

2005

INTERGOVERNMENTAL

IMPACT REPORT

(Mandates and Measures Affecting Local Government Fiscal Capacity)

January 2006

Florida

Legislative Committee on Intergovernmental Relations



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2005 LCIR Intergovernmental Impact Report

I. INTRODUCTION

The primary 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 predecessor¹ 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 basic format as used in prior years. This is done by applying a similar categorization of mandates and updating tables displaying 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, 2004-05, 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 2005 legislative sessions that decrease the required expenditures of counties or municipalities, preempt county or municipal authority, or grant additional explicit local discretionary authority to counties or municipalities.

¹Chapter 96-311, Laws of Florida, repealed the Advisory Council on Intergovernmental Relations and created the Legislative Committee on Intergovernmental Relations.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 and contrasts 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 implicitly defined in Fl. Const. art. VII, § 18, 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 for the constitutional language.)

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 Fl. Const. art. VII, § 18. 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.”²

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.

² 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.³ 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 Fl. Const. art. VII, § 18, 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 *exemption* or *exception* to the constitutional restriction. The memoranda further defined terms such as “insignificant fiscal impact,” and denoted how staffs are to determine if the law is exempted or excepted. 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.⁴ (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,

³ In 1991 the Florida Legislature passed language for Article VII, Section 18 that was vetoed by then Governor 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.

⁴ At this time, the extent to which legislative staff currently relies 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 5 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 Format, 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 analysis. In the Senate bill analysis, the fiscal information is presented in **Section V. Economic Impact and Fiscal Note**, the impacts on local governments is 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 of Fl. Const. art. VII, §18, the term “insignificant” means an amount not greater than the average statewide population for the applicable fiscal year times ten cents. On April 1, 2004, the official state population estimate according to the University of Florida Bureau of Business and Economic Research was 17,516,732.⁵ Thus, for fiscal year 2004-05, a bill that would have a statewide annual fiscal impact on counties and municipalities, in the aggregate,⁶ of \$1.8 million or less is exempt from the conditions of the Fl. Const. art. VII § 18.

At this time, the quality and consistency of constitutional mandate analysis in legislative staff analyses 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.

3. House and Senate Rules

⁵ Florida Estimates of Population 2004, Bureau of Economic and Business Research Warrington College of Business Administration, 2005, University of Florida.

⁶ The use of the term “aggregate” is significant; since it clarifies that fiscal estimates will be made on the basis of 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*.

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 Fl. Const. art. VII, § 18, shall be referred to the Committee on Community Affairs.” Both the Senate and the House rules require that all bills be accompanied by a fiscal analysis. (See Appendix 4 for the 2004-2006 Senate and House Rules involving fiscal notes and mandates.)

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 to be 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 Fl. Const. art. VII, § 18. Yet, incidental mandates include legislation placing new restrictions, regulation and/or 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 staff 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 Fl. Const. art. VII, § 18. 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 2005 LEGISLATION AFFECTING COUNTIES AND/OR 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/or municipalities using five major categories or components. The first component, and perhaps the most important, is the review of legislation containing mandates that require additional local government expenditures, reduce local government revenue capacity or authority, or reduce the percentage of state taxes shared with counties or municipalities. The second component focuses on new or expanded revenue sources for counties and municipalities. The third component focuses on reductions in required expenditures for counties and municipalities. The fourth component addresses state preemptions, and the final component identifies legislation that grants explicit discretionary authority to counties and cities.

A. MANDATES ON COUNTIES AND MUNICIPALITIES

Table 1 lists those laws enacted during the 2005 Regular and Special Legislative Sessions 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 session. The first three columns identify the chapter law number, bill number, and subject. Column four contains the type of local government impacted. Column five identifies the type of mandate. Column six contains the section of the chapter law containing the provision. Column seven summarizes each mandate or provision contained in the legislation.⁷

The last two columns address the analysis of each bill by legislative staff. The first of these two columns displays the fiscal impact of the legislation on local governments as noted in the bill analysis or as determined by the Fiscal Impact Conference.⁸ The final column in Table 1 is entitled “Applicability of Mandate Restrictions (as stated in bill analysis).” It identifies the status determination made in the legislative committee bill analysis concerning the constitutional mandate provisions. That is, if legislative staff recognized the provision as potentially applicable to Fl. Const. art. VII, § 18, it is declared an EXEMPTION or an EXCEPTION, 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

⁷ 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.

⁸ 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-2005 Regular Session*.

constitutional mandate restrictions. In these cases, an EXEMPTION or EXCEPTION to Fl. Const. art. VII, § 18, may apply, but it is not documented in the Constitutional Mandate Restriction sections of all staff analyses.

1. General Mandates

During the 2005 Regular and Special Legislative Sessions, the Legislature passed 392 bills that were not vetoed by the Governor. Of these bills, LCIR staff identified 56 bills which contained a total of 76 mandate provisions 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 also indicates that there were 50 bills passed in the 2005 legislative sessions which contained 66 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 constraint with six provisions. Four provisions were programmatic, and none were identified as physical.

Staff identified 26 bills containing 36 mandate provisions affecting counties and municipalities, with an additional 28 bills containing 37 mandate provisions affecting only counties and three bills containing one provision each that exclusively affected municipalities as illustrated in Chart 4 on page 15.

2. Mandates on County Constitutional Officers

Some mandates are imposed on county constitutional officers, who are those officers specified in Fl. Const. art. VIII, § 1, 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 19 bills containing a total of 20 provisions from the 2005 Regular and Special Legislative

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	7	2	3	4	3	19
Number of Provisions	8	2	3	4	3	20

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

3. Constraint Mandates

This section examines bills that limited 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 in the 2005 Regular Legislative Session. Six bills, each containing one 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 governmental entities. For example, Ch. 2005-197, L.O.F., provides that there will no tax on the sale, rental, consumption, or storage of power equipment used exclusively on a farm or in a forest in the production of crops or products as produced by agricultural industries. The Fiscal Impact Conference calculated that this bill would potentially result in a “recurring” loss of revenue to local governments of \$1.6 million during fiscal year 2004-05.

4. Summary of Mandates

A review of 2005 mandate provisions finds that one bill containing one provision is the only provision of the 76 total provisions identified in the legislative staff analysis or the measures affecting revenue and tax administration as having a significant fiscal impact. Chapter 2005-271 L.O.F., met the legislative threshold for significant impact yet, according to the bill analysis, was excepted from the constitutional mandate provision through a two-thirds approval of each body of the Legislature. Additionally, Ch. 2005-271, L.O.F., provided tax relief for Floridians on selected items having a purchase price of \$50 or less. The law was expected to reduce the authority of counties and municipalities to raise revenues and thereby constituted a mandate but was excepted by two-thirds vote of each legislative body.

Fiscal impact was considered unknown or “indeterminate” in 14 provisions and minimal or “insignificant” (less than \$1.8 million) in 8 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 OR 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 twelve laws, each law containing one provision included in this category. Summarized below are the categories of new or expanded revenue sources enacted during the 2005 Regular Legislative Session:

CHART 2

Revenue Source	Number of Provisions
Assessments	8
Grants/Loans	3
Sales	0
Other	1

Note: See Table 2 for more detail.

As illustrated in Chart 2 above, most of the 2005 revenue enhancements were legislation authorizing new or expanded assessments. Chapter 2005-194, L.O.F., for example, amends s. 318.18 F.S., to increase the fine from \$60 to \$125 for a driver failing to obey a traffic control signal. This law is expected to generate additional revenue for local governments through fines generated by these violations.

It should be noted that the 2005 General Appropriations Act (Ch. 2005-70, 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 implementing bill.

C. LAWS THAT DECREASE EXPENDITURES FOR COUNTIES AND MUNICIPALITIES

In addition to laws authorizing enhanced revenue opportunities to counties or municipalities, the Legislature enacts laws that may reduce required expenditures of these local governments. During the 2005 Regular Legislative Session, there were seven bills containing one provision each which decreased the required expenditures of counties or municipalities (See Table 3).

The cost savings realized by these various measures are often speculative and therefore hard to quantify. For instance, Ch. 2005-200, L.O.F., passed during the 2005 Regular Legislative Session, amends s. 403.413, F.S., increasing the fine from \$50 to \$100 for any person who litters on public land, waterways or private property. It is expected that the legislation will reduce littering thereby reducing the spending for trash clean up activities.

