

**THE PLANNING COUNCIL AND METROPOLITAN PLANNING ORGANIZATION FOR PINELLAS COUNTY**

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**1. CALL TO ORDER**

**2. APPROVAL OF MINUTES FROM AUGUST 4, 2017**

**3. WORK PRODUCTS**

The committee will review and provide input on the draft work products.

A. Draft Mission Statement

B. Proposed Legislative Positions

- TBARTA - Mission, Role and Responsibilities
- Regional Transit Development Plan
- Regional Transit Funding Sources (Strategic Intermodal System, Transportation Regional Incentive Program, Other)

C. Local Agency Coordination

**4. MPOAC 2018 LEGISLATIVE PRIORITIES**

The committee will review and make recommendations for the board regarding the MPOAC legislative priorities for 2018.

**5. PSTA LEGISLATIVE COMMITTEE UPDATE**

Information from the recent PSTA Legislative Committee meetings will be reviewed by the committee.

**6. POTENTIAL LEGISLATIVE PRIORITIES**

The committee will discuss and make recommendations for the board regarding potential legislative priorities.

**7. ADJOURNMENT**

*Public participation is solicited without regard to race, color, national origin, age, sex, religion, disability, or family status. Persons who require special accommodations under the Americans with Disabilities Act or persons who require translation services (free of charge) should contact the Office of Human Rights, 400 South Fort Harrison Avenue, Suite 300, Clearwater, Florida 33756; [(727) 464-4062 (V/TDD)] at least seven days prior to the meeting.*

*Appeals: Certain public meetings result in actions taken by the public board, commission or agency that may be appealed; in such case persons are advised that, if they decide to appeal any decision made at a public meeting/hearing, they will need a record of the proceedings, and, for such purposes, they may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.*

**Legislative Committee – October 11, 2017**

**2. Approval of Minutes of the August 4, 2017 Meeting**



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**SUMMARY**

The summary minutes from the August 4, 2017 meeting are attached for the committee's review and approval.

**ATTACHMENT(S):** Summary minutes of the August 4, 2017 Legislative Committee meeting

**ACTION:** Committee to review and approve the August 4, 2017 meeting minutes

**FORWARD PINELLAS  
LEGISLATIVE COMMITTEE MEETING SUMMARY  
INAUGURAL MEETING  
AUGUST 4, 2017**

Committee Members in Attendance:

Commissioner John Morroni, Forward Pinellas Chairman  
Councilmember Doreen Caudell, Forward Pinellas Vice Chair  
Councilmember Darden Rice, City of St. Petersburg (late arrival at 12:05 p.m.)  
Councilmember Bill Jonson, City of Clearwater (alternate)

Also Present:

Whit Blanton, Executive Director  
Tina Jablon, Administrative Secretary  
Sarah Caper, Principal Planner  
Chelsea Hardy, County Attorney's Office  
Councilmember Patti Johnson, City of Pinellas Park

The Forward Pinellas Legislative Committee met at the City of Indian Rocks Beach City Hall to hold its inaugural meeting. The Chairman called the meeting to order at 11:35 a.m.

Chelsea Hardy provided a legal overview of the parameters that will govern the committee. She advised that the Legislative Committee would be a recommending body to the full board. She discussed the Sunshine Law requirements and lobbying restrictions as defined in the Byrd Amendment of the Anti-Lobbying Act. There was extensive discussion and questions among the members relating to "meetings" as defined by the Sunshine Law. Chelsea made recommendations for best practices to avoid any conflicts or perceived conflicts.

It was agreed that the mission of this committee would be encompassed by the acronym ACE for advocating, communicating and educating. The committee would advocate for the interests and priorities of the board, regularly communicate progress and educate all levels of government regarding the role and accomplishments of Forward Pinellas.

A set of goals and objectives were developed to include:

- Raising awareness of Forward Pinellas and MPOAC priorities in Pinellas County and the Tampa Bay region
- Aligning legislative requests among the cities and county governments to provide a shared reference among staff and elected officials in Pinellas County
- Holding face-to-face meetings with local elected officials and the Pinellas Legislative Delegation

In order to accomplish these objectives, it was decided that certain work products would need to be created to include:

- Package of Transportation Project Priorities
- Mission, roles and responsibilities of the new TBARTA and how it relates to advancing transit in our region
- Suggestions for ways to fund transit in the region, particularly the role of the TBARTA Regional Transit Development Plan in advancing planned transit projects
- Position document regarding regionalism and the potential merging of the MPOs

Whit Blanton was charged with creating some talking points on TBARTA and the consolidation of the MPOs prior to the next Legislative Committee meeting.

The committee decided that the Legislative Committee should be a formal standing committee of Forward Pinellas, and that it would bring back recommended bylaws changes to the full board for consideration. It was felt that a monthly meeting would be necessary to carry out the mission, goals and objectives. It was decided to hold the meeting at 11:00 a.m. in the BCC conference room on the same day as the monthly board meeting for the convenience of all involved. The next meeting will be held on September 13, 2017 at 11:00 a.m.

Commissioner Morroni inquired about the budget for the activities of this committee. Whit Blanton explained that the likely source of funding would be from the Council Activities line item which had adequate funds.

The meeting adjourned at 12:29 p.m.

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**DRAFT MISSION STATEMENT**

The Forward Pinellas Legislative Committee is organized as a standing committee to provide input and recommendations to the full board on local, state or federal policy matters affecting land planning, redevelopment and transportation of countywide, regional or statewide significance. The committee's charge is to focus efforts on Advocacy, Communication and Education (ACE) to raise awareness on the impacts and benefits of potential legislation, provide information to the public, stakeholders and policymakers, and increase understanding of the Forward Pinellas Board and its member organizations on relevant legislative or policy issues. As a public body, the committee will fully comply with all aspects of Florida's Government in the Sunshine laws, and will work to collaborate with appropriate government affairs staff representing public and private entities in Pinellas County and Tampa Bay.

