

HOLD THE LINE:

Using MSTUs and Alternative Revenues to Plug the Leaks

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Proposed Amendment 3



- Homestead Exemption on Non-School Property Taxes:
 - \$150,000 in 2027
 - \$250,00 in 2028
- Legislature to Establish Procedure for Counties and Cities to Further Increase the Exemption
- New Residents Receive Smaller Exemption Until have Lived in Florida for Five Years
- Cap on Assessed Value Increases for Non-Homesteaded Property Decreased to 5%
- Limits on Allowable Expenditures for Tax Revenues

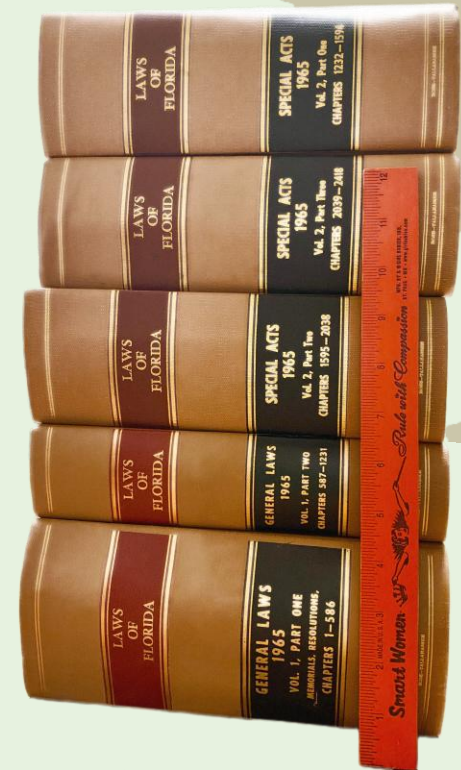
Discussion Topics

- Home Rule Today
- Constitutional Preemption of Taxation
- MSTUs
- Home Rule Revenue Sources
 - Special Assessments
 - Fees
- Questions

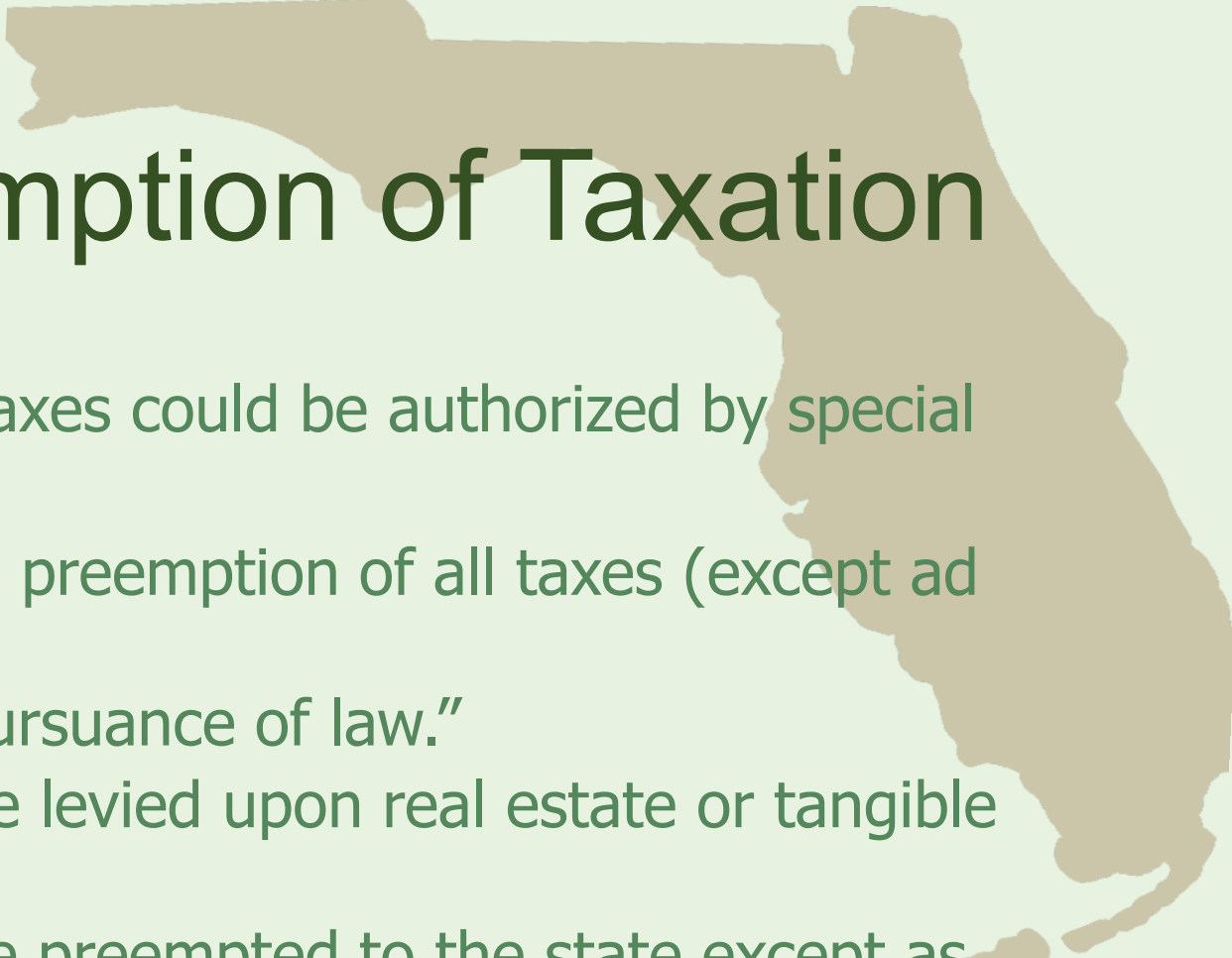


Home Rule Today

- 1968 Constitution abolished Dillon's Rule and unleashed county and city home rule
- Counties:
 - Charter Counties: Art. VIII, § 1(g), Fla. Const.
 - Non-charter Counties: Art. VIII, § 1(f), Fla. Const.
 - §125.01, Florida Statutes
- Municipalities:
 - Art. VIII, 2, Fla. Const.
 - §166.021, Florida Statutes