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.”⁹ 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.¹⁰

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.”¹¹

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.¹² Legislative enactments in 1969 and 1973, as well as several Florida Supreme Court decisions, have further clarified the extent of local government discretionary authority.¹³ 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. It is often argued that local flexibility is the key to providing quality service.

⁹ 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].

¹⁰ U.S. Const. art. VI.

¹¹ Federal Preemption, *supra*, note 10, at 5-6.

¹² See Fl. Const. art VIII, §. 1, 2 and §125.01(1), and 166.021(1), Florida Statutes.

¹³ 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, Laws of Florida (adoption of charter and charter commission changes, respectively).

Table 4 lists 2005 Regular Session Legislation that preempts city or county discretionary authority. The table lists six bills, with seven provisions preempting local authority. One provision found in Ch. 2005-171, s. 4, L.O.F., prohibits local governments from imposing or requiring information on compliance with building code type standards for the construction or modification of wireless communications facilities beyond those adopted by the local government under Ch. 553, F.S.

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 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 statutes sometimes has existed previously as home rule authority.

One example of a grant of authority legislation is Ch. 2005-135, L.O.F., which allows municipalities to purchase annuities for municipal personnel in the same manner as counties may for county personnel.

Table 5 identifies 25 bills with 32 provisions containing explicit discretionary authority granted to municipalities or counties in the 2005 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 the 37 bills that were passed during the 2005 Regular and Special Legislative Sessions but subsequently vetoed by the Governor. Therefore, the Legislature enacted 56 laws containing 76 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 cities, 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 (66) telling localities how to conduct the business of government. One of these provisions was identified in the legislative staff analysis as having a significant fiscal impact. Located in Ch. 2005-271, L.O.F., this provision was excepted from the constitutional mandate provisions.

A total of 12 provisions provided new or expanded local government revenue sources. Bills that reduced local government expenditures totaled seven and contained seven provisions. Five bills contained six provisions preempting local discretionary authority to the state. Finally, there were 25 bills with 32 provisions in which the Legislature granted explicit discretionary authority to counties or municipalities in 2005 (see Chart 3).

**CHART 3
SUMMARY OF INTERGOVERNMENTAL IMPACTS IN
LEGISLATION PASSED DURING THE 2005 SESSION**

Category		Number of Bills	Number of Provisions
Mandates - Table 1	<i>Type of Mandate</i>		
	Programmatic	4	4
	Procedural	50	66
	Constraint	6	6
	Physical	0	0
	Total	56*	76
Increased Revenues – Table 2**			
	Total	12	12
Decreased Expenditures - Table 3**			
	Total	7	7
Preemptions - Table 4**			
	Total	6	7
Granting Authority – Table 5**			
	Total	25	32

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 2005 SESSION BY TYPE OF LOCAL GOVERNMENT IMPACTED

Category		Number of Bills	Number of Provisions
Mandates - Table 1	<i>Type of Local Govt. Impacted</i>		
	Cities	3	3
	Counties	28	37
	Counties & Cities	26	36
	Groups of Counties & Cities	0	0
	Total	57	76
Increased Revenues – Table 2	<i>Type of Local Govt. Impacted</i>		
	Cities	0	0
	Counties	6	6
	Counties & Cities	6	6
	Groups of Counties & Cities	0	0
	Consolidated Governments	0	0
	Total	12	12
Decreased Expenditures - Table 3	<i>Type of Local Govt. Impacted</i>		
	Cities	0	0
	Counties	3	3
	Counties & Cities	4	4
	Groups of Counties & Cities	0	0
	Total	7	7
Preemptions - Table 4	<i>Type of Local Govt. Impacted</i>		
	Cities	0	0
	Counties	1	1
	Counties & Cities	5	6
	Groups of Counties & Cities	0	0
	Total	6	7
Granting Authority - Table 5	<i>Type of Local Govt. Impacted</i>		
	Cities	3	3
	Counties	8	10
	Counties & Cities	11	15
	Groups of Counties & Cities	3	4
	Total	25	32

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TABLES

- I. TABLE 1- MANDATES
- II. TABLE 2- NEW OR EXPANDED REVENUE SOURCES
- III. TABLE 3- DECREASED EXPENDITURES
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Table 1
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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, s. 18, Fla. Const. (As stated in bill analysis)
2005-28	1877	Sexual Predators and Sexual Offenders	Counties (Sheriffs)	Procedural	3	Requires the sheriff's office to electronically submit and update all information provided by the sexual predator, to the Department of Law Enforcement.	None. (House Bill Analysis, 4/16/05)	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. (House Bill Analysis, 4/16/05)
2005-32	349	Auditor Selection Procedures	Counties	Procedural	1	Requires each local government entity to use auditor selection procedures provided prior to entering into a written contract with an auditor to conduct the annual financial audit required in s. 218.39, F.S.	Indeterminate but expected to be minimal. Local governments may continue to consider price in selecting auditors, which may mitigate against sharp price increases. Also, local governments which have not been using competitive selection procedures may experience lower audit costs due to greater competition among potential audit providers. Local governments which have used very simple auditor selection processes may experience higher administrative costs from using the new procedures; however, the impact is still expected to be minimal. (House Bill Analysis, 3/30/05)	None. (House Bill Analysis, 3/30/05)
			Counties	Procedural	1	Requires charter counties and non-charter counties to establish an audit committee to select an auditor prior to entering into a written contract.		
2005-33	411	Criminal Punishment	Counties and Municipalities	Procedural	1	Increases the ranking of several offenses in the offense severity ranking chart of the Criminal Punishment Code.	On February 22, 2005, the Criminal Justice Impact Conference decided that the prison bed impact of this bill on the Department of Corrections is indeterminate with minimal expected impact. (House Bill Analysis, 3/30/05)	The bill appears to be exempt from the requirements of Article VII, Section 18 of the Florida Constitution because it is a criminal law. (House Bill Analysis, 3/30/05)
2005-39	1283	Child Support	Counties (Clerks)	Procedural	16	Amends s. 382.015, F.S., to require the Clerk of the Court to ensure that all judicial determinations of paternity are reported to the Department of Health.	There may be additional expenditures incurred by the Clerks of Court. This has not been determined at this time. (House Bill Analysis, 4/20/05)	The bill does not require counties or municipalities to take an action requiring the expenditure of funds, does not reduce the authority that counties or municipalities have to raise revenue in the aggregate, and does not reduce the percentage of state tax shared with counties or municipalities. (House Bill Analysis, 4/20/05)
			Counties (Clerks and Sheriffs)	Procedural	34	Amends s. 409.259, F.S., to require clerks of the circuit court, sheriffs and others to work cooperatively to implement electronic filing of pleadings, returns of service, and other papers by October 1, 2009.		

