of criminal sanctions.
3. **Election Laws** -- Generally, this applies to any bill relating to the required processes and procedures of holding public elections.
4. **The General Appropriations Act**
5. **Special Appropriations Acts**
6. **Laws Re-authorizing but not Expanding Then-existing Statutory Authority** -- Look to authority existing at the time the bill would become effective. Where a bill would expand, in addition to re-authorize, only the re-authorizing provisions would be exempt. This exemption includes sunset bills, sundown bills, reviser's bills, re-adoptions of statutes, and laws extending repeal dates.
7. **Laws Having Insignificant Fiscal Impact** -- This exemption is to be determined on an aggregate basis for all cities and counties in the state. If, in aggregate, the bill would have an insignificant fiscal impact, it is exempt.

For purposes of legislative application of Article VII, Section 18, the term “insignificant” means an amount not greater than the average statewide population for the applicable fiscal year times ten cents. Thus, for fiscal year 1991-92, a bill that would have a statewide annual fiscal impact on counties and municipalities, in aggregate, of \$1.4 million or less is exempt.

Bills should also be analyzed over the long term. The appropriate length of the long-term analysis will vary with the issue being considered, but in general should be adequate to insure that no unusual long-term consequences occur. In determining fiscal significance or insignificance, the average fiscal impact, including any offsetting effects over the long term, should be considered. For instance, if a program would require recycling costs of \$5 million statewide, but would generate \$4 million statewide in revenues from the sale of scrap metal and paper, the fiscal impact would be insignificant.

8. **Laws Creating, Modifying, or Repealing Noncriminal Infractions** -- Apply the definition of “noncriminal violation” in s. 775.08, F.S.

If a bill or one of its provisions meets the definition or description of one of the exemptions above, the bill or provision is not subject to further Article VII, Section 18 analysis. However, the mandates provision and the exemption should still be discussed in the bill analysis.

**EXCEPTIONS:**

After determining that a bill or its provisions do not fall under one of the exemptions, the exceptions applicable to each relevant criterion should be analyzed. If one of the exceptions is applicable, this should be stated in the analysis. If no exception other than the two-thirds vote is applicable, this should also be stated.

**A. General bills requiring cities and counties to spend funds or to take action requiring expenditure.**

It is not feasible for the Legislature to analyze the effects of possible mandates legislation on each city and county individually. Thus, for purposes of legislative analysis and determination of the offsetting appropriations or other funding sources as described below, analysis should be made on an aggregate basis for all counties and municipalities as a whole.

Cities and counties will have to comply with a provision requiring expenditures if:

**1. The Legislature Determines That It Fulfills an Important State Interest:**

This determination should be made by the Legislature itself and not by staff. The most effective means of doing this would be the insertion of a provision into the bill.

**2. Condition #1 must be met and any one of the following exceptions:**

- a. Funds are appropriated that are estimated to be sufficient to fund such expenditure.

As stated above, the question of whether this exception is met should be analyzed on an aggregate basis including all counties and municipalities.

- b. The Legislature authorizes or has authorized a county or city to enact, by a simple majority vote of the governing board, a funding source not available on 2/1/89. The source must be estimated to fund the expenditure.

In addition to the granting of new authority to enact funding sources, this exception also includes the broadening of tax bases against which cities and counties already have the authority to levy taxes by a majority vote.

As stated above, the question of whether this exception is met should be analyzed on an aggregate basis, including all counties and municipalities.

- c. This expenditure is required to comply with a law that applies to all persons similarly situated, including the state and local governments.

In analyzing this exception, the makeup of the group which should be considered “similarly situated” should first be determined. Once this determination has been made, the exception can be considered applicable if all members of the group are treated similarly, even though the group may only contain governmental entities or even only local governmental entities.

The determination of similarly situated should be independent of a local government's status as a local government. However, if only cities and counties are affected by the issue, this exception does not apply. If, on the other hand, by the nature of the issue in the bill being analyzed, only local governments (all local governments, not just cities and counties) could be affected and these are treated similarly, the exception is met. If there are entities in the private sector or in state government which also could be affected by the bill, but are not treated similarly because they are not local governments, or for other reasons not inherently connected to the issue being analyzed, the exception is not met.

An example of a bill in which the exception is met would be one affecting the Florida Retirement System (FRS). This system includes employees of the state government, school districts and local governments. As long as classes of employees were not deliberately manipulated to apply only to cities and counties, all in the system would be similarly situated and changes in retirement benefits would be excepted.

- d. The expenditure is required to comply with a federal requirement or federal entitlement which contemplates action by cities or counties.

**If any one of the exceptions (a) through (d) is met, no further analysis is necessary with respect to Article VII, Section 18. The bill is excepted from the provisions of that section as long as the Legislature also determines that an important state interest exists.**

**If none of the exceptions (a) through (d) are met, the Legislature must find an important state interest and the bill must pass by a 2/3 vote to effectively bind cities and counties.**

**B. A law that reduces the authority of cities or counties to raise revenues in the aggregate as such authority existed on 2/1/89.**

There is only one exception applicable to this criterion. A bill determined to meet this criterion may only take effect if passed by 2/3 vote of each house.