**ATTACHMENT(S):** None

**ACTION:** Committee to review, comment and edit the mission statement as deemed appropriate

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**DRAFT STATEMENT OF PRINCIPLES**

- Clarify the Tampa Bay Area Regional Transit Authority's Regional Transit Development Plan (RTDP) and its relationship to the metropolitan planning organizations' long range transportation plan(s) (LRTPs)
  - The Tampa Bay Area Regional Transit Authority's RTDP should be used for project development and as an implementation and evaluation plan.
  - The RTDP will advance, prioritize and implement regional transit projects or programs that are officially recognized in the metropolitan planning organization LRTP and/or a regional transportation priority list
  - Projects advanced in the RTDP will include an interlocal memorandum of understanding (MOU) to strengthen coordination of transit services, site facilities & amenities and local connectivity
- Develop a competitive regional express bus pilot program
  - TBARTA should advance a network of regional express bus routes, potentially including park-and-ride lot locations and application of emerging technologies (e.g. regional fare card, transit signal priority, and vehicle automation)
  - Components of the pilot program will include planning, operations, marketing, and promotion
  - Have a local match and a required annual evaluation
  - Must include linkage to a regional economic development strategy
  - Must be adopted as a regional transportation priority and contained in the metropolitan planning organization LRTP(s)
- Adapt state transportation funding sources to recognize the increasing need for transit in a fast-growing or established urbanized area
  - Expand eligibility of the Strategic Intermodal System (SIS) to cover express bus and bus rapid transit operating and capital costs within SIS corridors that serve major activity centers
  - Expand the Transportation Regional Incentive Program (TRIP) and reduce regulatory barriers to funding transit
  - Create a funding incentive for transit projects that are contained in an adopted regional LRTP, RTDP and are also on a regional priority list. For example, expand the transit corridor program, setting aside additional funds specifically for regional transit projects

**ATTACHMENT(S):** None

**ACTION:** Committee to review, comment and edit the statement of principles as deemed appropriate

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**SUMMARY**

For this task, Forward Pinellas will work with Pinellas County local governments to identify any specific legislative appropriations requests or local bills filed that relate to land use, transportation and economic development. The objective is to become a clearinghouse for those legislative requests to help support or reinforce the request, align possible partners and avoid potential conflicts.

**ATTACHMENT(S):** None

**ACTION:** Committee to discuss and provide input as deemed appropriate

#### **4. 2018 MPOAC Legislative Priorities**

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##### **SUMMARY**

Each year the Florida Metropolitan Planning Organization Advisory Council (MPOAC) adopts a set of legislative priorities prior to the annual Legislative Session. The priorities are generally consistent from year to year, but are modified to address emerging issues and time critical legislative activities. The approved 2018 MPOAC priorities are attached for the board's consideration. Forward Pinellas provides local funds each year to support the MPOAC's legislative advocacy efforts in Tallahassee.

##### **ATTACHMENT(S):**

- 2018 MPOAC Legislative Priorities & Positions Brochure
- MPOAC Legislative Update for 9-15-17

**ACTION:** Committee to review and make recommendations to the board regarding the MPOAC legislative priorities



# Legislative Priorities & Policy Positions

## Florida

### Metropolitan Planning Organization Advisory Council



# 2018

Implements the recommendations from the MPOAC transportation revenue study and other options for expanding transportation revenue sources.

Regulates distracted driving as a primary offense by prohibiting the use of two-way electronic wireless communication devices and other similar distracting devices while operating a motor vehicle, except when the device is part of, or physically docked in, the motor vehicle.

Restores funding to 2007 levels for the Transportation Regional Incentive Program (TRIP).

Allows Strategic Intermodal System (SIS) funds to be used on roads and other transportation facilities not designated on the SIS if the improvement will enhance mobility or support freight transportation on the SIS.

Establishes flexible and predictable funding for transit projects (capital and operating) identified through the metropolitan transportation planning process by removing various funding limitations for the State Transportation Trust Fund (STTF).

Recognizes that federal metropolitan transportation planning funds shall not be regarded as state funds for purposes of expenditure.



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[www.mpoac.org](http://www.mpoac.org)

PRIORITY POLICY POSITIONS

The MPOAC Supports State Legislation that:

1. Implements the recommendations from the MPOAC transportation revenue study and other options for expanding transportation revenue sources.

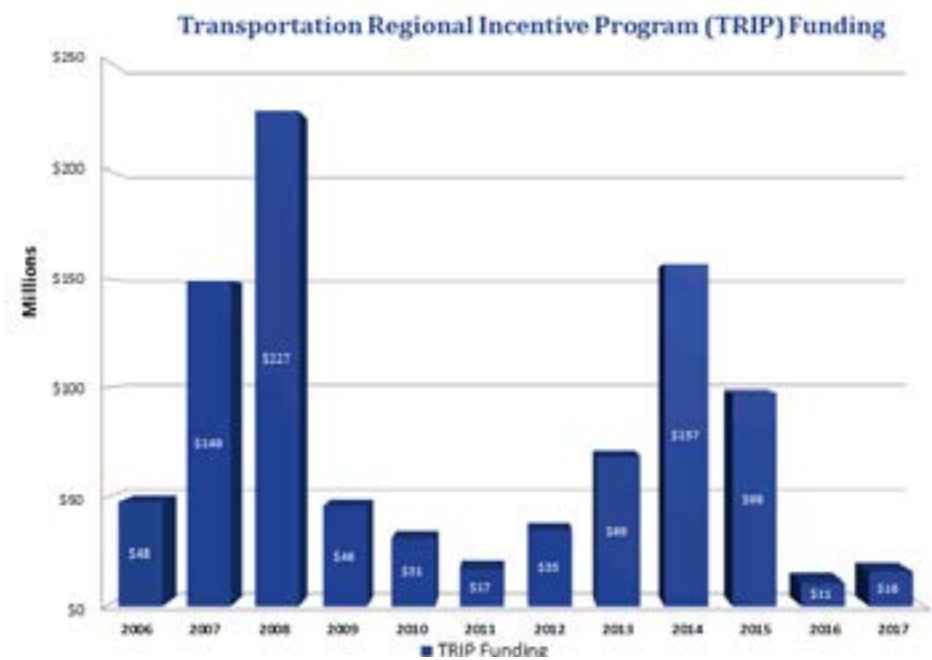
Key Recommendations:

- Expand the Charter County and Regional Transportation System Surtax to allow municipalities over 150,000 in population (or the largest municipality in a county) and all counties located in MPO areas to enact up to a one cent local option surtax by referendum.
- Index local option fuel taxes to the consumer price index in a manner similar to the current indexing of state fuel taxes.
- Identify potential revenue replacement sources for the current motor fuels tax which is no longer able to fully support the current or future needs of the transportation system.

2. Regulates distracted driving as a primary offense by prohibiting the use of two-way electronic wireless communication devices and other similar distracting devices while operating a motor vehicle, except when the device is part of, or physically docked in, the motor vehicle.