Constitutional Preemption of Taxation

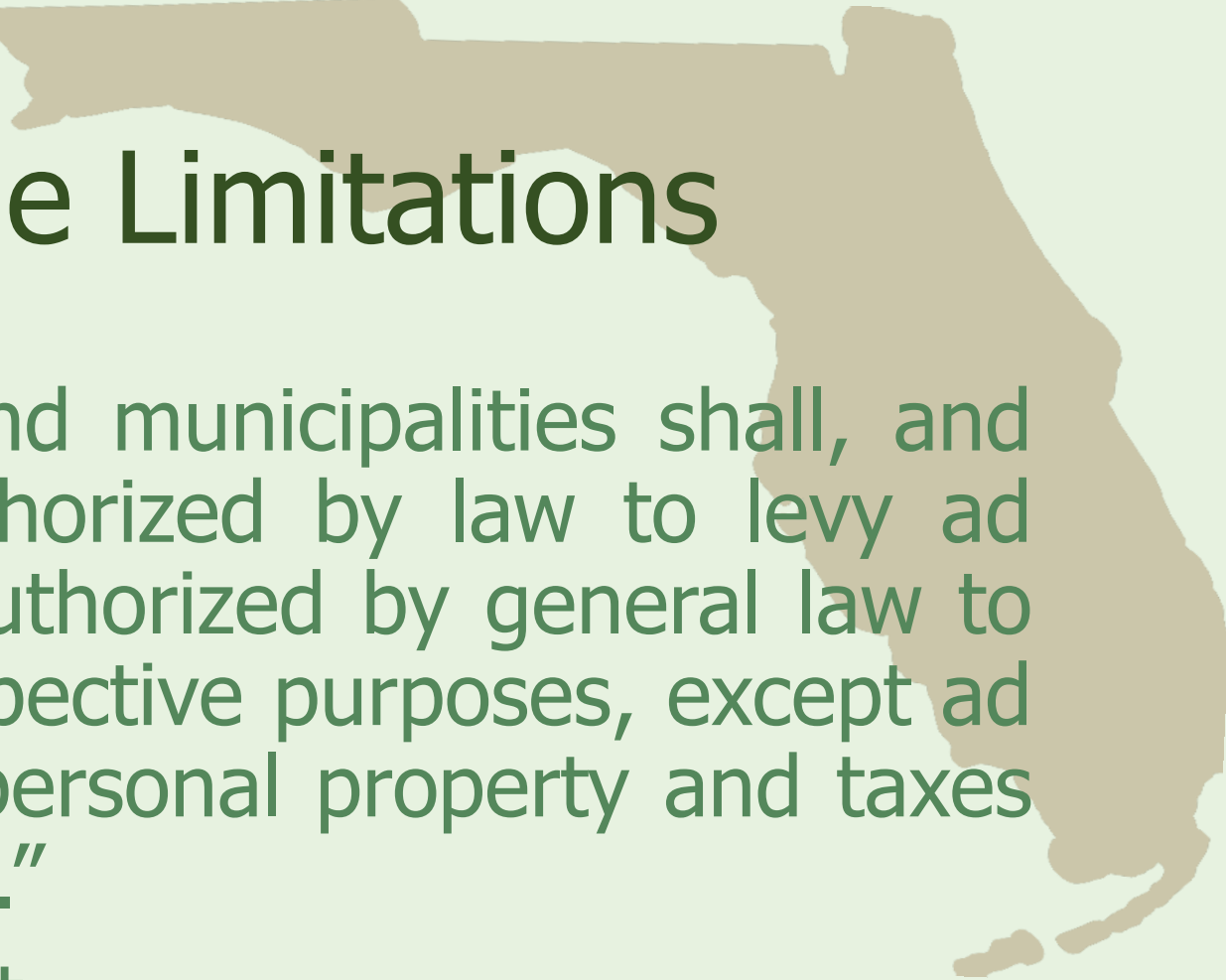


- Prior to 1968 constitutional revision, taxes could be authorized by special act
- Article VII, section 1(a): constitutional preemption of all taxes (except ad valorem taxes) to state
 - “No tax shall be levied except in pursuance of law.”
 - “No state ad valorem taxes shall be levied upon real estate or tangible personal property.”
 - “All other forms of taxation shall be preempted to the state except as provided by general law.”

Ad Valorem Taxes

“A direct tax is one that is imposed directly upon property, according to its value. It is generally spoken of as a property tax or an ad valorem tax. An indirect tax is a tax upon some right or privilege, or corporate franchise, and is most often called an excise or occupational tax.”