C. **A law that reduces the percentage of a state tax shared with cities and counties as an aggregate on 2/1/89.**

The exceptions by which this criterion does not apply are:

1. Enhancements to state taxes shared with counties and municipalities enacted after 2/1/89. For example, assume that the base of a shared tax source has been expanded since 2/1/89 (and the percentage shared not reduced) so that cities and counties receive more money. It would be permissible under this exception for the Legislature to reduce the percentage shared with cities and counties up to the point where such governments would be receiving the same amount of money they would have received if the tax base had not been expanded.
2. During a fiscal emergency; or
3. If replacement state shared revenues sufficient to replace the aggregate loss are provided.

**If exceptions (1), (2) or (3) are not satisfied, the bill must pass by a 2/3 vote of each house in order to take effect.**

### **APPENDIX 3**

#### **CONTENT OF MEMORANDUM ADDRESSING THE IMPLEMENTATION OF CONSTITUTIONAL LANGUAGE REFERRING TO MANDATES (Circulated by House Speaker Webster, March 6, 1997)<sup>1</sup>**

The Florida Constitution places requirements on this body concerning the passage of bills that impose mandates on counties and municipalities. (Article VII, Section 18) A set of guidelines and procedures for interpreting this constitutional provision is attached. It is my intention that the House follow the interpretations contained in the attached document in dealing with any issues arising with regard to Article VII, Section 18.

#### **PROCEDURE FOR ANALYZING BILLS FOR MANDATES**

1. Staff for the committee of initial reference have responsibility to review all assigned bills for potential mandate issues in accordance with the provisions of the Constitution and the guidelines issued by the Speaker. Council staff are available for consultation during this process.

Members and staff should raise any new mandate issues introduced to bills by amendments that are adopted throughout the process.

2. If the bill is identified as a potential mandate, the Chair makes a final decision about language to include in the bill analysis.
3. If the Chair is uncertain, the potential mandate is referred for discussion by the Council -.If the bill is heard by the committee before the Council makes a determination, the analysis will reflect that a potential mandate issue is identified. The analysis should be updated by the committee of initial reference as soon as the Council makes a determination.
4. The Chair of the Council may request that the issue also be reviewed by the staffs of the Fiscal Responsibility Council, the Rules Committee, and House Bill Drafting. Those staff, with the Council staff, would have the responsibility to develop options for the Chair's or Council's consideration.
5. Before any bill with a mandate is sent to the floor, the mandate issue will be reviewed by the Council with responsibility for calendaring the bill. The members should specifically decide whether the mandates portion of the analysis should be changed. The Council will also consider any bills raised by members as potential mandates that do not have a mandate identified in the analysis.
6. Final decision on whether a bill contains a mandate is made on the floor by the Speaker.

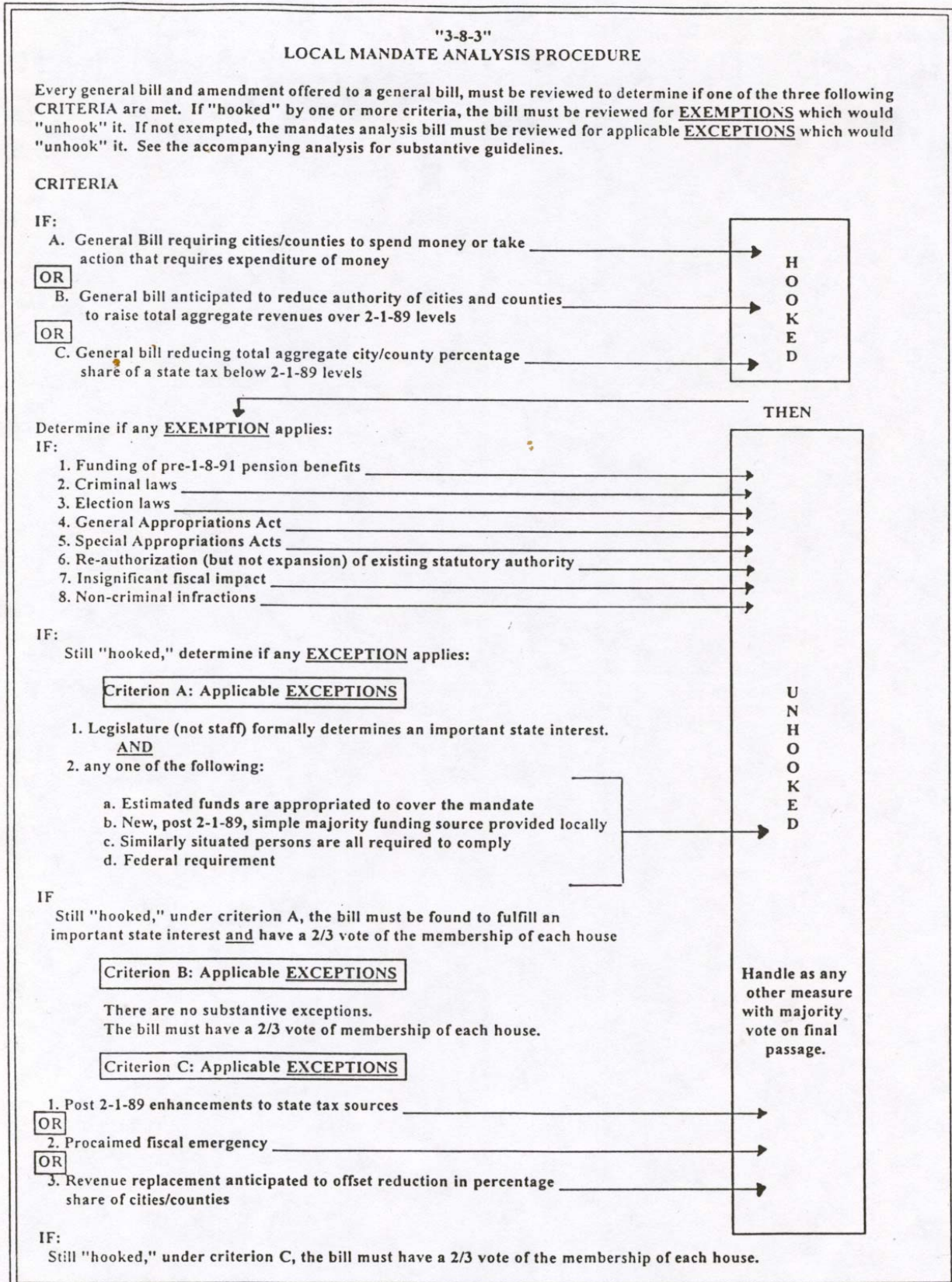
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<sup>1</sup> Also adopted the County and Municipality Mandates Analysis circulated in 1991.