The 2013 Florida legislature enacted the "Florida Ban on Texting While Driving Law." The law prohibits operation of a moving motor vehicle while manually typing, sending or reading interpersonal communication (texting, e-mailing, instant messaging, etc.) using a wireless communications device, with certain exceptions. The law provides for enforcement of the ban as a secondary offense, meaning a driver would have to be pulled over for some other violation to get a ticket for violating the ban on texting. The 2014, 2015, 2016 and 2017 Florida Legislatures underscored the severity of distracted driving by considering bills that would have substantially increased the penalty for distracted driving. This legislative proposal would seek to strengthen the enforcement mechanism for the texting while driving ban by making it a primary offense.

3. Restores funding to 2007 levels for the Transportation Regional Incentive Program (TRIP). The TRIP leverages state documentary stamp tax proceeds to promote regional planning and project development by providing state matching funds for improvements to regionally significant transportation facilities identified and prioritized by regional partners. This proposal seeks to restore TRIP funding by reducing diversions of documentary stamp proceeds for non-transportation purposes.



MPOAC

The Florida Metropolitan Planning Organization Advisory Council (MPOAC) represents the collective interests of Florida's 27 MPOs, and assists the MPOs in carrying out the urbanized area transportation planning process by serving as the principal forum for collective policy discussion. The MPOAC was created by the Florida Legislature pursuant to Section 339.175, Florida Statutes, to augment and not supplant the role of the individual MPOs in the cooperative transportation planning process.

The organization is made up of a 27 member Governing Board consisting of local elected officials from each of the MPOs and a Staff Directors' Advisory Committee consisting of the staff directors from each of the MPOs. The MPOAC annually prepares legislative policy positions and develops initiatives to be advanced during Florida's legislative session. The MPOAC actively participates in the activities of the national Association of MPOs (AMPO) and the National Association of Regional Councils (NARC) in Washington DC and works with other stakeholder groups to help shape state and national policy regarding metropolitan transportation issues.

ADDITIONAL POLICY POSITIONS

The MPOAC Supports State Legislation that:

4. Allows Strategic Intermodal System (SIS) funds to be used on roads and other transportation facilities not designated on the SIS if the improvement will enhance mobility or support freight transportation on the SIS.

Current state law does not permit SIS funds to be spent on roads or other transportation facilities that are not part of the SIS, even if proposed improvements would directly benefit users of SIS facilities by enhancing mobility options or supporting freight movement in a SIS corridor. This legislative proposal would broaden the State's ability to improve passenger and freight mobility on SIS corridors by making eligible the expenditure of SIS funds on non SIS roads and other transportation facilities where the benefit to users of SIS facilities can be demonstrated.

5. Establishes flexible and predictable funding for transit projects (capital and operating) identified through the metropolitan transportation planning process by removing various funding limitations for the State Transportation Trust Fund (STTF).

Current state law limits the amount of funding that can be made available from the STTF for transit projects for both capital and operating expenses. These limitations, which are not in place for roadway funding, makes transit funding from the STTF less predictable for the purposes of planning and project implementation and artificially limits the ability of MPOs to implement priority transit projects. This proposal recognizes the critical role transit plays in moving people and goods within and between Florida's metropolitan areas by removing the distinction between transit and highway projects for the purpose of spending funds from the STTF.

6. Recognizes that federal metropolitan transportation planning funds shall not be regarded as state funds for purposes of expenditure.

The United States Department of Transportation (USDOT) provides funding to metropolitan planning organizations (MPOs) to carry out their federally required duties. Those federal funds are given to states who in turn distribute them to MPOs based upon a formula agreed upon by the Florida Department of Transportation (FDOT) and the Florida MPOs and then approved by the Federal Highway Administration (FHWA). The Florida Department of Financial Services (DFS) has determined that the expenditure of federal funds by MPOs shall be subject to all state requirements, laws and regulations even where such laws conflict with federal laws, regulations and requirements. This limits the ability of the Florida MPOs to use federal funds for their intended purpose and impinges on their ability to carry out their responsibilities as outlined in federal rule. This proposal would clarify that federal monies passed through the State of Florida to MPOs and the Florida MPO Advisory Council (MPOAC) shall not be regarded as state funds for purposes of expenditure.

# Florida Metropolitan Planning Organization Advisory Council



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**MPOAC**

**The Florida Metropolitan Planning Organization Advisory Council**

*Mayor Susan Haynie*  
*Chair*

## **Legislative Update for the week ending** **09/15/2017**

### **Overview**

Greetings and welcome to the first MPOAC legislative update for the 2018 Florida legislative session. While the session officially begins January 9<sup>th</sup>, 2018, many activities are already taking place which will lead us into the session. This week the House and Senate Committees were to meet until an uninvited guest by the name of Irma came through Florida and made a mess of things. Committee meetings for this week were wisely cancelled. There will be committee meetings in the next few months and bills are being filed for the upcoming session.

Below are the dates of events for the 2018 legislative session, and included in this legislative update is a listing of bills filed thus far in the session. Updates will occur on an as needed basis until the official start of the 2018 legislative session, then your MPOAC updates will be issued weekly.

A few bills have been filed, many more will be filed over the coming months. Your MPOAC Legislative Update will keep you apprised of newly filed bills.

Grab a cup of coffee and enjoy the MPOAC Legislative Update.

### **Important Dates for the 2018 Legislative Session**

- August 01, 2017 – Deadline for filing claim bills
- November 17, 2017 - Deadline for submitting requests for drafts of general bills and joint resolutions, including requests for companion bills
- January 5, 2018 – Deadline for approving final drafts of general bills and joint resolutions, including companion bills
- January 9, 2018 - Regular Session convenes, deadline for filing bills for introduction
- February 24, 2018 - All bills are immediately certified, motion to reconsider made and considered the same day
- February 27, 2018 - 50th day, last day for regularly scheduled committee meetings
- March 9, 2018 - 60th day, last day of Regular Session

**Committee Meeting schedule prior to the official  
Legislative Session beginning on January 9th**

October 2017 - Week of the 9th  
October 2017 - Week of the 23rd  
November 2017 - Week of the 6th  
November 2017 - Week of the 13th  
December 2017 - Week of the 4th

**Legislation of interest to the membership**

This is a summary of bills filed and published on the legislature's website as of September 15, 2017. More bills will be filed during the 2018 session and as they are made available the newly filed bills will be added to this list. The bills are listed in numerical order for your convenience. As the session and bills progress, this ordering of bills will make it easier to follow the status of any particular bill you are tracking.