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2005-42	550	Property Tax Exemptions / Disabled Veterans	Counties and Municipalities Counties (Property Appraisers)	Constraint Procedural	2 2	Amends s. 196.24, F.S., to provide that the \$5,000 property tax exemption for disabled ex-service members is extended to the un-remarried surviving spouse. This exemption would be in addition to the \$500 property tax exemption available to all resident widows and widowers in this state. Property Appraisers may be required to process application for the un-remarried surviving spouse of a disabled ex-service member who is otherwise entitled to the exemption.	This bill grants a property tax exemption to the un-remarried surviving spouse of a disabled ex-service member who was otherwise entitled to the exemption. The Revenue Estimating Conference has estimated the fiscal impact of this bill legislation to be (\$1.1) million. (Senate Bill Analysis, 3/7/05)	By granting a \$5,000 property tax exemption to the un-remarried surviving spouse of a disabled ex-service member who is otherwise entitled to the exemption, the bill is anticipated to reduce the municipalities' and counties' property tax base, thereby reducing their revenue-raising authority. As such, this bill could fall under subsection (b) of section 18 of Article VII, Florida Constitution. Subsection (b) requires a two-thirds vote of the membership of each house of the Legislature in order to enact a general law reducing the authority that municipalities and counties had on February 1, 1989, to raise revenues in the aggregate. However, the bill's estimated impact on local revenue is (\$1.1) million, and therefore is deemed insignificant and not subject to the two-thirds vote requirement. (Senate Bill Analysis, 3/7/05)
2005-49	885	Regional Autism Centers	Counties	Procedural	1	Provides that Palm Beach, Martin, St. Lucie, Okeechobee, and Indian River Counties will be serviced by the Department of Exceptional Student Education at Florida Atlantic University.	None. (House Bill Analysis, 4/19/2005)	None. (House Bill Analysis, 4/19/2005)
2005-53	288	Seaport Security Plan/OGSR/ Public Record	Counties and Municipalities	Procedural	1	Amends s. 311.13, F.S., to exempt from public records requirements records held by a seaport authority created by act of the Legislature or the records held by a county or municipal seaport department that operates a seaport.	None. (Senate Bill Analysis, 1/13/05)	None. (Senate Bill Analysis, 1/13/05)
2005-55	356	Substance Abuse Treatment	Specific Counties	Programmatic	1	Amends s. 394.499, F.S., to allow the expansion of demonstration models for children's behavioral crisis unit in Collier, Lee and Sarasota counties.	None. (Senate Bill Analysis, 2/4/05)	None. (Senate Bill Analysis, 2/4/05)
2005-72	19	Motor Vehicle Driving Privilege Requirements	Counties (Tax Collectors)	Procedural	1	Amends s. 320.055, F.S., to require an owner of a motor vehicle whose driver license has been suspended for DUI to obtain a six month vehicle registration, subject to renewal during the three year period that financial responsibility requirements apply, as a condition of reinstating the license.	It is possible that county tax collectors, especially in large or urban counties, may experience additional workload resulting from the requirement for affected drivers to register their automobiles twice annually rather than once. The additional registrations may necessitate additional staff, depending upon the volume of registrations. (House Bill Analysis, 4/1/05.)	To the extent that local tax collectors may need to acquire additional resources to handle increased workloads, the bill may require a few large or urban counties to spend money or take action that requires the expenditure on money. However, any such expenditure is expected to be insignificant, therefore the bill does not appear to be an unfunded mandate as contemplated by Art. IX, sec. 18 of the Florida Constitution. (House Bill Analysis, 4/1/05.)

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2005-77	319	Freedom to Worship Safely Act	Counties	Procedural	1	Creates s. 775.0861, F.S., upgrades the degree of an offense that involves the use or threat of physical force or violence if the offense is committed on the property of a religious institution while the victim is on the property for the purpose of participating in or attending a religious service.	The Criminal Justice Impact Conference estimates that the prison bed impact of this bill will be insignificant . (House Bill Analysis, 3/30/05)	Not Applicable. (House Bill Analysis, 3/30/05)
2005-100	656	Deputy James Weaver Act	Counties and Municipalities	Constraint	1	Amends s. 112.19(2)(b), F.S., to provide death benefits in the sum of \$50,000 for an officer who is killed at the scene of a traffic accident or while enforcing a traffic law or ordinance. These death benefits will be treated in the same manner as death benefits for an officer who is killed during fresh pursuit or during response to an emergency.	These benefits are paid by the employing agency. This bill could have a fiscal impact on counties and municipalities. (Senate Bill Analysis, 4/14/05)	It appears likely that the aggregate impact on counties and municipalities would be insignificant . (Senate Bill Analysis, 4/14/05).
2005-106	908	Wekiva Parkway and Protection	Counties and Municipalities	Procedural	1	Amends s. 369.321, F.S., requiring local governments hosting an interchange on the Wekiva Parkway to adopt an interchange land use plan within 1 year after the interchange location is established.	None. (Senate Bill Analysis, 3/10/05)	None. (Senate Bill Analysis, 3/10/05)
2005-107	1366	Storm Infrastructure	Counties and Municipalities	Procedural	1	Specifies duties of Electric Utilities that have issued storm-recovery bonds.	Local governments operating electric utilities will need to comply with requirements. Senate Bill Analysis does not address the issue.	None. (Senate Bill Analysis, 4/21/05)
2005-111	1486	Property Insurance	Specific County (Monroe) Counties (Property Appraisers)	Programmatic Procedural	7 21	Establishes a pilot program in Monroe County to evaluate issues relating to the availability and affordability of insurance in an area where historically there has been little market competition. Requires County Property Appraiser to record the report and certification with the parcel number.	None. (Senate Bill Analysis, 3/9/05)	None. (Senate Bill Analysis, 3/9/05)
2005-114	2196	Shared County/State Juvenile Detention Trust	Counties	Procedural	1	Creates the Shared County/State Juvenile Detention Trust Fund in the Department of Juvenile Justice. Requires Counties to set aside detention costs at the beginning of each fiscal year and make monthly payments to the state.	None. (Senate Bill 2196, 4/4/05)	None. (Senate Bill Analysis, 4/4/05)
2005-117	69	Fire Prevention and Control	Counties	Procedural	3	Amends s. 633.171, F.S., to provide definitions and criminal penalties for initiating a pyrotechnic display in certain structures under certain circumstances.	The Criminal Justice Estimating Conference estimates that this bill will have an insignificant prison bed impact. (House Bill Analysis, 4/21/05.)	The estimated cost appears to be well below the threshold of the insignificant fiscal impact exception. (House Bill Analysis, 4/21/05.)

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2005-119	233	Unlawful Killing of an Unborn Quick Child	Counties	Procedural	1	Amends s. 782.09, F.S., providing that killing an unborn quick child by injury to the mother which would be murder in any degree if it resulted in the death of the mother is murder in the same degree.	The Criminal Justice Estimating Conference determined that this bill would have an insignificant prison bed impact on the Department of Corrections. (House Bill Analysis, 4/6/05)	EXEMPT: Criminal Law (House Bill Analysis, 4/6/05)
2005-122	531	Certificates of Release for Mortgages	Counties (Clerks)	Procedural	1	Requires the County Recorder which could be either the Clerk of Court or Comptroller, to record mortgage release certificates.	This bill does not appear to have a fiscal impact on local governments. (House Bill Analysis, 4/7/05)	None. (House Bill Analysis, 4/7/05)
2005-132	1322	Public Service Commission	Counties and Municipalities	Procedural	8	Requires local governments to develop and follow a written business plan, hold a series of public hearings, and conduct an annual review to consider the progress toward reaching goals of the business plan.	None. (Senate Bill Analysis, 4/6/05)	None. (Senate Bill Analysis, 4/6/05)
2005-133	838	Medicaid Reform	Counties	Programmatic	2	Requires certain counties to be included in the Medicaid managed care pilot program.	None. (Senate Bill Analysis, 4/22/05)	Depending on how the managed care pilot projects are approved and implemented, the provisions of this bill may change the current cost sharing responsibilities for the Medicaid program, which may impact municipalities and the counties under the requirements of Article VII, Section 18 of the Florida Constitution. (Senate Bill Analysis, 4/22/05)
2005-139	1020	Police, Fire, SAR Dogs/Police Horses	Counties and Municipalities	Procedural	1	Provides that any person who intentionally and knowingly, without lawful justification causes great bodily harm or uses a deadly weapon against a police dog, fire dog, SAR dog, or police horse commits a felony of the third degree.	None. (Senate Bill Analysis, 3/1/05)	None. (Senate Bill Analysis, 3/1/05)
2005-146	193	Hazing	Counties	Procedural	1	Amends s. 1006.63, F.S., to provide criminal penalties for hazing at high schools with grades 9-12. Requires court to impose a hazing education course.	The Criminal Justice Estimating Conference determined that this bill would have an insignificant prison bed impact on the Department of Corrections. (House Bill Analysis, 4/18/05)	Not Applicable. (House Bill Analysis, 4/18/05)
2005-147	442	Building Safety	Counties and Municipalities Counties	Procedural Procedural	17 35	Requires a local government to provide the owner of any one or two-family dwelling a letter documenting specific infrastructure or other tax or fee allowances or waivers that are listed in but not limited to those described in subsection (9) for the dwelling. Provides requirements, procedures and deadlines for local governments to notify applicants of information needed to properly complete application. Also provides procedures and deadlines for approval of applications.	None. (Senate Bill Analysis, 4/21/05)	None. (Senate Bill Analysis, 4/21/05)