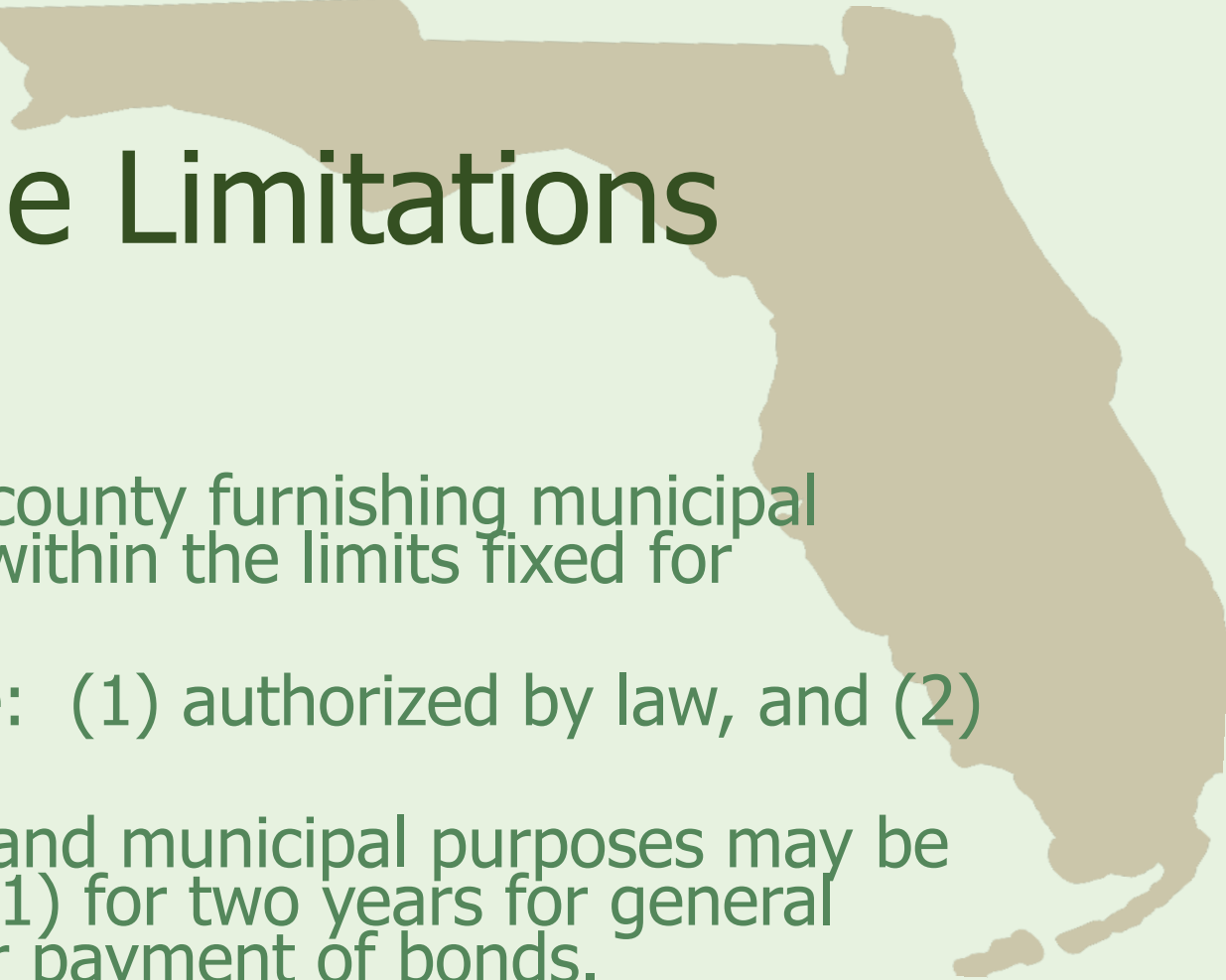
Constitutional Millage Limitations



“Counties, school districts, and municipalities shall, and special districts may, be authorized by law to levy ad valorem taxes and may be authorized by general law to levy other taxes, for their respective purposes, except ad valorem taxes on intangible personal property and taxes prohibited by this constitution.”

Art. VII, §9(a), Fla. Const.

Constitutional Millage Limitations



- Ten mills for municipal purposes.
- Ten mills for county purposes.
- To the extent authorized by law, a county furnishing municipal services may levy additional taxes within the limits fixed for municipal purposes.
- Special districts may levy a millage: (1) authorized by law, and (2) approved by voters.
- The ten mills for county purposes and municipal purposes may be exceeded if approved by electors: (1) for two years for general governmental purposes, and (2) for payment of bonds.

Art. VII, §9(b), Fla. Const.