**SB 72: Use of Wireless Communications Devices While Driving – (Garcia – Co-Introducers: Rodriguez; Mayfield)** - Revising the legislative intent relating to the authorization of law enforcement officers to stop motor vehicles and issue citations to persons who are texting while driving; requiring deposit of fines into the Emergency Medical Services Trust Fund, etc. Referred to Communications, Energy, and Public Utilities; Transportation; Appropriations Subcommittee on Transportation, Tourism, and Economic Development; Appropriations.

**SB 90: Use of Wireless Communications Devices While Driving – (Perry)** – Identical to SB 72. Referred to Communications, Energy, and Public Utilities; Transportation; Appropriations Subcommittee on Transportation, Tourism, and Economic Development; Appropriations

**SB 116: Operation of Vehicles – (Baxley – Co-Introducers: Passidomo)** - Requiring drivers to vacate lanes closest to, or reduce speed and pass, vulnerable road users, authorized emergency, sanitation, and utility service vehicles or workers, and wrecker operators under certain circumstances, subject to certain requirements, etc. Referred to Transportation; Appropriations Subcommittee on Transportation, Tourism, and Economic Development; Appropriations.

**HB 117: Operation of Vehicles – (Stone)** - Companion Bill to SB 116. Referred to Transportation and Infrastructure Subcommittee; Government Accountability Committee.

**HB 121: Texting While Driving – (Slosberg; Stark)** – Similar to SB 72 and SB 90. Revises short title & legislative intent; revises penalties for violations of provisions re: texting while driving; provides enhanced penalties for violations committed in school zones & crossings; requires law enforcement agencies to adopt policies prohibiting racial profiling in enforcement; removes requirement that enforcement be accomplished as secondary action. Referred to Transportation and Infrastructure Subcommittee; Judiciary Committee; Government Accountability Committee.

**SB 206: Highway Memorial Markers – (Perry)** – Requiring the Department of Transportation to establish a process, including the adoption of any forms deemed necessary by the department, for submitting applications for installation of a memorial marker; authorizing the department to

install a certain sign at no charge to an applicant; authorizing an applicant to request an emblem of belief not specifically approved by the United States Department of Veterans Affairs National Cemetery Administration for incorporation in a memorial marker, subject to certain requirements, etc. Referred to Transportation; Appropriations Subcommittee on Transportation, Tourism, and Economic Development; Appropriations.



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**SUMMARY**

The PSTA Legislative Committee met on September 6, 2017 and developed a draft of its 2018 Federal Legislative Agenda, which was approved by the PSTA Board on September 27, 2017. The following items are included on PSTA's 2018 federal legislative agenda:

1. Support funding for Small Starts Projects under the Federal Transit Administration (FTA) Capital Investment Grant program
2. Support the continued federal investment in transit infrastructure
3. Include ridership data for Mobility of Demand passengers of PSTA in the calculations used by FTA to determine future transit capital funding levels for transit agencies
4. Monitor the development of a new national infrastructure program
5. Monitor the movement of legislation related to autonomous vehicles
6. Raise awareness of the need for federal support of Transportation for the Disadvantaged programs

**ATTACHMENT(S):** PSTA 2018 Federal Legislative Agenda

**ACTION:** None required; informational item only



## **PSTA 2018 Federal Legislative Agenda**

### **1. Support funding for Small Starts Projects under the Federal Transit Administration (FTA) Capital Investment Grant program**

Discretionary funding is included in the annual federal Transportation Appropriations Bill for Small Starts Projects. Grants under this program are for capital costs associated with new fixed guide way systems, extensions, and bus corridor improvements, such as bus rapid transit (BRT) routes. The PSTA legislative team will work to support the highest level of funding possible in Fiscal Years 2018 and 2019 for small starts projects. This will include working directly with the Secretary of Transportation and new FTA Administrator to advocate the highest level of funding for small starts and with the House and Senate Transportation Appropriations Subcommittee leadership, members and staff.

### **2. Support the continued federal investment in transit infrastructure**

The Trump Administration proposed eliminating funding for most FTA Capital Investment Grant programs. The House and Senate, in their Fiscal Year 2018 transportation appropriations bills, turned aside that recommendation and continued to provide funding for these programs that include the Small Starts, Bus and Bus Facilities, and the Low or No Emission Vehicle Deployment Programs. The Senate also funded the TIGER grant program at \$550 million in Fiscal Year 2018, \$50 million more than the Fiscal Year 2017 level. The Administration and the House proposed eliminating the program. The PSTA legislative team will work with the Trump Administration and the House and Senate Appropriations Committees to advocate for the highest level of funding possible for this programs in the final Fiscal Year 2018 transportation appropriations bill.

### **3. Include ridership data for Mobility of Demand passengers of PSTA in the calculations used by FTA to determine future transit capital funding levels for transit agencies**

Because Mobility on Demand services are relatively new travel options provided by public transit agencies, FTA formulas do not take into account this ridership data when determining federal capital funding that might be available for public transit providers. From visits earlier this year with FTA staff, we know that FTA will need direction from Congress before the agency will change its rules to allow for innovative first-mile/last-mile connecting service ridership to count as regular transit ridership. The PSTA legislative team and PSTA staff has been working to raise the awareness of the Congressional Committees of jurisdiction of the need to update these formulas. Brad



Miller has addressed this issue in front of Congressional and trade association panels and VSA will look for opportunities for members of Congress to raise this issue during appropriate hearings with Administration witnesses, and if necessary, draft legislation to direct FTA to update these formulas. The team also will work with Mobility of Demand service providers to build a coalition with public transit associations to advocate this change in policy.

**4. Monitor the development of a new national infrastructure program**

President-elect Trump has advocated for a decade-long investment to upgrade national infrastructure to include transportation and other types of infrastructure. While it is unclear how this program will be funded, the President has talked about investment levels in excess of \$1 trillion, based on \$200 billion of federal spending over ten years. The PSTA legislative team will monitor the development of any new infrastructure programs as proposed by the Administration and the response by Congress to those proposals. The team also will work with national transit associations to support those proposals that provide expanded support for PSTA capital projects and improve and increase options available to public transit riders.