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2005-148	1244	Tax/Gross Receipts for Utilities	Counties and Municipalities	Procedural	1	Imposes a tax on gross receipts from utility services that are delivered to a retail consumer in this state.	None. (Senate Bill Analysis, 4/11/05)	None. (Senate Bill Analysis, 4/11/05)
2005-150	2048	Judges	Counties (Clerks)	Procedural	1	Revises the number of county court judges in certain counties.	The bill will also create a significant increase in the workload of the Clerk of the Courts. In addition, new judges would require an increase in the facilities, security, and information technology. Such costs for trial court judges are the responsibility of the counties. (Senate Bill Analysis, 4/21/05)	Under s. 29.008, F.S., counties are responsible for facilities costs for county and circuit courts. This bill will have an impact on counties to the extent that the additional judgeships create increased facilities costs. (Senate Bill Analysis, 4/21/05)
2005-154	401	Southwest Florida Transportation	Specific Counties	Procedural	1	Creates s. 348.9932, F.S., the Southwest Florida Expressway Authority encompassing Collier and Lee Counties. Providing membership and procedures of operation.	Indeterminate. The bill does not specify how startup costs for the Authority, such as hiring staff and consultants, will be paid. Since the TFRTF and the SIB may not be used for administrative costs, presumably Lee and Collier counties will contribute funds to pay startup costs for the expressway authority, but it is not known how much will be contributed. (House Bill Analysis, 3/15/05)	This mandates provision is not applicable to HB 401 because the legislation does not require counties or municipalities to expend local funds or to raise local funds, nor does it reduce their state revenue-sharing. (House Bill Analysis, 3/15/05)

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2005-157	955	Waterfront Property	Counties	Procedural	1	Provides that the land use element, for coastal counties, must include, without limitation, regulatory incentives and criteria that encourage the preservation of recreational and commercial working waterfronts.	The bill will impact the revenue stream of local governments in two ways if property owners within their taxing authority defer their taxes. First, it will limit the short term cash flow the local governments would receive from the taxes deferred on the property. Second, it will increase the total amount the local government will receive on the property because the deferred amount will accrue interest during the deferral. The amount of each effect could not be adequately estimated at the time of analysis because there is no method of determining how many property owners would avail themselves of this option or the amount of taxes and other assessments that would be deferred. (House Bill Analysis, 4/22/05)	None. (House Bill Analysis, 4/22/05)
			Counties	Procedural	12	Requires that counties provide the Fish and Wildlife Conservation Commission with an annual detailed accounting report of vessel registration revenues no later than November 1 of each year.		
			Counties (Tax Collectors)	Procedural	14	Requires the tax collector to notify a community redevelopment agency of any tax deferral that has been granted on property located within the community redevelopment area of the agency. Also requires the tax collector to render findings, determinations, and decision on each annual application for tax deferral for recreational and commercial working waterfronts with 45 days after the date the application is filed. Includes other notification requirements.		
			Counties (Property Appraisers)	Procedural	14	Requires the property appraiser to notify the tax collector in writing when there has been a change in the use or ownership of the property that has been granted a tax deferral.		
2005-159	1025	Misuse of Laser Lighting Device	Counties and Municipalities	Procedural	1	Provides that a person who knowingly and willfully shines, points, or focuses the beam of a laser lighting device on an individual operating a motor vehicle, vessel, or aircraft commits a felony of the third degree.	None. (House Bill Analysis, 4/19/05)	Although a law enforcement officer, in the course of his or her traffic enforcement duties, may point a laser device at a motor vehicle to measure its rate of speed, such act does not appear to be criminal under the provisions of the bill because the officer is intending to apply the laser to the vehicle, not its operator. The act is only criminal if the perpetrator knowingly and willfully shines, points, or focuses the beam on an individual who is operating a motor vehicle, vessel, or aircraft. (House Bill Analysis, 4/19/05)

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2005-167	60	Florida Retirement System	Counties and Municipalities Counties and Municipalities	Procedural Constraint	1 1	Amends s. 121.0515, F.S., to provide membership in the Special Risk Class for certain employees of law enforcement agencies or medical examiner's offices whose duties include collecting, examining, preserving, documenting, preparing, or analyzing physical evidence.	The bill would add an unknown number of additional positions to the Special Risk Class. Any fiscal impact resulting from a change in class demographics or experience due to the provisions of this bill would be reflected in rates recommended by future actuarial studies of the FRS. (Similar House Bill Analysis, 4/20/05)	The mandates provision appears to apply because this bill requires counties and municipalities to expend funds to implement its provisions. However, the bill contains a statement of important state interest, and applies equally to all similarly situated persons. Thus, it appears to meet one of the exceptions. (Similar House Bill Analysis, 4/20/05)
2005-171	620	Wireless Emergency Telephone System	Counties and Municipalities Counties and Municipalities Counties and Municipalities Counties and Municipalities	Procedural Procedural Procedural Procedural	4 4 4 4	Provides standards for local governments to follow when regulating the placement, construction, or modification of a wireless communications facility. Directs local governments to grant or deny properly completed applications within a specified time frame. Directs local governments to notify applicants in writing and indicate deficiencies in the content of required documents within a specified time frame. Amends s. 365.173, F.S., to direct how a county may use funds derived from the E911 fee.	Local governments may lose revenue if they are currently requiring wireless providers to pay higher permit fees than they are requiring other entities to pay for permit reviews. There may be some additional expenses associated with incorporating the wireless E911 fees into the county's annual audit. (Senate Bill Analysis, 4/12/05)	None. (Senate Bill Analysis, 4/12/05)
2005-174	786	Fees Imposed on Tires and Battery Sales	Counties and Municipalities	Constraint	1	Amends ss. 403-718 and 403.7185, F.S., to clarify that governmental entities are required to pay the \$1.00 per tire fee imposed on the retail sale of new motor vehicle tires and the \$1.50 fee imposed on the retail sale of any new or remanufactured lead-acid battery.	Indeterminate. Data is not available to determine the level of governmental entities currently paying the fees and those that do not pay the fees. (Senate Bill Analysis, 4/11/05)	None. (Senate Bill Analysis, 4/11/05).
2005-186	1922	Public Records and Public Meetings Exemptions	Municipalities	Procedural	1	Provides an exemption from public records requirements for a complaint of an alleged violation of part III of ch. 112, F.S., the Code of Ethics.	Compliance with public records requirements has a fiscal impact, though unquantifiable. Government employees must locate requested records and must examine every requested record to determine if a public records exemption prohibits release of all or part of a record. (Senate Bill Analysis, 4/22/05)	None. (Senate Bill Analysis, 4/22/05)
2005-187	2070	Tax/Substitute Communications Systems	Counties and Municipalities	Procedural	6	Amends s. 202.19, F.S., deleting a provision authorizing the imposition of a local communications services tax on substitute communications systems.	According to the Revenue Estimating Conference, there would be a decrease in state revenues of at least \$300,000 and a decrease in local revenues of at least \$100,000. (Senate Bill Analysis, 4/22/05)	None. (Senate Bill Analysis, 4/22/05)