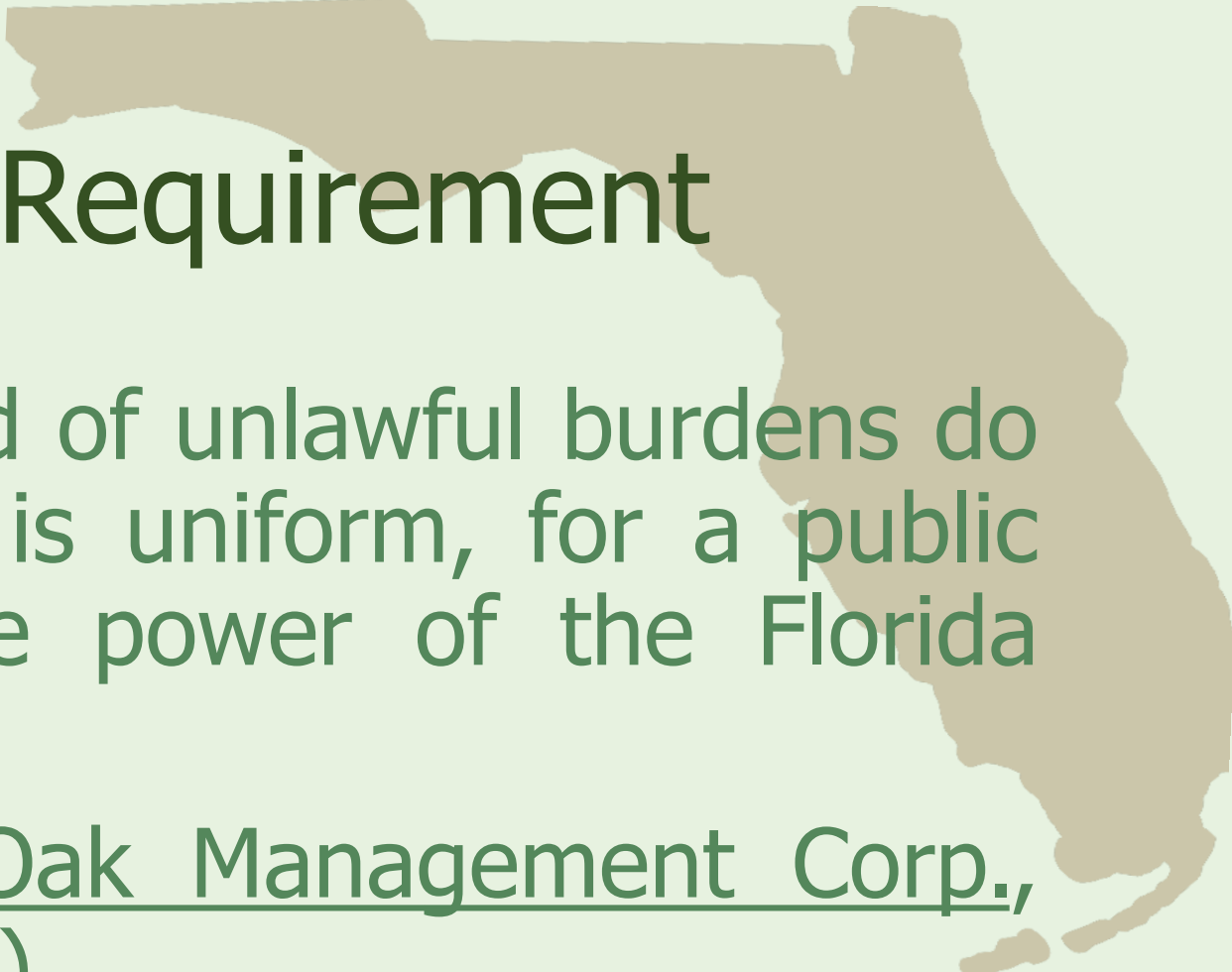
- See also Sections 200.071, 200.081, and 200.091 Fla. Stat.



Statutory Revenue Limitations

- Section 200.065(5), F.S.
- Apply to aggregate millage, including dependent special districts and MSTUs
- Limited to Rolled-Back Rate, adjusted by change in per capita Florida personal income, unless approved by super majority vote (up to 110%) or unanimous vote/referendum (excess of 110%)

Ad Valorem Benefit Requirement



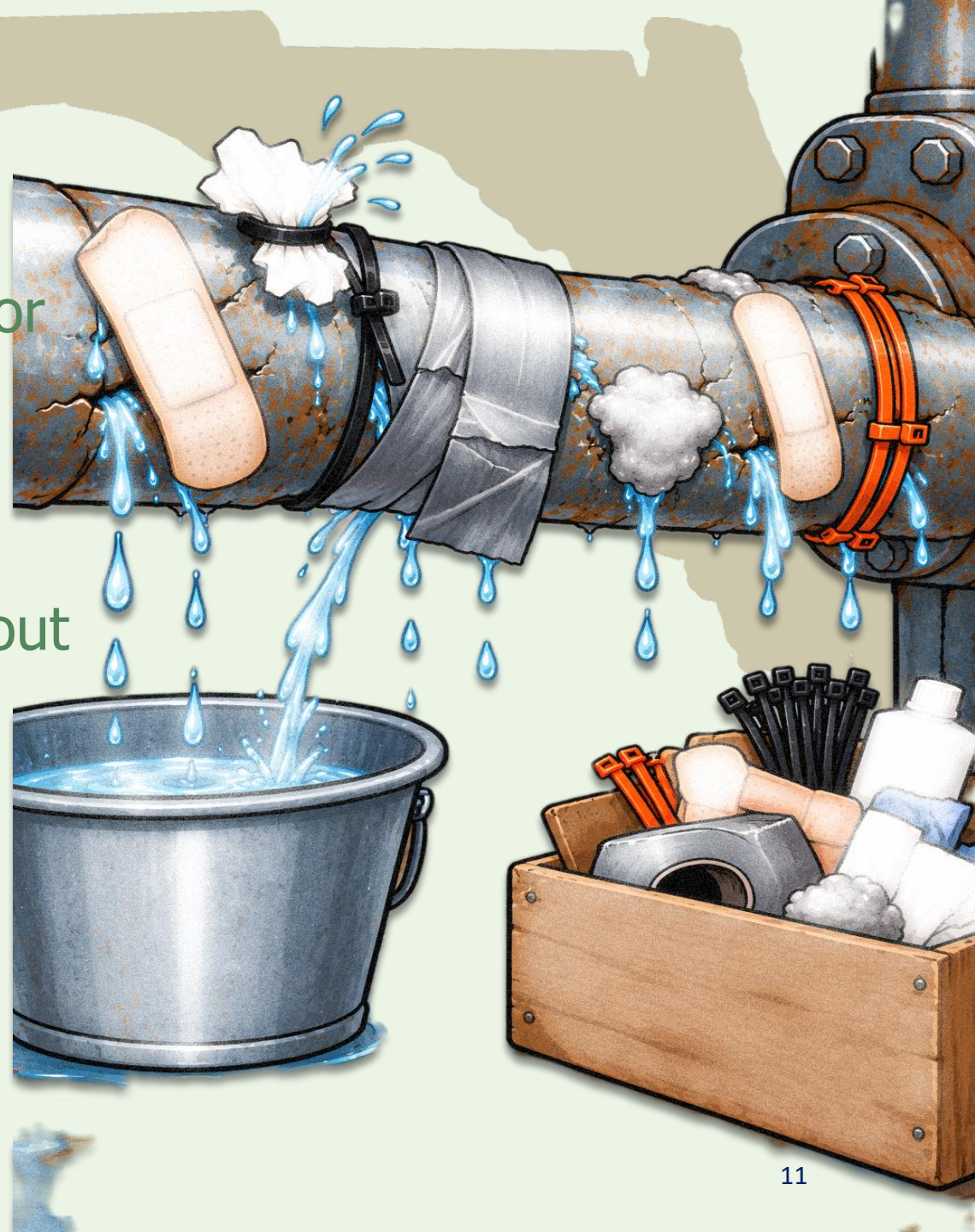
- Questions of benefits and of unlawful burdens do not arise when the tax is uniform, for a public purpose, and within the power of the Florida Legislature to prescribe
- Lake County v. Water Oak Management Corp., 695 So.2d 667 (Fla. 1997)