**5. Monitor the movement of legislation related to autonomous vehicles**

Congress has held extensive hearings on the broad range of public policy issues related to the technology, standards, and legal ramifications related to the deployment of autonomous vehicles. Those hearings have resulted in legislation being drafted and committee consideration of those bills. To this point, these efforts have not focused on the public transit use of autonomous vehicles. VSA will work with the national trade associations to identify opportunities for legislation to support technologies that enhance public transit services.

**6. Raise awareness of the need for federal support of Transportation for the Disadvantaged programs**

PSTA has been a statewide leader in encouraged greater support for Transportation for the Disadvantaged programs throughout Florida. VSA and the PSTA staff will identify opportunities to encourage the development of federal programs in this regard. FTA already provides federal grants for Rides to Wellness programs and PSTA is the recipient of an FTA Mobility on Demand Sandbox grant to develop more user friendly and cost effective paratransit services.

## **2018 PSTA Federal Affairs Strategy and Timeline**

**Fall 2017** – Secure federal letters of support for Central Avenue/BRT Small Starts project.

**Fall 2017** – Work with FTA, DOT, and the White House Office of Management and Budget to ensure that the Central Avenue/BRT project is included on the list of Small Starts projects that is submitted to Congress with FTA's Fiscal Year 2019 budget request.

**Fall 2017** – Monitor final disposition of Fiscal Year 2018 appropriations bills to ensure full funding for FTA Capital Investment Grant Programs, most importantly the Small Starts Program.

**Fall 2017** – Monitor the possible development of federal infrastructure legislation to ensure that direct federal funding for public transit programs is included in the package. In addition to traditional bus and bus facilities programs, emphasis could be given on the use of technology to improve transit and paratransit services, an area where PSTA has been a national leader.

**February 2018** – President Trump submits his Fiscal Year 2019 budget request to Congress. This kicks off the Congressional appropriations cycle. Special focus needs to be given to full funding for FTA Capital Investment Grant Programs, most notably the Small Starts Program since the Central Avenue/BRT project will be ready for funding in this cycle.

**Late February 2018** – VSA, on behalf of PSTA, will help generate letters from the Tampa Bay area Congressional Delegation to the House and Senate Appropriations Committees, requesting full funding of the FTA Capital Investment Grants program in the FY 2019 bills, with an emphasis on full funding of the proposed Small Starts projects.

**Late February/Early March 2018 --** It is important that PSTA Board members schedule a Washington visit to advocate for Small Starts funding and for the Central Avenue/BRT project. Key meetings would be with Senators Nelson and Rubio and Congressmen Crist and Bilirakis along with the Chairmen and Ranking Democrat members on the Appropriations Committees. It will be important to coordinate with the Florida Public Transportation Association to make sure that transit agencies across the state contact their Florida members of Congress.

**March 18-20, 2018** – APTA Legislative Conference in Washington.

**April - July 2018** – VSA will monitor Congressional committee markups of the FY 2019 Transportation Appropriations bills and provide timely updates to the PSTA Board and staff. If necessary, VSA will secure calls from the Tampa Bay area Congressional Delegation to the Chairmen of the House and Senate Appropriations Subcommittee seeking full funding of the proposed FTA Small Starts budget and the listing of the Central Avenue BRT project in their respective appropriations bills.

**May 8-9, 2018** – APTA Bus and Paratransit Conference **in Tampa**. This technical, educational program covers operations and maintenance, accessibility and paratransit, integrated mobility and transformative technology, first- and last-mile transportation, safety and security, planning and sustainability, funding and finance, capital programs, procurement, and workforce development. Participate in the Maintenance Managers Workshop and BRT DBE Academy Training, National Transit Institute training courses, Bus Display, Products & Services Showcase, and technical tours. Bus and paratransit system employees and managers, Board members, contractors, suppliers, manufacturers, and consultants attend this event.

**September 2018** – Congress is scheduled to complete final action on the Fiscal Year 2019 Transportation Appropriations Bill, although it may slip until the end of the calendar year. PSTA Board members may need to make one last push in support of Small Starts funding and the Central Avenue/BRT project.

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The VSA team will provide the PSTA Board and staff with regular updates about the progress of the Transportation Appropriations bills, and other transportation-related legislation and regulations that may be of interest. The VSA team continues to be available to attend your Legislative Committee and Board meetings when your Board members and staff think it would be helpful.

Finally, your VSA team will work with the PSTA Board and staff to find ways in which PSTA can partner with HART, the Florida Public Transportation Association, the American Public Transportation Association, the Bus Coalition, and other national, state, and local organizations in sharing a unified message with senior Congressional leaders and the Florida Delegation on key appropriations and legislative measures. We also are available to engage with national transit associations when appropriate.

**6. Potential Legislative Priorities**

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**SUMMARY**

In the past, Forward Pinellas has advocated for various changes in state law and funding for projects and initiatives that align with community and organizational goals. Most recently, the board was successful in its support of a \$300,000 legislative request for a multi-use trail spur within Honeymoon Island State Park. Moving forward this practice will formally begin with a discussion with the Legislative Committee who will recommend a set of potential legislative priorities for review, discussion, and action by the entire board. Please keep in mind that the Legislature and Governor agreed to hold this year's session early beginning on January 9, 2018.

The committee will discuss and make recommendations for the board regarding potential legislative priorities to include:

- Waterborne Transportation Capital Grant Program
- Tampa Bay Partnership Regional Transportation Planning
- Texting While Driving as a Primary Offense
- Discretionary Sales Surtax

**ATTACHMENT(S):**

- Tampa Bay Partnership Regional Transportation Planning Support Flyer
- Proposed Resolution in Support of Texting as a Primary Offense
- Memorandum RE: Discretionary Sales Surtax

**ACTION:** Committee to discuss and make recommendations as deemed appropriate

# T A M P A B A Y PARTNERSHIP

## REGIONAL TRANSPORTATION PLANNING

*Support the creation of a regional Metropolitan Planning Organization (MPO)*

Multiple county-based decision making channels hinder the planning, development and implementation of an effective regional transportation system connection all of Tampa Bay. A consolidated, multi-county MPO would make Tampa Bay more competitive in pursuing state and federal transportation funding, and facilitate a regional decision-making process for long-range transportation plans.

