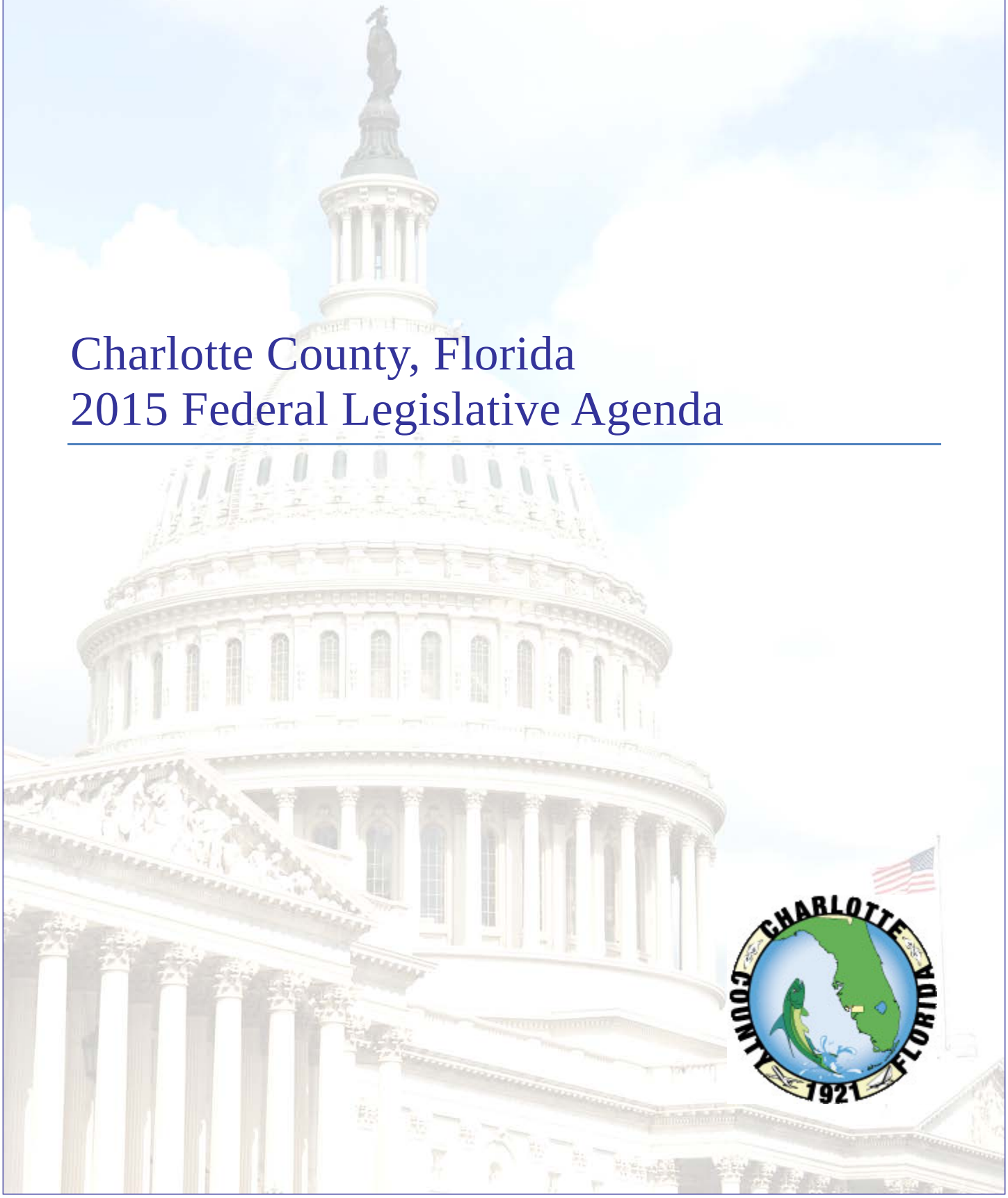
Charlotte County, Florida
2015 Federal Legislative Agenda



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January 2015

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Water Resources and Environment

National Flood Insurance Program

Support efforts to improve the National Flood Insurance Program for the benefit of all participants. ***Monitor*** FEMA's implementation of the Homeowner Flood Insurance Affordability Act.