The MSTU Concept

- Not a special district
- A levy by a county within the limits fixed for municipal purposes
- No referendum required
- Can include municipal areas with the municipality's consent by ordinance
- Ad valorem tax less than countywide without violating Art. VII, §2, Fla. Const.

§125.01(q) and (r), F.S.

- Authorization for all counties to levy additional taxes, within the limits fixed for municipal purposes under the authority of the second sentence of s. 9(b), Art. VII of the State Constitution.

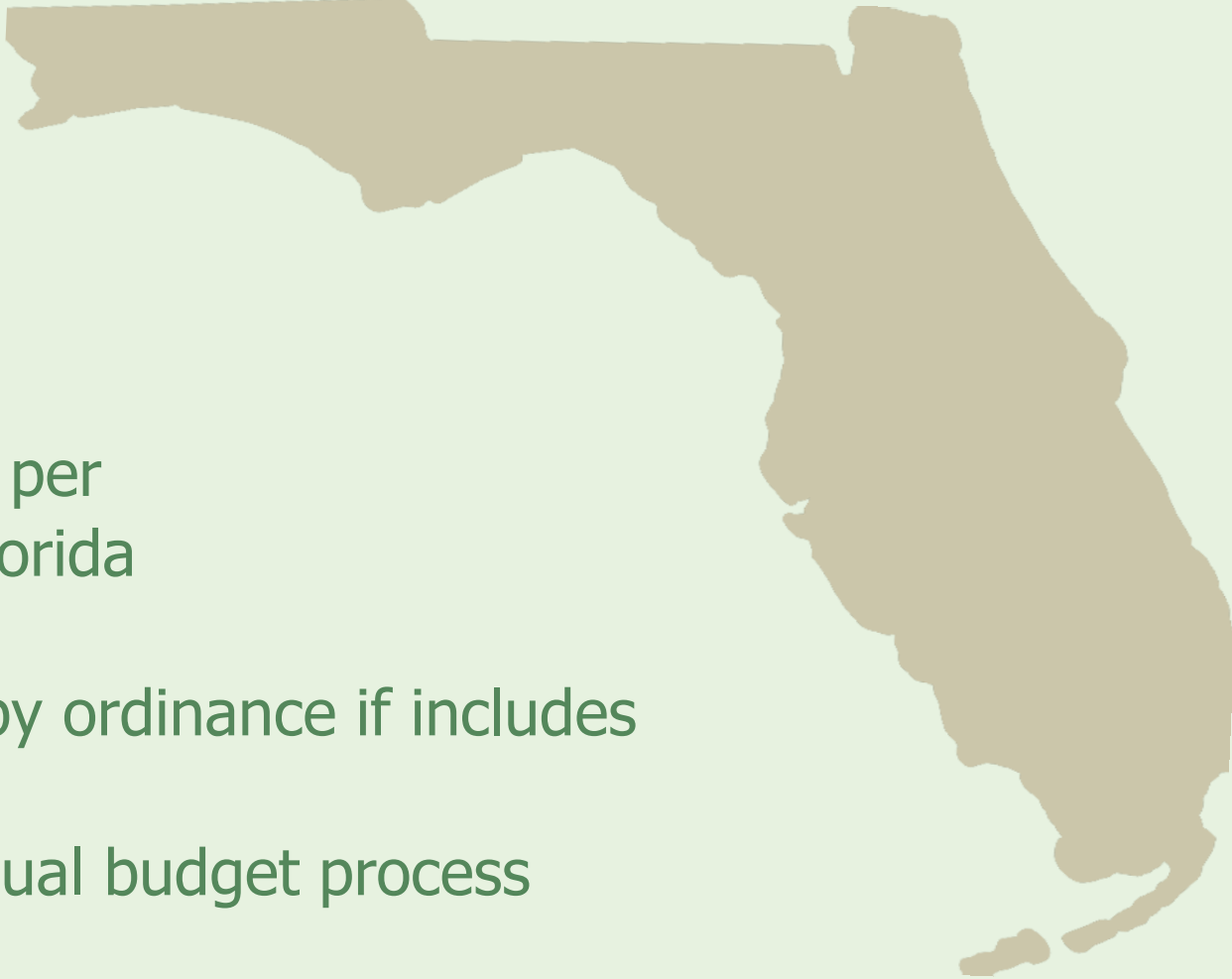


Essential Facilities and Municipal Services



- fire protection
- beach erosion control
- water
- streets
- street lighting
- waste and sewage collection and disposal
- transportation
- mental healthcare
- other essential facilities and municipal services
- law enforcement
- recreation service and facilities
- alternative water supplies (reclaimed, aquifer storage, desalination)
- sidewalks
- garbage and trash collection and disposal
- drainage
- indigent healthcare

MSTUs



Creation:	Ordinance
Deadlines:	January 1 or July 1 per Section 200.066, Florida Statutes
Consent:	Municipal consent by ordinance if includes incorporated areas
Millage:	Levied through annual budget process

If ad valorem taxes are levied to provide essential facilities and municipal services within the unit, the millage levied on any parcel of property for municipal purposes by all municipal service taxing units and the municipality may not exceed 10 mills.