### STATUTE CHANGES TO SECTION 339.175, F.S.



**Eliminates 25-member limit on MPO voting membership**



**Eliminates requirement that County Commissioners compose at least one-third of MPO voting membership in instances where fewer than all of the County Commissioners serve as voting members of a single county MPO**



**Eliminates requirement that County Commissioners compose no less than 20 percent of MPO voting membership in instances where an official of an agency that operates or administers a major mode of transportation (port, airport, transit agency, etc.) has been appointed to the MPO**

*Right now, certain portions of Florida Statute place requirements on the composition of MPO membership that exceed those outlined in federal law. Some of these state requirements have been cited as factors that would complicate an open look at restructuring MPOs. Removal of these extra regulations would not require expansion of MPO voting membership, nor would it preclude a certain ratio of County Commissioners from serving on an MPO; rather it would allow communities to put in place a structure that fits their unique needs and circumstances.*

***A RESOLUTION OF THE (insert local government) URGING THE FLORIDA LEGISLATURE TO ENACT LEGISLATION THAT WOULD MAKE TEXTING WHILE DRIVING A PRIMARY OFFENSE.***

**WHEREAS**, in 2015 there were 476 fatalities and an estimated 30,000 injuries related to **texting** while driving in the United States, according to the [National Highway Traffic Safety Administration \(NHTSA\)](#), and

**WHEREAS**, texting while driving is a form of distracted driving, and;

**WHEREAS**, distracted driving claimed 3,477 lives in 2015, according to the NHTSA, and;

**WHEREAS**, according to the Florida Department of Highway Safety and Motor Vehicles, texting while driving requires all three types of driver distraction including visual, manual, and cognitive distraction, and;

**WHEREAS**, the National Safety Council reports that the risk of a crash is 4 times more when a cell phone is in use, and;

**WHEREAS**, the NHTSA reports that texting drivers take their eyes off the road for an average of 4.6 seconds, which at the speed of 55mph is equivalent to driving the length of driving football field, and;

**WHEREAS**, drivers who text while driving endanger not only themselves but other motorists, bicyclists, and pedestrians in their proximity, and:

**WHEREAS**, the degree of cognitive distraction associated with mobile phone use is so high that drivers using mobile phones exhibit greater impairment than legally intoxicated drivers, according to a University of Utah study, and;

**WHEREAS**, of the 47 states that have banned texting while driving, all but four have made texting while driving a primary offense, while Florida is among the four states that do not enforce texting while driving as a primary offense, but instead as a secondary offense, and;

**WHEREAS**, a secondary offense is an offense for which a law enforcement officer can issue a ticket **only** if a driver has been pulled over for committing another traffic violation, and;

**WHEREAS**, the concern of the American public over distracted driving has grown exponentially, resulting in the first-ever national distracted driving enforcement and advertising campaign as well as the recognition of April as Distracted Driving Awareness Month each year by the United States Department of Transportation, and;

**WHEREAS**, Florida citizens' concern over distracted driving has grown considerably, leading to the Florida Department of Transportation unveiling two campaigns: the Put It Down Campaign to raise awareness of the problem of distracted driving and Safe Phone

Zones which designate 64 spots throughout the state where drivers are encouraged to pull in to safely use their cellphones.

BE IT RESOLVED BY THE (insert local government) OF THE (insert the word "City" or "County") OF (insert name):

Section 1. The (insert local government) urges the Florida Legislature to enact legislation that would make texting while driving a primary offense.

Section 2. The (insert local government) hereby directs the (insert clerk) to transmit a certified copy of this resolution to the governor of Florida, President of the Florida Senate, Speaker of the Florida House of Representatives, and the (insert county) State Legislative Delegation.

Section 3. If any section, subsection, clause or provision of this resolution is held invalid, the remainder shall not be affected by such invalidity.

Section 4. All resolutions or parts of resolutions in conflict herewith shall be and hereby are repealed.

Section 5. This resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED by (insert local government) this \_\_\_\_ day of \_\_\_\_\_, 2017.

ATTEST:

## MEMORANDUM

**TO:** Harry Barley, Executive Director, MetroPlan Orlando

**FROM:** Steven R. Bechtel, Jay W. Small, Mateer & Harbert, P.A.

**DATE:** June 28, 2017

**RE:** Discretionary sales surtax

### Issues:

First, under the current statutory authorization, can two or more charter counties, based on an affirmative majority vote of the electorate in the counties, implement a regional discretionary sales surtax, despite the lack of a majority vote by the electorate in each county?

Second, assuming the answer to the first question is in the negative, what are the potential legal obstacles to amending to §212.055(1)(a), Fla. Stat. (2017) to authorize two or more charter counties to implement a regional discretionary sales surtax based on an affirmative majority vote of the combined electorate of the counties? Related to this second question is whether there are any legal impediments to an amendment of §212.055(1)(a) which would make the statute applicable to counties based on population classifications and thresholds.

### Summary Conclusions:

In response to the first question, §212.055(1)(a) currently precludes a combined vote by two or more charter counties.

In response to the second question, no specific language has been reviewed relating to a potential change in the statute. Therefore, hypothetically, if the Legislature amended §212.055(1)(a) so that it was applicable to all counties without regard to population thresholds, it likely would be regarded as a valid general law. If the Legislature amended §212.055(1)(a) to incorporate population thresholds, provided that there is a reasonable probability that other counties could enter the population classification in the future, an amendment to §212.055(1)(a) would likely be regarded as a valid general law. Similarly, §212.055 would have to be amended to authorize a regional discretionary sales surtax by two or more non-charter counties.

### Analysis:

#### *I. Plain Language of §212.055*

Discretionary sales surtaxes are governed by §212.055. The introduction to §212.055 provides:

It is the legislative intent that any authorization for imposition of a discretionary sales surtax shall be published in the Florida Statutes as a subsection of this section,



irrespective of the duration of the levy. Each enactment shall specify the types of counties authorized to levy; the rate or rates which may be imposed; the maximum length of time the surtax may be imposed, if any; the procedure which must be followed to secure voter approval, if required; the purpose for which the proceeds may be expended; and such other requirements as the Legislature may provide. Taxable transactions and administrative procedures shall be as provided in s. 212.054.

Section 212.055(1)(a) provides:

Each charter county that has adopted a charter, each county the government of which is consolidated with that of one or more municipalities, and each county that is within or under an interlocal agreement with a regional transportation or transit authority created under chapter 343 or chapter 349 may levy a discretionary sales surtax, *subject to approval by a majority vote of the electorate of the county* or by a charter amendment approved by a majority vote of the electorate of the county. (Emphasis added).