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2005-190	185	Public Records and Public Meetings Exemptions	Counties and Municipalities	Procedural	1	Creates s. 383.412, F.S., providing an exemption from public records requirements for any information that reveals the identity of surviving siblings, family members, or others living in the home of a deceased child who is the subject of review by a state or local child abuse death review committee.	The bill could create a fiscal impact on local governments, because local committee staff would have to be trained with regard to the categories of information that is confidential and exempt from public disclosure versus records that are available for public inspection and copying. The local committees could also incur costs associated with redacting confidential and exempt information prior to releasing a record. (House Bill Analysis, 4/20/05)	Fl. Const. art. I, § 24(c), requires a two-thirds vote of the members present and voting for passage of a newly created public records or public meetings exemption. Thus, this bill requires a two-thirds vote for passage. (House Bill Analysis, 4/20/05) [This bill did receive the required two-thirds vote]
2005-197	643	Exemption from the Tax on Sales, Use, and other Transactions for Farm Equipment	Counties	Constraint	2	Provides that there shall be no tax on the sale, rental, lease, use, consumption, or storage of power equipment used exclusively on a farm or in a forest in the production of crops or products as produced by those agricultural industries.	Revenue Sharing 2005-06 (\$1.2m) 2006-07 (\$1.3m) Local Option 2005-26 (\$.8m) 2006-07 (\$.9m) Total 2005-06 (\$2.0m) 2006-07 (\$2.2m) (House Bill Analysis, 4/1/05)	This bill reduces the authority of counties to raise revenue through local option sales taxes. However, because the reduction is less than \$1.8 million, it is insignificant and is not considered a mandate under Fl. Const. art. VII, § 12. (House Bill Analysis, 4/1/05)
2005-205	1159	Florida Retirement System	Municipalities	Procedural	2	Provides that a municipality that provides fire protection services to another municipality under an interlocal agreement is eligible to receive premium taxes. The municipality providing the fire protection must notify the division (Retirement) that it has entered into an interlocal agreement with another municipality in order to be eligible for premium taxes.	Municipalities providing fire service to other municipalities will receive an indeterminate amount of additional revenues to fund firefighter pension plans. (House Bill Analysis, 4/22/05)	The mandates provision does not apply because this bill does not reduce the ability of cities or counties to raise revenues, does not require a city or county to spend funds, and does not reduce the percentage of a state tax shared with cities or counties. (House Bill Analysis, 4/22/05)
2005-210	1717	Agriculture	Counties and Municipalities	Procedural	14	Amends s. 570.07, F.S., to require any local government enforcing the subject areas of paragraphs (a-n), which provide for the functions, powers, and duties of the Department of Agriculture and Consumer Services, to use standards and fines set forth in the pertinent statutes or any rules adopted by the department pursuant to those statutes.	The Revenue Estimating Conference projects that the reduced assessment for obsolete agricultural equipment would result in a loss of revenue to local governments on an annualized basis of \$.9 million for FY 2005-06 and \$.9 million on a cash basis for FY 2006-07. (House Bill Analysis, 4/25/05)	Although the bill reduces the authority of cities and counties to raise revenues in the aggregate, the impact is less than \$1.8 million and is insignificant . The bill is therefore exempt from the provisions of Article VII, Section 18(b), Florida Constitution. The estimated reduction in ad valorem tax revenues to local governments by this bill is approximately \$.9 million. (House Bill Analysis, 4/25/05)
2005-214	1184	Easements	Counties and Municipalities	Procedural	2	Amends s. 704.01, F.S., to define statutory easements and procedures under which the easements are established and maintained.	Landlocked property used for certain purposes or intended for such use will be accessible regardless of the property's location. When government property borders a landlocked parcel within a municipality, the government may be compelled to provide an easement to the landlocked property owner. (Senate Bill Analysis, 4/5/05)	None. (Senate Bill Analysis, 4/5/05)

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2005-217	331	Inland Lakes and Canals	Counties and Municipalities	Procedural	1	Amends s. 327.40, F.S., to exempt from the permitting requirements of the section, counties, municipalities, or other governmental entities located on inland lakes and their associated canals.	Local governmental entities should realize a reduction in costs resulting from this exemption as they will no longer be required to obtain such permits. (House Bill Analysis, 3/30/05)	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. (House Bill Analysis, 3/30/05)
2005-220	878	Delinquent Property Taxes	Counties	Programmatic	1	Requires Lake, Marion, Seminole and Sumter counties to enter into a pilot program for the next two full property tax cycles.	The bill will decrease expenditures by tax collectors for advertising tax certificate sales. (Senate Bill Analysis, 3/14/05)	None. (Senate Bill Analysis, 3/14/05)
			Counties (Tax Collectors)	Procedural	1	Requires tax collector of these counties to submit a report to the President of the Senate and Speaker of the House, which compares the effectiveness of single publication versus the effectiveness of triple publication by listing the number and percentage of properties on which delinquent taxes were paid after the single publication in comparison to the number and percentage of properties on which delinquent taxes were paid after three notices.		
2005-229	481	Unlawful use of Personal Identification Information	Counties and Municipalities	Procedural	1	Increases penalties for the unlawful use of personal identification information, including counterfeit or fictitious person identification information and commission of fraud on another person.	On February 22, 2005, the Criminal Justice Impact Conference decided that the portions of the bill relating to criminal penalties would have an indeterminate but expected minimal impact on the prison population of the Department of Corrections. (House Bill Analysis, 4/22/05)	None. (House Bill Analysis, 4/22/05)

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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, s. 18, Fla. Const. (As stated in bill analysis)
2005-230	509	Prompt Payment for Construction Services	Counties and Municipalities Counties and Municipalities	Procedural Procedural	3 3	Requires that each contract for construction services between a local government and a contractor develop a list of required items. Creates timelines and procedures on local governments for payment of contractors.	The bill could have a fiscal impact on state and local governments. The expenditures could occur when filing suit to enforce the provisions of this bill or from interest payments required when governments do not act in accordance with new timelines for payment of construction services. Since the number of instances governments would fail to meet the established payment timelines cannot be predicted, neither can the amount of interest that would accumulate. Governments may also lose the ability to earn interest when conforming to the reduced payment timelines and the early payment of retainage and reduction of retainage after 50-percent completion of the construction services. However, that value is not measurable. Because the bill establishes a new rate of interest for late payment of construction services after July 1, 2006, the Department of Financial Services has estimated a cost of \$22,000 for modifying business documents, changing system programs, and testing program changes, as well as the number of work hours necessary to complete these changes. (House Bill Analysis, 4/20/05)	None. (House Bill Analysis, 4/20/05)
2005-236	1935	State Judicial System	Counties (Clerks) Counties (Clerks)	Procedural Procedural	34 39, 41	Provides procedures for the clerks determination of civil indigent status. Provides procedures for collecting and remitting unclaimed moneys by clerk.	There may be an increase in workload for the Clerks of Court based on increased requirements for indigency determination and a new process for determination of civil indigent status. The impact is indeterminate . (House Bill Analysis, 4/26/05)	Not Applicable. (House Bill Analysis, 4/26/05)
2005-241	370	Judgment Liens Judgment Liens	Counties (Clerks) Counties (Sheriffs)	Procedural Procedural	1 9	Amends s. 55.141, F.S., to provide a standardized form for the satisfaction of judgment executed by the clerk. Provides procedures clerk with regards to judgment liens. Provides that the Sheriff shall send notice of levy and execution sale and a copy of the affidavit required by s. 56.27 (4), F.S. to the attorneys of record or the creditors who do not have an attorney of record.	The bill would have an insignificant fiscal impact on the Clerks of the Court. (Senate Bill Analysis, 4/2/05)	None. (Senate Bill Analysis, 4/2/05)
2005-259	77	Waste-to-Energy Facilities	Municipalities	Procedural	1	Creates s. 366.91, F.S., to require public and municipal utilities, and rural electric cooperatives to offer a purchase contracts to producers of renewable energy.	None. (House Bill Analysis, 3/14/05)	Bill does not appear to require cities or counties to spend funds, or take actions 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 and counties. (House Bill Analysis, 3/14/05)
2005-268	1194	Homestead Assessments	Counties (Property Appraisers)	Procedural	1	Allows homestead property owners impacted by the 2004 hurricane season to rebuild their damaged property without incurring higher property assessments provided the repairs are completed by January 1, 2008.	The property appraisers will have to adjust their assessment procedures for property rendered uninhabitable by one of the named storms of 2004 to reflect the requirements of this legislation. (Senate Bill Analysis, 3/30/05)	None. (Senate Bill Analysis, 3/30/05)