Home Rule Revenue Sources



What is a Home Rule Revenue Source?

Any Charge Imposed Under Local Government Authority

- Except a tax (must be authorized by general law)
- That is not inconsistent with general or special law

Home Rule Revenue Sources

- Special Assessments
 - Capital
 - Service
- Fees
 - Regulatory Fees
 - Impact and Mobility fees – STAY TUNED!
 - Proprietary User fees



Special Assessments

Special assessments are charges assessed against the property of some particular locality because that property derives some *special benefit* from the expenditure of the money.

Case Law Requirements

Special Benefit to Property

and

Fair and Reasonable Apportionment

Special Benefit

- “Logical Relationship”
- Property, not people
- Value, Use, and Enjoyment
- Reasonable Time
- Highest and Best Use
- Special and Peculiar to the Property



Examples of Special Benefit

- Fire Protection
- Street Improvements
- Parking Facilities
- Downtown Redevelopment
- Solid Waste
- Sewer Improvements
- Water and Sewer Lines
- Stormwater
- Beach Renourishment
- Mosquito Control
- Neighborhood Improvements (beautification, street lighting, signage)

No Special Benefit

- Public Hospitals
- Public Health Units
- Emergency Medical Services
- General Law Enforcement
- Community Resource Facilities
- General Governmental Services



Fair and Reasonable Apportionment



- Logically and factually driven method must be developed to spread the costs among the benefited properties.
- Does method of apportionment make sense in terms of what is being provided?
- Legislative determination receives judicial deference.

Methods of Apportionment



- Physical Use of Property
- Relative Proximity to Facility
- Amount of Service/Facility Required
- Lineal Front Foot
- Per Parcel or Unit
- Square Footage of Improvements
- Relative Value of Property
- Combination of Factors

Collection Methods

- Uniform Method
(tax bill collection)
- Lien and Foreclosure Method
(separate bill)
- Utility Bill
- Combination of Methods



Typical Procedures

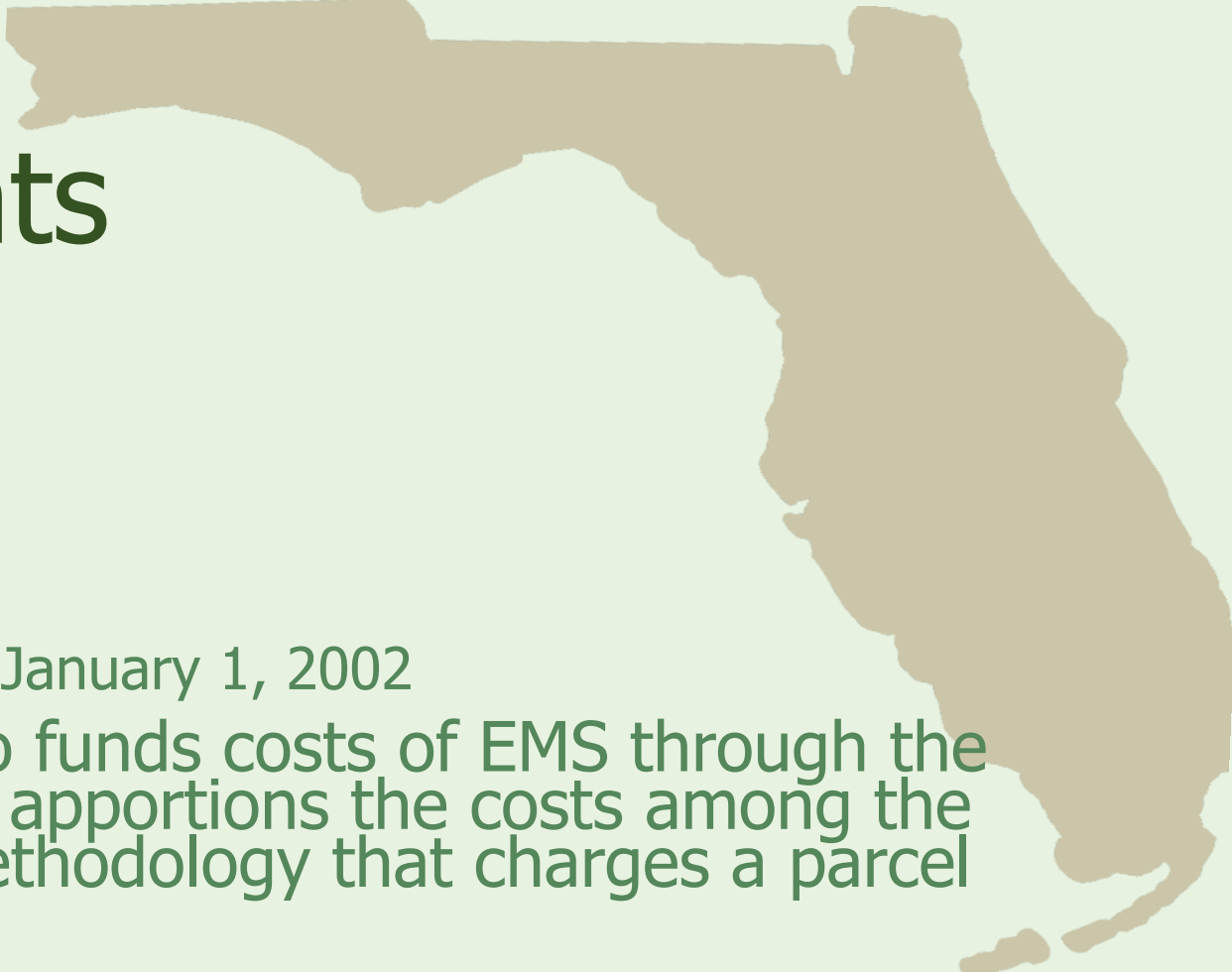
- Define Benefit or Service Area
- Develop Apportionment Methodology
- Calculate Rates
- Adopt Procedural Ordinance
- Adopt Initial Resolution
- Provide For Public Notice
- Adopt Final Rates
- Collect Assessment