The plain language of §212.055(1)(a) currently precludes an aggregated majority vote by the electorate of two or more charter counties. The first independent clause of the statute lists three different situations under which each charter county may levy a discretionary sales surtax. By listing these three situations, the Legislature excluded other possible scenarios. This is borne out by the phrase beginning, “*subject to approval*” in the second independent clause. This phrase, read in conjunction with the preceding clauses, contemplates the approval by a majority of a charter county’s electorate, not the majority of the aggregate electorate of two or more charter counties.

## **II. Amendment to §212.055(1)(a)**

This memorandum is focused solely on §212.055(1)(a), not revenue measures under the Infrastructure Sales Tax, §212.055(2), Fla. Stat. (2017). Subsection 212.055(2)(d)1 does not authorize a regional discretionary sales surtax which may only be implemented under §212.055(1)(a). Section 212.055(2)(d)1 does not authorize the levy of a regional discretionary sales surtax.

Based on the existing statute’s text, an amendment to §212.055(1)(a) would be required to permit a discretionary regional sales surtax by two or more charter counties. This memorandum next considers whether such an amendment may be enacted as a special law, a general law of local application, or a general law based on a valid population classification.

### **a. Special Laws**

A *special* law relates to, or is designed to operate upon, particular persons or things in a specifically indicated part of the state, or upon classified persons or things or within classified territory when the classification is not permissible or illegally adopted. *Angelo’s Aggregate Materials, Ltd. v.*

*Pasco County*, 118 So.3d 971 (Fla. 2d DCA 2013). There are specific constitutional limitations on the enactment of a special law in Art. III, §10 of the Florida Constitution which provides that

No special law shall be passed unless notice of intention to seek enactment thereof has been published in the manner provided by general law. Such notice shall not be necessary when the law, except the provision for referendum, is conditioned to become effective only upon approval by vote of the electors of the area affected.

These safeguards on the enactment of a special law require specific notice by the Legislature or approval by the electors of the county or area in which it will apply. Thus, a special law is unconstitutional if it is not adopted in accordance with Art. III, § 10 and applies only in a particular geographic location without a valid basis to distinguish that location from another.

**b. General Laws of Local Application**

It is unlikely that an amendment to §212.055(1)(a) based on reasonable population thresholds would be subject to challenge. Besides the limitations on special laws in Art. III, §, 10, Art. III, § 11 prohibits certain enumerated categories of special laws **and** general laws of local application which operate within a particular area of the state or upon specific classes when the classification is illegal. Relevant to this memorandum, Art. III, §11 (a)(2) prohibits the enactment of a general law of local application pertaining to the “**assessment or collection** of taxes for state or county purposes, including extension of time therefor, relief of tax officers from due performance of their duties, and relief of their sureties from liability.” (Emphasis added).

Despite these proscriptions against special laws and general laws of local application, Art. III, § 11(b) provides that local political subdivisions **may** enact general laws on **other subjects** besides those prohibited by Art. III, §11(a) if those general laws are based on classifications reasonably related to the subject of the law. A law relating to subdivisions of the state or to subjects, persons, or things as a class is a valid general law if the classification is based upon proper differences which are inherent in or peculiar to the class. *Schrader v. Florida Keys Aqueduct Authority*, 840 So. 2d 1050 (Fla. 2003). If the purpose of the statute is one of statewide importance and impact, and the classification is reasonably related to the law’s purpose, it is a valid general law and will not be regarded as general law of local application in violation of Art III, §11(a)(2).

Concerning an amendment to §212.055(1)(a) based on reasonable population based classifications, the Florida Supreme Court has interpreted Art. III, §11(b) to proscribe only local enactments bearing on the mechanics of tax assessment and collection. *Metropolitan Dade County v. Golden Nugget Group*, 464 So.2d 535 (Fla. 1985) (*Golden Nugget II*). *Golden Nugget II* affirmed the Third District Court of Appeal’s decision in *Metropolitan Dade County v. Golden Nugget Group*, 448 So.2d 515 (Fla. 3<sup>rd</sup> DCA 1974) (*Golden Nugget I*). *Golden Nugget I* involved a challenge by a group of hotel and motel owners to a county ordinance enacted pursuant to §212.057, Fla. Stat. (1983). That statute authorized certain counties to levy a convention development tax on specified rental and lease agreements. Pursuant to the statutory authorization, Dade County adopted an ordinance which levied the tax and provided for the collection, distribution, and application of the revenues. *Id.* at. 517.

Three counties potentially could have implemented the tax. The district court affirmed the circuit court's summary judgment holding that Dade County's ordinance was invalid. Regarding the statutes, the hotel and motel owners also argued that they were unconstitutional as (1) improperly enacted special or local acts, as (2) violations of equal protection or due process, and as (3) an unconstitutional special law or general law of local application pertaining to the assessment and collection of taxes in contravention of the proscription in Art. III, §11(a)(2). *Id.* at 519.

The district court upheld the constitutionality of the statutes as valid general laws with classifications reasonably related to the subject matter of the laws. *Id.* at 522. In rejecting constitutional challenges to the statutes, the court noted that Art. III, §10(a)(2)'s proscription only applies to local enactments bearing on the mechanics of tax assessment and collection and not as a prohibition against "special acts or general laws of local application that empower local government to levy or impose a tax." *Id.* at 519.

The district court's ruling, which rejected these constitutional arguments, was affirmed by *Golden Nugget II*, 464 So.2d at 535. The Florida Supreme Court ruled that there is a presumption in favor of a classification's reasonableness in the legislative enactment of general laws. *Id.* at 537. See also, *Department of Legal Affairs v. Sanford – Orlando Kennel Club, Inc.*, 434 So.2d 879, 883 (Fla. 1983) (classifications of financially ailing harness racing facilities).

**c. General Laws Based on Valid Population Thresholds**

Orange, Seminole and Osceola Counties are charter counties, possessing home rule powers. The constitution authorizes the subdivision of the state into county political units. Art. VIII, § (1)(a). Art. VIII, § (1)(c) directly confers upon charter counties a broad grant of power. "Counties operating under county charters shall have all powers of local self-government not inconsistent with general law, or with *special law approved by vote of the electors*. The governing body of a county operating under a charter may enact county ordinances not inconsistent with general law. The charter shall provide which shall prevail in the event of conflict between county and municipal ordinances." Art. VIII, § (1)(g), Fla. Const.; *Lowe v. Brevard County*, (Fla. 4<sup>th</sup> DCA 2000).