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

Table 1
Mandates -2005 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, s. 18, Fla. Const. (As stated in bill analysis)
2005-271	101	Tax on Sales, Use, and other Transactions	Counties and Municipalities	Constraint	1	Creates the "Sales Tax Holiday" requiring that no tax levied under the provisions of ch. 212, F.S., shall be collected on the sale of specific items having a sales price of \$50 or less during the last 9 days of July 2005. The bill also provides that no sales tax shall be collected on the sale of school supplies having a selling price of \$10 or less during this same period.	Local FY 2005-06 Cash: (\$6.6 million) (Measures Affecting Revenue and Tax Administration 2005 Regular Session 6/30/05)	The estimated reduction in the Local Option Sales Tax by this bill is \$3.8 million. The bill therefore reduces the authority of cities and counties to raise revenues in the aggregate and is a mandate to local governments requiring 2/3 vote of the membership of each house of the Legislature. (House Bill Analysis, 3/15/05)
2005-277	1567	Elections	Counties (Supervisors of Elections)	Procedural	11, 24	Provides procedures for supervisor of elections to verify the signatures on petitions. Revises requirements with respect to certifying signatures and notifying candidates of the inspection of ballots.	None. (House Bill Analysis, 4/20/05)	None. (House Bill Analysis, 4/20/05)
2005-278	1589	Elections	Counties (Supervisors of Elections)	Procedural	15, 36, 38	Provides requirements for voter registration, absentee and early ballot casting and precinct-level election results.	The workload for supervisors may actually be reduced with respect to maintenance of their county voter registration lists. The supervisors will realize some cost savings attributed to mailing of address confirmations for voter list maintenance. They may have some cost savings from not having to buy some voting machines where more than one precinct meets at one polling place. (House Bill, 4/15/05)	None. (House Bill Analysis, 4/15/05)
2005-283	572	Consumer Protection/ Emergencies	Counties and Municipalities	Procedural	1	Provides for criminal penalties for any person who fails to possess an occupational license and offers goods and services for sale to the public during a declared state emergency. Also directs local law enforcement to assist and accommodate businesses and their employees in ensuring that commodities are available in coping with emergency.	Government entities that elect to pursue prosecution for violations of this committee substitute will incur related legal and administrative costs. (Senate Bill Analysis, 4/13/05)	None. (Senate Bill Analysis, 4/13/05)
2005-287	1725	Enterprise Zone	Counties and Municipalities	Procedural	1	Provides requirements and procedures for nominating, designating and maintaining an enterprise zones.	FY 05-06 cash: \$ (0.8) million, recurring: \$ (0.8) million; FY 06-07 cash: \$ (0.8) million, recurring: \$ (0.8) million. (Measures Affecting Revenue and Tax Administration 6/30/05)	The bill does not require a municipality or county to expend funds or to take any action requiring the expenditure of funds. The bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate. The bill does not reduce the percentage of state tax shared with municipalities or counties. (House Bill Analysis, 4/22/05)

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Table 1
Mandates -2005 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, s. 18, Fla. Const. (As stated in bill analysis)
2005-290	360	Growth Management/ Infrastructure Funding	Counties and Municipalities	Procedural	2	Requires each county and each municipality, unless exempt, to adopt a public school facilities element that is consistent with those adopted by the other local governments within the county and enter into the interlocal agreement pursuant to s. 163.31777, F.S.	The bill requires counties to engage in planning activities that will require them to expend funds. However, the revenue sources in the bill, available to counties with a majority vote of the governing body, and the state appropriations will help defer any administrative costs.	The unrealized revenue capacity for these local option taxes would provide an estimated \$4.46 billion for local governments that could be bonded to fund transportation, schools, and water supply facilities.
			Counties and Municipalities	Procedural	2	Requires local government to consider the transportation level-of-service standards of adjacent jurisdictions for certain roads.		
			Counties and Municipalities	Procedural	2	Provides requirements for the evaluation and assessment of the comprehensive plan for local governments that do not have a public schools interlocal agreement.		

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

Table 1
Mandates -2005 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, s. 18, Fla. Const. (As stated in bill analysis)
2005-291	444	Water Resources	Counties and Municipalities	Procedural	9	Directs local governments in combination with affected water utilities and special districts to develop multijurisdictional approaches to water supply project development.	The bill does not provide for a specific funding source. A detailed description is provided in the "Effects of Proposed Changes Section" of the analysis. (Senate Bill Analysis, 4/2//05)	None. (Senate Bill Analysis, 4/29/05)
		Counties and Municipalities	Procedural	10	Requires a local government located within two water management districts to adopt its comprehensive plan amendment within 18 months after the later updated regional water supply plan. Provides criteria for plans.			
		Counties and Municipalities	Procedural	11	Requires local government to consult with the water supplier to determine whether adequate water supplies will be available to serve a new development before the local government issues a certificate of occupancy.			
2005-356	41 B	Judges	Counties (Clerks)	Procedural	1-2	Increases the number of circuit judges for the Twentieth Circuit from 23-25 and increases the number of county court judges for Collier County from 3 to 5.	The bill could result in an increase in the workload of the Clerk of the Courts in the Twentieth Circuit and in Collier County. (Senate Bill Analysis, 12/5/05)	None. (Senate Bill Analysis, 12/5/05)
2005-360	8 B	In-Kind Contributions	Counties	Procedural	2	Requires county executive committees to file copies of each prior written acceptance of an in-kind contribution given by the committee during the preceding calendar quarter with the Division of Elections.	None. (Senate Bill Analysis, 12/5/05)	None. (Senate Bill Analysis, 12/5/05)
2005-362	1 B	Slot Machine Gaming	Counties and Municipalities	Procedural	1	Specifies that FDLE and local law enforcement have concurrent jurisdiction to investigate criminal violations.	Local governments and municipalities where the facilities are located and nearby counties and municipalities may incur increased expenditures to meet additional needs related to law enforcement, transportation, and human services. The expenditures required to meet those needs are not quantifiable at this time. (House Bill Analysis, 12/8/05)	None. (House Bill Analysis, 12/8/05)

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Table 2
New or Expanded Revenues - 2005 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)
2005-72	19	Motor Vehicle Driving Privilege Requirements	Counties (Tax Collector)	1	Amends s. 320.055, F.S., to require an owner of a motor vehicle whose driver's license has been suspended for DUI to obtain a six month vehicle registration, subject to renewal during the three year period that financial responsibility requirements apply, as a condition of reinstating the license.	To the extent that local tax collectors may need to acquire additional resources to handle increased workloads, the bill may require a few large or urban counties to spend money or take action that requires the expenditure on money. However, any such expenditure is expected to be insignificant , therefore the bill does not appear to be an unfunded mandate as contemplated by Fl. Const. art. IX, §18. (House Bill Analysis, 4/1/05.)
2005-102	724	Affordable Housing for the Elderly	Counties and Municipalities	1	Amends s. 420.5087, F.S., to increase the maximum loan amount for projects funded through the Elderly Housing Community Loan Program from 200,000 to 750,000 per housing community.	The bill may increase revenues to local governments providing housing renovations for the elderly. (Not specifically addressed in Senate Bill Analysis)
2005-153	75	Title Insurance	Counties	1	Amends s. 624.608, F.S., to change the title insurance forms and corresponding rates for title insurance.	Counties may receive increased revenue and taxes due to the additional licensures and appointments for title insurance agents and agencies. (House Bill Analysis, 4/26/05.)
2005-164	1697	Highway Safety	Counties (Tax Collectors)	47	Allows tax collector to keep the entire \$5.25 convenience service fee.	Under the provisions of the bill, local tax collectors acting as agents of DHSMV for the purposes of providing driver's licensing services will retain the entire \$5.25 convenience fee paid by customers instead of remitting \$1 of that amount to DHSMV. This change will result in a positive fiscal impact to those tax collectors. (House Bill Analysis, 4/22/05)
2005-194	497	Highway Safety	Counties and Municipalities	1	Amends s. 318.18, F.S., to increase the fine from \$60 to \$125 for a driver failing to obey a traffic control signal device.	The bill may have a positive fiscal impact on local governments to the extent that some funds may be directed to trauma centers which currently receive local government funding. (House Bill Analysis, 4/13/05)
2005-226	71	Motor Vehicle Speed Competitions	Counties (Clerk)	1	Amends s. 316.191, F.S., to increase the minimum fine from \$250 to \$500 and the maximum fine from \$500 to \$1000. This also provides that a first conviction for this section will be a first degree misdemeanor instead of second degree misdemeanor.	Indeterminate. To the extent that this bill results in offenders serving more time in county jail as a result of increasing the offense from a second to a first degree misdemeanor, it may have some impact on county jail populations. (House Bill Analysis, 5/9/05)
2005-242	470	Indigent Care Surtax	Counties	1	Provides that the governing body of a county that has a population of fewer than 50,000 residents may levy an indigent care surtax.	Imposition of this tax will provide applicable counties with additional resources to fund hospital and health care services for indigent and medically poor persons [defined as persons having insufficient income, resources, and assets to provide the needed medical care without using resources required to meet basic needs for shelter, food, clothing, and personal expenses; or not being eligible for any other state or federal program, or having medical needs that are not covered by any such program; or having insufficient third-party insurance coverage]. (Senate Bill Analysis, 2/15/05)