Typical Critical Events Schedule

Event	Date
Adopt Resolution of Intent	By January 1 or March 1
Draft Assessment Report	June
Proforma Assessment Rates	June
Final Assessment Report	June
Adopt Fire Rescue Assessment Ordinance	June - July
Initial Assessment Resolution	June - July
First Class Notices	June - August
Published Notice	June - August
Preliminary Assessment Roll	June - August
Final Assessment Resolution	July - August
Final Assessment Rates	July - August
Certified Assessment Roll	By September 15

EMS Tax Assessments



- Section 125.271, Florida Statutes
- Authorized Counties:
 - (1) Rural Area of Opportunity
 - (2) 75,000 or less and at 10 mills
 - (3) EMS ordinance adopted prior to January 1, 2002
- Qualified counties are authorized to fund costs of EMS through the levy of a "special assessment" that apportions the costs among the property based on a reasonable methodology that charges a parcel in proportion to its benefits.
- General Law authorization pursuant to Article VII, Sections 1 and 9 of the State Constitution.

Authority to Impose Fees

- Florida Legislature
 - General laws
 - Special acts
- Florida Constitution
 - Home Rule



Two Categories of Fees

Local governments generally impose fees in one of two ways:

- 1) Regulatory Fees imposed pursuant to police powers (i.e., building permit fees, inspection fees, impact fees)
- 2) Proprietary User Fees imposed in the exercise of a proprietary power (i.e., utility fees, franchise fees, traditional user fees)

Regulatory Fees

- Offset Cost of Processing, Review or Monitoring
- Limited To Cost of Service



Regulatory Fee Rates & Uses



- Calculation methods
 - Fees should not exceed the actual cost
- Building permit fee limitations in state law
 - Building permit fees cannot exceed the cost of the governmental activity established to regulate the building permit issuance and ensuing inspection activity.
 - HB 803
 - HB 399

Proprietary User Fees



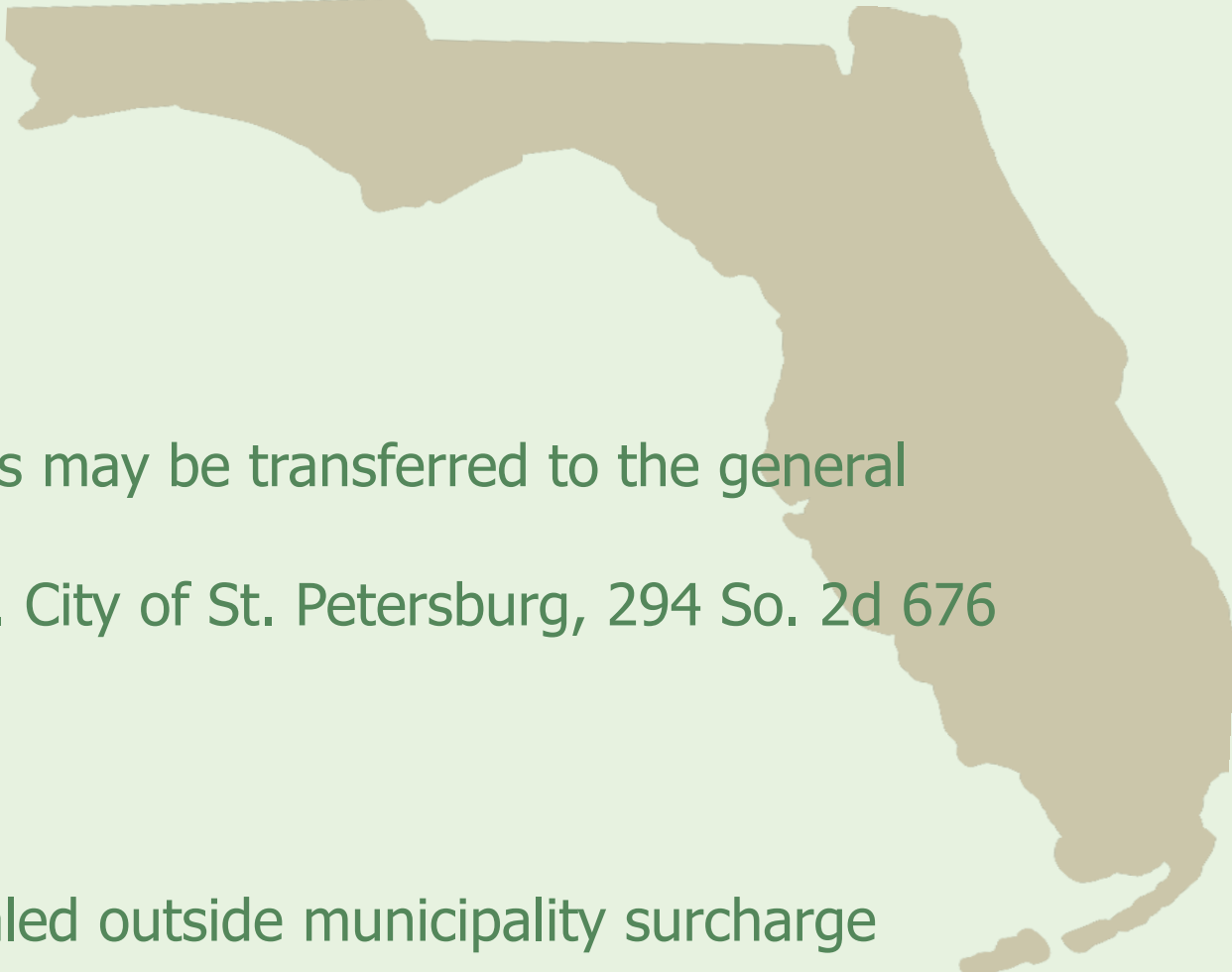
- Utility fees, franchise fees etc.
- Reasonable in Amount
- Reasonable Profit – (Proprietary/Enterprise Activities Only)
- May Fund Capital, O&M or Sometimes Both
- Just and Equitable
- Charged in Exchange For a Governmental Service or Facility
- Are Paid by Choice (Voluntary)