Charter counties have all powers of local self-government not inconsistent with *general law* or with *special law* approved by vote of the electors. Art. VIII, § 1(g), Fla. Const. *Speer v. Olson*, 367 So. 2d 207 (Fla. 1978); *Citizens for Reform v. Citizens for Open Government, Inc.*, 931 So. 2d 977 (Fla. 3<sup>rd</sup> DCA. 2006). By contrast, non-charter counties have a broad grant of *legislative* home rule power which are subject to "general or special law." Art. VIII, § (1)(f), Fla. Const.

A *general law* operates uniformly throughout the state with some permissible classifications or relates to a state function or instrumentality. *Pasco County*, 118 So. 3d at 975; *Village of Wellington v. Palm Beach County*, 941 So. 2d 595 (Fla. 4th DCA 2006). A general law operates universally throughout the state. *State, Dept. of Business and Professional Regulation, Div. of Pari-Mutuel Wagering v. Gulfstream Park Racing Assn., Inc.*, 912 So. 2d 616 (Fla. 1st DCA 2005), *aff'd*, 967 So. 2d 802 (Fla. 2007).

Related to this second issue is whether the Legislature could amend §212.055(1)(a) to be applicable to counties based on a population classification. Art. III, §11(b) expressly allows for

charter counties to enact laws based on reasonable classifications. Art. III, §11(b) provides,

In the enactment of general laws on other subjects, political subdivisions or other governmental entities may be classified only on a basis reasonably related to the subject of the law.

General laws may allow for reasonable population based classifications. *Lewis v. Mathis*, 345 So.2d 1066 (Fla. 1977). In *Lewis*, the Florida Supreme Court upheld a statute which established the salaries of county court judges based on the population of the county. *Lewis* recognized that the Legislature has wide discretion in choosing a classification, and therefore that classification carried a presumption of validity. *Id.* at 1068. The court reiterated that the impact of an area's population on the area's social character has long been realized by Florida courts. The test of validity of a statute based on a population-based classification is whether the classification is potentially applicable to other political subdivisions of the state with the same population. *Id.*

The Florida Supreme Court has upheld the validity of population based statutory classifications if there is a reasonable probability of other local governments entering the population classification in the future. *City of Miami v. McGrath*, 824 So.2d 143, 146, 151 (Fla. 2002) (addressing a statute which authorized only municipalities with populations of more than 300,000 on a date certain to impose a parking tax, and holding that the statute was a special law because its express terms limited its application and excluded any other municipalities from joining the class in the future); *Dep't of Bus. Regulation v. Classic Mile*, 541 So.2d 1155, 1158 n. 4 (Fla.1989) (declaring statute unconstitutional because conditions only applied to Marion County, could never apply to others, and the appellants made no attempt to demonstrate a reasonable relationship between the classification and the subject of the statute); *W. Flagler Kennel Club, Inc. v. Fla. State Racing Comm'n*, 153 So.2d 5, 8 (Fla. 1963) (holding the statute applicable only to Broward County and noting that the appellants failed to attempt to demonstrate a reasonable relationship between the classification and the subject of the statute). Read together, these cases instruct that the criterion that determines if a reasonable relationship exists between the classification adopted and the purpose of the statute is whether the classification is potentially open to additional parties. *License Acquisitions, LLC v. Debary Real Estate Holdings, LLC*, 155 So.3d 1137, 1143 (Fla. 2014).

The Florida Supreme Court has upheld the constitutionality of general laws regarding the levy of discretionary surtaxes by a county. *Thomas v. Department of Revenue*, 466 So.2d 1069 (Fla. 1985) (§§125.0167 and 201.031 authorizing discretionary documentary sales surtax for purposes of assisting low and moderate income families not an invalid local or special law), *approving*, *Thomas v. Department of Revenue*, 453 So.2d. 192 (Fla. 3<sup>rd</sup> DCA 1984).

Based on the foregoing, the existing version of §212.055(1)(a) is a general law, not a special law. If an amendment to §212.055(1)(a) is not geographically limited and applied uniformly throughout the state it would be regarded a general law. To effectuate a scheme like that posed in the question, the counties will have to enter into agreements with one another as authorized by §125.01(p)(w) Fla. Stat. (2017). Counties also possess all implied power necessary or incident to the carrying out of enumerated powers. *See* 125.01(3)(a), Fla. Stat. (2017). To implement the changes, the charter counties comprising MetroPlan will need to adopt routine ordinances for voter referenda and to

authorize the required interlocal agreements under §§125.01(3)(a) and 125.01(p)(w).

Further, if §212.055(1)(a) is amended to apply to counties based on population thresholds, provided that other counties could enter the class, it is likely that the amendment would be regarded as a valid population based statutory classification, immune from constitutional challenge.

### ***III. Non-Charter Counties***

Although this memorandum addresses amendments to §212.055(1)(a) in the context of charter counties possessing home rule powers, non-charter counties similarly could participate in implementation of a regional discretionary sales surtax assuming a statutory amendment.

Non-charter counties have only those powers delegated to them by the Legislature. Art. VIII, § 1(f) provides as follows:

Counties not operating under county charters shall have such power of self-government *as is provided by general or special law*. The board of county commissioners of a county not operating under a charter may enact, in a manner prescribed by general law, county ordinances not inconsistent with general or special law, but an ordinance in conflict with a municipal ordinance shall not be effective within the municipality to the extent of such conflict. (Emphasis added).

Charter and non-charter counties would need to be included in the text of any proposed amendment to §212.055.

### ***IV. Conclusions and Next Steps***

If the Legislature amended §212.055(1)(a) to be applicable to all counties without regard to population thresholds, it likely would be regarded as a valid general law. If the Legislature amended §212.055(1)(a) to incorporate population thresholds, provided that there is a reasonable probability that other counties could enter the population classification in the future, an amendment to §212.055(1)(a) would likely be regarded as a valid general law. These conclusions do not change whether the affected counties are charter or non-charter counties.

If the MetroPlan Board is supportive of amending §212.055(1)(a), several steps will need to be taken to implement the regional discretionary sales surtax. The major steps are summarized below:

1. State legislative and executive branch enactment of an amendment to §212.055(1)(a);
2. Potential approval of referenda by the electors of the affected counties;
3. Negotiation of interlocal agreements to implement a regional discretionary sales surtax; and,
4. Adoption of local county ordinances and resolutions approving interlocal agreements.