Table 2
New or Expanded Revenues - 2005 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)
2005-260	925	Traffic Regulations	Counties and Municipalities	1	Amends s. 316.1303, F.S., to expand the definition of mobility impaired pedestrians to include people using guide dogs or service animals.	To the extent that additional citations are issued for drivers not stopping for pedestrians with guide dogs or service animals, civil penalty revenue will be increased. Any increase in revenue would likely be insignificant. (House Bill Analysis, 4/5/05)
2005-261	1029	Funding for Dredging Projects	Counties and Municipalities	1	Creates s. 311.115, F.S., to make funds available to fund dredging projects in counties having a population of less than 300,000.	Indeterminate. Only those eligible counties could apply for the dredging grants, and its 50-50 share depends on the project costs. (House Bill Analysis, 4/12/05)
2005-275	1459	Liens and Commercial Real Estate	Counties	1	Allows the clerks of court to collect a service fee.	None. (House Bill Analysis, 4/26/05)
2005-282	202	Community Contribution Tax Credit	Counties and Municipalities	3	Amends s. 624.5105, F.S., to increase the amount of available annual community contribution tax credits from \$10 million to \$12 million.	Government agencies that sponsor low-income housing projects and community development projects may receive additional funding in support of such projects and activities by extending the program and increasing the cap. (Senate Bill Analysis 202, 4/21/05) FY 05-06 \$0.9 million cash; \$1.1 million recurring; F Y06-07 \$1.1 million cash; \$1.1 million recurring (Measures Affecting Revenue and Tax Administration, 6/30/05)
2005-291	444	Water Resources	Counties and Municipalities	17	Provides general funding criteria for funding assistance to the state or water management districts. Providing that funding assistance for alternative water supply development be limited to a percentage of the total capital costs of an approved project.	The bill does not provide for a specific funding source. A detailed description is provided in the "Effects of Proposed Changes Section" of the analysis. (Senate Bill Analysis, 4/2//05)

Table 3 Decreased Expenditures - 2005 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)
2005-44	285	Right to a Speedy Trial	Counties	1	Creates time limits within which a person must be brought to trial.	To the extent that this bill results in criminal cases being more quickly resolved, it may decrease the financial burden on counties for detaining a prisoner awaiting trial in county jail. (House Bill Analysis, 4/18/2005)
2005-171	620	Wireless Emergency Telephone System	Counties and Municipalities	4	Provides that for the purpose of this section, the state and local government are not customers.	This bill exempts local governments from paying wireless E911 fees. (Senate Bill Analysis, 4/12/05)
2005-187	2070	Tax/Substitute Communications Systems	Counties and Municipalities	6	Amends s. 202.19, F.S., deleting a provision authorizing the imposition of a local communications services tax on substitute communications systems.	According to the Revenue Estimating Conference, there would be a decrease in state revenues of at least \$300,000 and a decrease in local revenues of at least \$100,000. (Senate Bill Analysis 2070, 4/22/05)
2005-200	913	Littering	Counties and Municipalities	1	Increases the fine from \$50 to \$100 for any person who litters on public land, waterways, or private property. Provides that \$50 of this must be deposited in the Solid Waste Management Trust Fund.	In so far as the proposed legislation reduces littering, each entity engaged in trash clean up may be able to reduce its spending for that activity. (House Bill Analysis, 4/6/05)
2005-217	331	Inland lakes and Canals	Counties and Municipalities	1	Amends s. 327.40, F.S., to exempt from the permitting requirements of the section, counties, municipalities, or other governmental entities located on inland lakes and their associated canals.	Local government entities should realize a reduction in costs resulting from this exemption as they will no longer be required to obtain such permits. (House Bill Analysis, 3/30/05)

*Even-numbered bills are Senate bills and odd-numbered bill are House bills.

Table 3 Decreased Expenditures - 2005 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)
2005-220	878	Delinquent Property Taxes	Counties	1	Requires Lake, Marion, Seminole and Sumter counties to enter into a pilot program for the next two full property tax cycles. Also requires tax collectors in each of the named counties to submit a report which compares the effectiveness of single publication versus triple publication.	The bill will decrease expenditures by tax collectors for advertising tax certificate sales. (Senate Bill Analysis, 3/14/05)
2005-263	1917	Juvenile Justice	Counties	1	Requires state to pay certain detention care costs for juveniles in Highlands, Sumter and Wakulla counties for fiscal year 2005-2006.	These counties may experience a decrease in expenditures related to detention care cost for juveniles. (Not specifically addressed)

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Table 4
Preemptions of Discretionary Authority - 2005 General Session

Chapter Law	*Bill #	Subject	Type of Local Government Impacted	Section #	Description of Provisions
2005-74	255	Rabies Vaccination	Counties and Municipalities	1	Amends s. 828.30, F.S., to revise requirements for the frequency of rabies vaccination for specified animals.
2005-147	442	Building Safety	Counties and Municipalities Counties and Municipalities	6 17	Amends s. 489.537, F.S., providing that local governments may not require certain alarm system and electrical contractors to obtain additional certification or meet additional licensure requirements. Amends s. 633.025, F.S., to provide that local governments may not adopt a fire sprinkler requirement on one or two family dwellings without preparing an economic cost and benefit report.
2005-171	620	Wireless Emergency Telephone System	Counties and Municipalities	4	Prohibits local governments from imposing or requiring information on compliance with building code type standards for the construction or modification of wireless communications facilities beyond those adopted by the local government under ch. 553, F.S.
2005-230	509	Prompt Payment for Construction Services	Counties and Municipalities	3	Limits the amount of retainage that can be withheld on a construction project to 10% on the initial 50% of the project and 5% on the final 50% of the project.

Table 4
Preemptions of Discretionary Authority - 2005 General Session

Chapter Law	*Bill #	Subject	Type of Local Government Impacted	Section #	Description of Provisions
2005-288	181	Pari-mutuel Permit holders	Counties	1	Amends s. 550.334, F.S., to delete a provision to allow quarter-horse racing by vote of the county commission in lieu of referendum approval of such racing with a county.
2005-362	1 B	Slot Machine Gaming	Counties and Municipalities	4	The bill provides that the state has exclusive authority over the conduct of all wagering occurring at a licensed slot machine facility in the state.

Table 5
Grants of Authority - 2005 General Session

Chapter Law	*Bill #	Subject	Type of Local Government Impacted	Section #	Description of Provisions
2005-27	436	Protection of Persons Property	Counties and Municipalities	4	Authorizes a law enforcement agency to use standard procedures to investigate the use of deadly force.
2005-28	1877	Sexual Predators and Sexual Offenders	Counties	3	Authorizes Sheriff's office to determine the appropriate times and days for reporting by the sexual predator.
2005-35	655	Florida Inland Navigation District	Selected Counties	1	Amends s. 374.984, F.S., to include in the Inland Navigation District the portion of the Okeechobee Waterway located in Martin and Palm Beach counties. Authorizes improvements and maintenance.
2005-56	388	Student Financial Aid	Selected Counties	1	Amends s. 411.01, F.S., authorizing Sarasota, Osceola, and Santa Rosa counties to operate early learning coalitions.
2005-109	1436	Automated External Defibrillators	Counties and Municipalities	1	Authorizes local law enforcement vehicles to carry an automated external defibrillator.
			Counties and Municipalities	2	Authorizes local governments to use forfeiture funds for purchasing automated external defibrillators.
2005-126	871	Investment of Public Funds	Counties and Municipalities	2	Authorizes local governments and Chief Financial Officers to deposit any portion of surplus public funds in accordance with provided conditions.
2005-135	252	Florida Retirement System	Municipalities	1	Amends s. 121.182, F.S., to authorize municipalities to purchase annuities for municipal personnel in the same manner as counties may for county personnel.
2005-146	193	Relating to Hazing	Counties	1	Amends s. 1006.63, F.S., to provide criminal penalties for hazing at high schools with grades 9-12. Authorizes court to impose a condition of alcohol or drug probation in certain circumstances.
2005-147	442	Building Safety	Counties and Municipalities	12	Authorizes local governments to impose certain fees for code enforcement.