RESTORE Act

Monitor the resolution of the civil trial between BP and the Department of Justice, including allocation of fines. ***Monitor*** Federal implementation of the RESTORE Act to ensure continued benefit to Charlotte County. ***Support*** efforts to secure funding for Charlotte County.

Waters of the United States

Monitor activity related to the EPA's proposed rule on Waters of the U.S. ***Oppose*** any aspects of the proposed rule that could lead to unrealistic and over-burdensome regulations that would negatively affect Charlotte County.

Charlotte Harbor Conservation; Central Sewers

Support efforts to secure funding for Charlotte County sewer system expansion.

Shoreline and Inlet Management

Monitor opportunities for Federal involvement in a solution at Stump Pass or on Knight Island and Manasota Key to address sediment management and erosion of beaches, and to provide for safer navigation. ***Monitor*** the Federal Emergency Management Agency's future interpretation of Eligible Sand Replacement on Public Beaches fact sheet.

Energy Exploration

Monitor the potential expansion of energy exploration in Florida.

Transportation

Transportation Authorization

Support full funding of transit programs to their MAP-21 authorized levels. ***Monitor*** proposed changes to Federal highway and transit programs. ***Monitor*** efforts to enhance Federal transportation revenue streams. ***Support*** any and all opportunities to secure funding for Charlotte County priorities via this legislation or other means, including Piper Road and Burnt Store Road.

Federal Aviation Administration Authorization

Support $3.35 billion in annual appropriations for the Airport Improvement Program. ***Support*** Charlotte County Airport Authority grant proposals through the FAA Airport Improvement Program. ***Support*** annual full and dedicated funding for the FAA Contract Tower Program.

Economic Development & Social Services

Excise Tax on High-Cost Health Insurance Plans

Support efforts to repeal the excise tax on high-cost health insurance plans (a.k.a. the Cadillac tax) within the Affordable Care Act.

Community Services Block Grants & the Low Income Home Energy Program
Monitor funding levels for the Community Services Block Grant and the Low Income Home Energy Program because of their critical role in the County's efforts to support those that are least fortunate. ***Support*** any applicable funding opportunities for the Human Services Department.

Economic Development Administration Programs
Support Charlotte County EDA grant applications as applicable, including potential applications for improvements to Parkside, Charlotte Harbor, and Murdock Village Community Redevelopment Areas or other infrastructure projects. ***Monitor*** continued funding of the Economic Development Administration.

Local Government Issues

Remote Sales-Tax Legislation
Support legislation that requires companies making catalog and internet sales to collect and remit the associated taxes.

Transient Occupancy Taxes
Oppose legislation that would exempt Internet travel brokers from paying taxes on the full room rate paid by the consumer, thereby costing Charlotte County and its political subdivisions the opportunity to collect the appropriate Transient Occupancy Taxes from visitors to the region.

Tax-Exempt Bonds
Oppose legislation that would threaten the tax exemption on state and local bonds, including a 28 percent cap on tax-exempt municipal bonds.

FEDERAL ISSUE: National Flood Insurance Program

BACKGROUND; HOW IT MAY AFFECT CHARLOTTE COUNTY: In 1968, Congress established the National Flood Insurance Program (NFIP) to address the nation's flood exposure and challenges inherent in financing and managing flood risks in the private sector. Private insurance companies at the time claimed that the flood peril was uninsurable and, therefore, could not be underwritten in the private insurance market. A three-prong floodplain management and insurance program was created to (1) identify areas across the nation most at risk of flooding; (2) minimize the economic impact of flooding events through floodplain management ordinances; and (3) provide flood insurance to individuals and businesses.