Franchise Fees

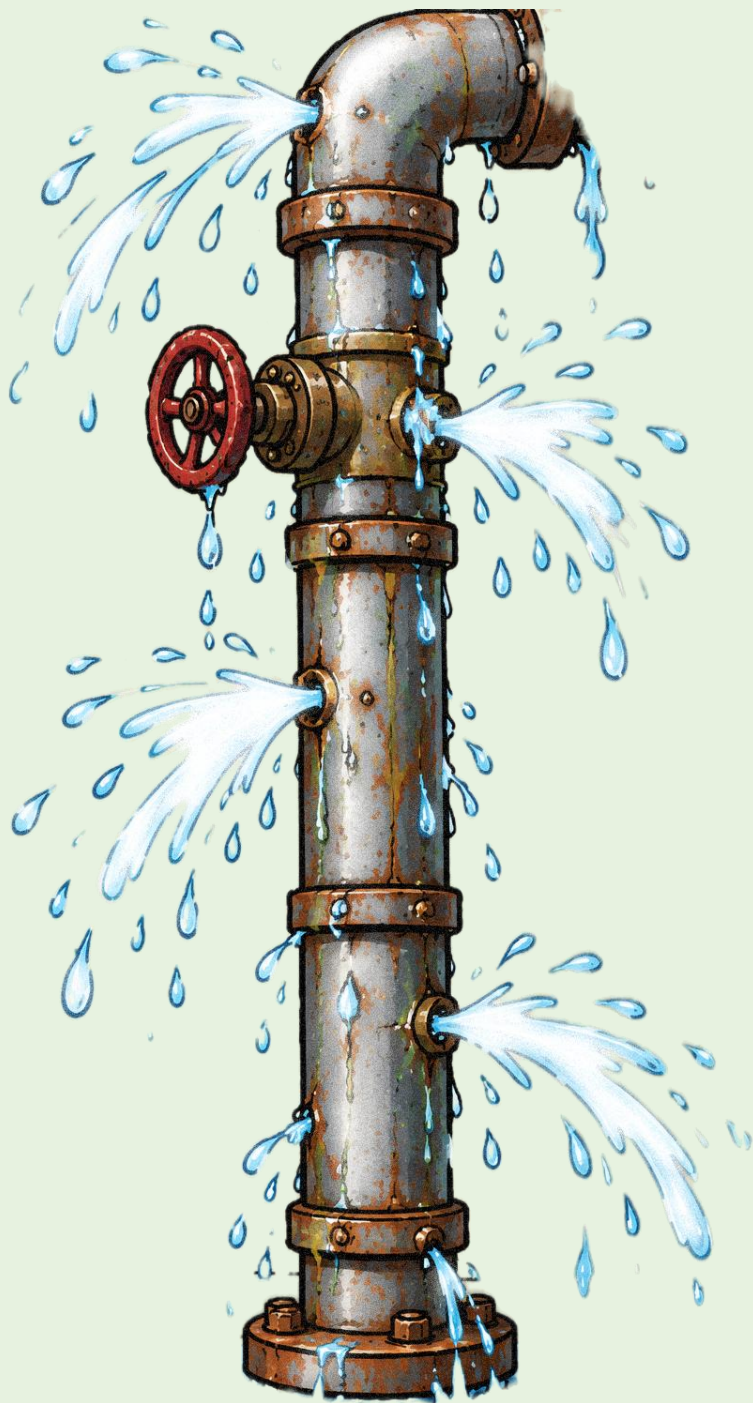
A fee in an accepted utility franchise which is:

- For using public property
- For the county agreeing not to compete
- For the cost of regulation
- Calculated as a percentage
- Passed through to ultimate customer
- Unilateral imposition?

Utility User Fees



- Reasonable Profit
 - Reasonable profit from utility user fees may be transferred to the general fund
 - Pinellas Apartment Association, Inc. v. City of St. Petersburg, 294 So. 2d 676 (Fla. 2d DCA 1974)
 - City of Pompano Beach v. Oltman
- HB 1451/ SB 1724:
 - Amended section 180.191, F.S.; repealed outside municipality surcharge
 - Previously, municipalities operating a water or sewer utility outside of the boundaries of the municipality could add a surcharge not to exceed 25% to consumers outside the boundaries
 - Surcharge needs to be phased out by July 1, 2029



Questions?