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Table 5
Grants of Authority - 2005 General Session

Chapter Law	*Bill #	Subject	Type of Local Government Impacted	Section #	Description of Provisions
2005-154	401	Southwest Florida Transportation	Counties	1	Authorizes the expansion of the Southwest Florida Expressway into Charlotte County if warranted and desirable.
2005-157	955	Waterfront Property	Counties and Municipalities	14	Allows the governing body to authorize the deferral of ad valorem taxation and non-ad valorem assessments for recreation and commercial working waterfront properties.
			Counties (Tax Collectors)	14	Allows the tax collector to require the applicant to submit any other evidence and documentation as deemed necessary in considering the application for deferral.
2005-164	1697	Highway Safety	Municipalities	2	Allows a municipality, through interlocal agreement with county, to transfer traffic regulatory authority over areas within the municipality over to the county.
			Counties and Municipalities	6	Allows a local governmental entity to enact an ordinance regarding golf cart operation.
2005-165	1715	Domestic Security	Counties and Municipalities	4	Allows Regional Domestic Security Task Force memberships to include local law enforcement agencies.
2005-168	152	Alimony	Counties	1	Amends s. 61.14, F.S., to authorize court to reduce or terminate an award of alimony if there is proof by a preponderance of the evidence that the obligee is in a supportive relationship with another person not related by consanguinity or affinity.

Table 5
Grants of Authority - 2005 General Session

Chapter Law	*Bill #	Subject	Type of Local Government Impacted	Section #	Description of Provisions
2005-171	620	Wireless Emergency Telephone System	Counties and Municipalities	4	Allows a local government to impose a reasonable fee on zoning applications and the review of applications for wireless communications facilities if a similar fee is imposed on applicants seeking similar types of zoning and review.
			Counties and Municipalities	4	Allows a local government to impose design requirements for wireless communication towers to support collocation or aesthetic requirements.
			Counties and Municipalities	4	Authorizes local governments to continue requesting information until the application deficiencies are cured.
2005-205	1159	State Excise Tax on Property Insurance Premiums	Municipalities	2	Authorizes a municipality receiving fire protection services from another municipality to enact an ordinance levying the tax.
2005-214	1184	Easements	Counties	4	Authorizes local governments to file suit against an owner or owners who objects or refuses to permit the use of lands across which a statutory way of necessity is claimed.
2005-216	567	Alternative Plans and Review Inspection	Counties and Municipalities	1	A local government may establish, for private providers and duly authorized representatives, a system of registration to verify compliance with the licensure requirements of paragraph (1) (g) and the insurance requirements of subsection (15).
2005-217	331	Inland Lakes and Canals	Counties and Municipalities	1	Amends s. 327.40, F.S., to exempt counties, municipalities, or other governmental entities located on inland lakes and their associated canals from the permitting requirements for the placement of informational markers.

Table 5
Grants of Authority - 2005 General Session

Chapter Law	*Bill #	Subject	Type of Local Government Impacted	Section #	Description of Provisions
2005-236	1935	State Judicial System	Counties	18	Authorizes counties to enter into an agreement under which the county funds personnel positions to assist in the operation of the circuit.
			Counties (Clerks and Sheriffs)	39	Authorizes sheriffs and clerks of the courts of various counties at their discretion to pay certain deposited or collected funds into a specific fine and forfeiture fund.
			Selected Counties and Municipalities	48	Authorizes certain local governments to impose by ordinance a surcharge of up to \$15 on any infraction or violation in addition to certain noncriminal traffic infractions and certain criminal violations.
2005-244	486	Enterprise Zones	Selected Counties and Municipalities (City of Lakeland; Indian River County-City of Vero Beach- Sebastian Jointly; Sumter County; and Orange County - Apopka Jointly)	1	Authorizes certain counties and municipalities to apply to the Office of Tourism, Trade, and Economic Development for designation of an enterprise zone.
2005-275	1459	Liens and Commercial Real Estate	Counties	1	Allows the clerks of court to collect a service fee for recording the owner's affidavit.
2005-290	360	Infrastructure Planning	Counties and Municipalities	2	Authorizing local government to approve a development order if the developer executes a commitment to mitigate the impacts on public school facilities.
2005-291	444	Water Resources	Counties and Municipalities	9	Allows a local government to choose to prepare its own water supply to determine if existing water sources are adequate to meet existing and projected needs.

Table 5
Grants of Authority - 2005 General Session

Chapter Law	*Bill #	Subject	Type of Local Government Impacted	Section #	Description of Provisions
2005-355	15B	Ad Valorem Property Tax Payment Discounts	Counties	1	Authorizes a county that has been declared a major disaster area to adopt options extending the time in which a property tax payment made by a property owner qualifies for an early-payment discount.

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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: Rules of the Florida Senate and House**
- Appendix 5 “3-8-3” Local Mandate Analysis Procedure**

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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)¹

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.

¹ Also adopted the County and Municipality Mandates Analysis circulated in 1991.

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APPENDIX 4

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 (2004-2006)

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 Committee on Ways and Means or any other appropriate committee. All bills substantially affecting a state-funded or state-administered retirement system shall be reviewed by the Committee on Governmental Oversight and Productivity. 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 shall, before being placed before the Senate for final passage, be reviewed along with all amendments by the Committee on Ways and Means or any other appropriate committee for recommendation to the Senate, which review during the last ten (10) days of a regular session shall be accomplished within twenty-four (24) hours.

HOUSE OF REPRESENTATIVES RULES (2004-2006)

Rule 7.21 - Fiscal Analysis

(a) All general bills affecting revenues, expenditures, or fiscal liability shall be accompanied by a fiscal analysis upon being reported favorably by the Fiscal Council or a standing fiscal committee.

(b) If any bill with a fiscal impact is reported favorably by the Fiscal Council or any standing fiscal committee without a fiscal analysis having been prepared, it shall be the right of any member to raise a point of order on second reading and the Speaker may order the bill recommitted to the Fiscal Council.

(c) Fiscal analyses shall state in dollars the estimated increase or decrease in revenues or expenditures and the present and future fiscal implication of the bill. A fiscal analysis shall be regarded as a memorandum of factual information and may be included within the body of the bill analysis that accompanies the bill, which statement shall be made available to members.

(d) The fiscal analysis portion of the bill analysis shall not express comment or opinion relative to the merits of the legislation proposed, but should point out technical or mechanical defects.

(e) The accuracy of a fiscal analysis shall not be a basis for a point of order under these rules. A fiscal analysis prepared for a House bill may be presumed as prepared also for its Senate companion.

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APPENDIX 5

"3-8-3" LOCAL MANDATE ANALYSIS PROCEDURE

Every general bill and amendment offered to a general bill, must be reviewed to determine if one of the three following CRITERIA are met. If "hooked" by one or more criteria, the bill must be reviewed for EXEMPTIONS which would "unhook" it. If not exempted, the mandates analysis bill must be reviewed for applicable EXCEPTIONS which would "unhook" it. See the accompanying analysis for substantive guidelines.

CRITERIA

IF:

A. General Bill requiring cities/counties to spend money or take action that requires expenditure of money _____

OR

B. General bill anticipated to reduce authority of cities and counties to raise total aggregate revenues over 2-1-89 levels _____

OR

C. General bill reducing total aggregate city/county percentage share of a state tax below 2-1-89 levels _____

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Determine if any EXEMPTION applies:

IF:

1. Funding of pre-1-8-91 pension benefits _____

2. Criminal laws _____

3. Election laws _____

4. General Appropriations Act _____

5. Special Appropriations Acts _____

6. Re-authorization (but not expansion) of existing statutory authority _____

7. Insignificant fiscal impact _____

8. Non-criminal infractions _____

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Handle as any other measure with majority vote on final passage.

IF:

Still "hooked," determine if any EXCEPTION applies:

Criterion A: Applicable EXCEPTIONS

1. Legislature (not staff) formally determines an important state interest.

AND

2. any one of the following:

a. Estimated funds are appropriated to cover the mandate

b. New, post 2-1-89, simple majority funding source provided locally

c. Similarly situated persons are all required to comply

d. Federal requirement

IF

Still "hooked," under criterion A, the bill must be found to fulfill an important state interest and have a 2/3 vote of the membership of each house

Criterion B: Applicable EXCEPTIONS

There are no substantive exceptions.

The bill must have a 2/3 vote of membership of each house.

Criterion C: Applicable EXCEPTIONS

1. Post 2-1-89 enhancements to state tax sources _____

OR

2. Proclaimed fiscal emergency _____

OR

3. Revenue replacement anticipated to offset reduction in percentage share of cities/counties _____

IF:

Still "hooked," under criterion C, the bill must have a 2/3 vote of the membership of each house.

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