Until 2005, the NFIP was self-supporting, as policy premiums and fees covered expenses and claim payments. Today, the program is roughly $25 billion in debt due to a number of large storms, the most recent being Hurricane Sandy.

In mid-2012, Congress passed, and the President signed, a five-year reauthorization of the NFIP, which attempted to restore the program to firmer financial footing by making a number of changes to the program. This is known as Biggert-Waters (BW12).

Then, in early 2014, the Homeowner Flood Insurance Affordability Act (HFIAA), was enacted in an attempt to address some of the so-called unintended consequences of BW12.

HFIAA Implementation
While it is unclear if Congress will address flood insurance reform in the 114th Congress, FEMA will continue to spend significant time implementing HFIAA over the next year or more. This includes creating a Flood Insurance Advocate, allowing for option high-deductible policies for residential properties, communicating full flood risk determinations to property owners regardless of whether their premiums reflect such risk, implementing changes to how FEMA handles map revisions, complete a study of community-based flood insurance options, attempt to secure reinsurance of coverage provided by the NFIP from private markets, provide refunds to pre-FIRM primary homeowners who overpaid due to BW12, provide guidelines for property owners describing alternative means of flood mitigation, other than elevation, that can reduce flood risk and inform property owners about how mitigation can lower premiums, complete an Affordability Study and a "Draft Affordability Framework," allow for the monthly payment of flood insurance premiums, and report to Congress on the number of annual policy premiums that exceed one percent of the total coverage provided by the policy.

In late 2014, FEMA announced the opening of the Interim Office of the Flood Insurance Advocate and the appointment of an Interim Flood Insurance Advocate. The Acting Advocate and staff will focus on assisting the public as they navigate through these new NFIP processes by leveraging FEMA resources to address specific public inquiries or concerns. They will also develop a long-term regional mapping outreach and education strategy. FEMA noted that additional funding would be needed in order to fully install the permanent Office of the Flood Insurance Advocate and expand its role, but until then it would operate the office with existing resources.

Meanwhile, effective April 1, 2015, the first wave of NFIP rate increases resulting from HFIAA will be instituted. As noted above, HFIAA called for the NFIP to limit rate increases to no more than 18 percent

for any one policy with exceptions. However, FEMA has interpreted HFIAA to allow for the total amount charged to the policyholder to increase an average of 19.8 percent for all 5.5 million FEMA policies and an increase of 37 percent for certain policies.

The most notable exception is that older non-primary residences and older business properties will continue to see annual increases of up to 25 percent. However, because of a new mandatory $250 surcharge on certain properties, some may see a premium increase of 37 percent as of April 1, 2015.

This new mandatory surcharge and the Federal Policy fee found on every FEMA flood insurance policy are not considered premiums by FEMA, and thus are not subject to the limitations described in the HFIAA. FEMA has admitted that as a result, the increase in the total amount charged to a policy may exceed 18 percent.

Other Flood Insurance Legislation

Several pieces of legislation were introduced in the 113th Congress to address some of the shortcomings of HFIAA. For example, Rep. David Jolly (R-FL) introduced legislation in March 2014 that would further amend Biggert-Waters by extending the rate relief provided in H.R. 3370 to businesses and "owner-occupied" second homes. Specifically, H.R. 4313, the Flood Insurance Premium Parity Act of 2014 would: 1) Repeal the requirement that owner-occupied second homes and businesses be automatically charged actuarially sound rates; 2) Restore the grandfathered rates for these properties; and 3) Apply to these properties the 18 percent cap on yearly rate increases provided for selected primary homes in H.R. 3370. H.R. 4313 is cosponsored by Florida Reps. Gus Bilirakis (R), Kathy Castor (D), Patrick Murphy (D), and Lois Frankel (D). Rep. Jolly has reintroduced his bill in the 114th Congress as H.R. 141 with five Florida members of Congress as original cosponsors.