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APPENDIX 4



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## APPENDIX 5

While there may be several rules that have some application to the mandate constitutional requirements when legislation is filed, passed by committees, and on the floor of the respective chambers, the most pertinent to the constitutional mandate requirements are provided below:

### SENATE RULES (2006-2008)

#### **Rule 3.13 - Fiscal Notes**

*(1) Upon being favorably reported by a standing committee, all general bills or joint resolutions affecting revenues, expenditures, or fiscal liabilities of state or local governments shall be accompanied by a fiscal note. Fiscal notes shall reflect the estimated increase or decrease in revenues or expenditures. The estimated economic impact, which calculates the present and future fiscal implications of the bill or joint resolution, must be considered. The fiscal note shall not express opinion relative to the merits of the measure, but may identify technical or mechanical defects.*

*(2) Fiscal notes on those bills affecting any state retirement system shall be prepared after consultation with an actuary who is a member of the Society of Actuaries and the cooperation of appropriate state agencies for necessary data shall be solicited.*

*(3) Fiscal notes shall be regarded as memoranda of factual information and shall be made available to members of the Senate.*

*(4) If a bill or joint resolution is reported favorably by a committee without a fiscal note or economic impact statement, as defined in this Rule, a Senator may at any time raise a point of order, and the President shall order return of the bill or joint resolution to the committee. A fiscal note prepared for a Senate bill or joint resolution shall be presumed as prepared also for its House companion for the purposes of point of order.*

#### **Rule 4.8 - Reference of bills affecting appropriations, revenue, retirement or county or municipal spending**

*All bills authorizing or substantially affecting appropriations or tax revenue shall be reviewed by the appropriate revenue or appropriations committee. All bills substantially affecting a state-funded or state-administered retirement system shall be reviewed by the Committee on Governmental Operations. All bills which are affected by the provisions of Article VII, Section 18 of the State Constitution shall be reviewed by the Committee on Community Affairs. A bill that is amended to substantially affect appropriations or tax revenue, a state retirement program, or expenditures or revenues as set forth in Article VII, Section 18 of the State Constitution may, before being placed before the Senate for final passage, be referred by the President along with all amendments to the appropriate revenue or appropriations committee.*

### HOUSE OF REPRESENTATIVES RULES (2006-2008)

#### **6.5—Appropriations or Tax Measures: Withdrawal from Policy & Budget Council; Additional Reference**

*(a) A bill in the possession of the Policy & Budget Council that has been amended by report from a council of previous reference to remove its fiscal impact may be withdrawn from the Policy & Budget Council on a point of order raised by the Chair or Vice Chair of the Policy & Budget Council.*

*(b) If an amendment adopted on the floor of the House affects an appropriation or a tax matter, upon a point of order made by the Chair or Vice Chair of the Policy & Budget Council, the bill may be referred by the Speaker, with the amendment, to an appropriate council. If the bill, as amended on the floor, is reported favorably without further amendment, it shall be returned to the same reading as when referred. If the bill, as amended on the floor, is reported favorably with further amendment, it shall be returned to second reading.*

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