Meanwhile, Reps. Dennis Ross (R-FL) and Patrick Murphy (D-FL) introduced H.R. 4558, the Flood Insurance Market Parity and Modernization Act, in May 2014. This bill would clarify that private flood insurance products would be regulated by individual states instead of the Federal government, which is perceived to be better for insurers and is expected to create more opportunity for private insurance to proliferate. The House Financial Services Committee held a hearing on November 19, 2014 to discuss H.R. 4558, which had five additional cosponsors in the 113th Congress, including Florida Reps. Jolly and Gus Bilirakis (R). It is likely that this legislation will be reintroduced in the 114th Congress.

RECOMMENDED POSITION: ***Support*** efforts to improve the National Flood Insurance Program for the benefit of all participants. ***Monitor*** FEMA's implementation of the Homeowner Flood Insurance Affordability Act.

FEDERAL ISSUE: RESTORE Act

BACKGROUND; HOW IT MAY AFFECT CHARLOTTE COUNTY: In April 2010, an explosion at the Deepwater Horizon oil rig caused the worst oil spill in U.S. history with almost 5 million barrels of oil spilling into the Gulf of Mexico.

In the summer of 2012, Congress passed the RESTORE Act, which established the Gulf Coast Restoration Trust Fund, and mandated that 80 percent of Clean Water Act civil damages from the spill be allocated directly to the five impacted states, including Florida. The legislation also contained additional language related specifically to Florida as to how its allocation should be spent by a state consortium and individual counties along the Gulf.

Since the spill, BP has settled with the Federal government for $4.5 billion to resolve criminal charges against it. The company has also estimated that it will spend nearly $8 billion to provide compensation for economic damages. Finally, BP has agreed to provide an interim payment of $1 billion to repair natural resources via the Natural Resource Damage Assessment (NRDA) process. Based on the law, this last payment is tax-deductible for the company.

BP and the Department of Justice (DOJ) in the past attempted to negotiate a settlement to civil charges, but to no avail. A civil trial began in 2013, and in 2014, a U.S. District Court judge ruled that BP was "grossly negligent" in the Deepwater Horizon spill, citing the company's extreme measures to cut costs despite safety risks. This is significant because a ruling of "grossly negligent" increases the penalties BP would have to pay under the CWA to up to $4,300 per barrel. More recently, in January 2015, the same judge ruled that BP dumped 3.2 million barrels of oil into the Gulf during the disaster. The government had estimated a spill of 4.2 million barrels while BP had suggested the spill released 2.45 million barrels. These findings reduce the maximum fine BP may be forced to pay to $13.7 billion from a high of about $18 billion. BP is likely to appeal these decisions.

Those funds would flow to the Gulf States via the RESTORE Act. However, if DOJ and BP settle civil charges, or if the lawsuit is resolved under the NRDA process, the authority to spend the fines would remain with Federal agencies, not the states. BP would also receive a tax deduction for the amount of the fines. Nearly all Gulf Senators and many members of Congress have been united in their objection to a government settlement with BP under the NRDA process.

The Department of the Treasury is tasked with implementing the RESTORE legislation. The Treasury has drafted regulations to guide the delivery of any funds to the Gulf region and published an interim final rule in August 2014.

Meanwhile, DOJ in 2013 settled with Transocean for their role in the Deepwater Horizon spill. As a result of the agreement, Transocean will pay $1 billion in Clean Water Act fines, resulting in the first allocation of funding to be distributed via the RESTORE Act. From this initial settlement, Charlotte County will receive a direct allocation of $568,478.

The RESTORE Act also established the Gulf Coast Ecosystem Restoration Council (the Council). Thirty percent of the Trust Fund is to be used by the Council to develop and fund a Comprehensive Plan for the restoration of the entire Gulf Coast ecosystem. The Council includes the Secretaries of the Interior,

Commerce, Agriculture, the Administrator of the Environmental Protection Agency, Secretary of the Army for Civil Works, the head of the Coast Guard, and the Governors of each state. Project and program requests for initial funding from the Transocean settlement under the Council's Comprehensive Plan were due in late 2014.

Charlotte County's Federal Council Request
The County's Restoration of Water Quality in the Impaired Waters of Charlotte Harbor Project (the Project) is a large scale, multi-phased project focused primarily on achieving the water quality restoration goals of the Council's Initial Comprehensive Plan. The Project includes a comprehensive septic-to-sewer system conversion, construction of stormwater improvements, and the implementation of a public education campaign, all aimed at reducing bacteria and nutrients entering the impaired waters of Charlotte Harbor from the urbanized and coastal areas of Charlotte County.

The County advocated for inclusion of the Project as one of the Florida Department of Environmental Protection's (FDEP) five recommendations to the Council. FDEP submitted their recommendations to the Council, but did not select the Project as one of their initial suggestions for funding. There will be additional opportunities for FDEP to seek funding for the Project as additional funding is provided via the RESTORE Act.

RECOMMENDED POSITION: ***Monitor*** the resolution of the civil trial between BP and the Department of Justice, including allocation of fines. ***Monitor*** Federal implementation of the RESTORE Act to ensure continued benefit to Charlotte County. ***Support*** efforts to secure funding for Charlotte County.

FEDERAL ISSUE: Waters of the United States

BACKGROUND; HOW IT MAY AFFECT CHARLOTTE COUNTY: A series of decisions by the U.S. Supreme Court over the past decade imposed restrictions on the scope of wetland regulation governed by Section 404 of the Clean Water Act (CWA) that regulate "dredge and fill" activities in navigable waters and their adjacent wetlands. Opponents of these restrictions have urged Congress to redefine waters of the U.S. (WOTUS), and apply that definition to all aspects of the CWA.

As legislation along those lines failed to pass previous Congresses, the Environmental Protection Agency (EPA) and U.S. Army Corps of Engineers (ACOE) over the past several years developed guidance first, and now a proposed rule, to redefine WOTUS. There is concern that this effort may significantly expand the definition of WOTUS to include tributaries, ditches, canals, and other water bodies that can potentially drain into navigable waters, interstate waters, or the territorial seas.

The EPA claims that the proposed rule "does not protect any new types of waters that have not historically been covered under the CWA." However, the agency also says that "60 percent of stream miles in the U.S. only flow seasonally or after rain" but that they deserve protection under the CWA, and that "other types of waters" will have "protection….evaluated through a case specific analysis of whether the connection is or is not significant."

In 2014, the EPA and ACOE released the proposed rule to define waters of the U.S. subject to Clean Water Act jurisdiction. Many have concerns that the proposed rule is more than a recitation of water features subject to regulation under the Clean Water Act. Rather, the rule has been perceived to redefine WOTUS in new categories of water bodies that are already regulated under the Act as a point source, but not as a WOTUS. Such definition could trigger added regulation that could increase the cost and regulatory burden for all levels of government and permitted activities.

The public comment period for the rule closed in late 2014. The County commented, specifically seeking an exemption from WOTUS permitting requirements for routine maintenance practices, among other things. Under the proposed rules, the County is concerned it would become subject to Section 404 dredge and fill permits and Clean Water Act water quality standards every time it conducted routine maintenance duties on its over 192 miles of primary drainage ditches and 365 miles of canals, a requirement that would be inefficient and financially unfeasible. Specifically, the County suggested that flood control activities such as mowing, excavation to original design, bank stabilization, and the application of herbicides to clear the flow path, should be exempted from the WOTUS permitting requirement.

Overall, the EPA received more than 875,000 comments on the proposed rule. In comments submitted jointly by the National Association of Counties, National League of Cities, U.S. Conference of Mayors, National Association of Regional Councils, American Public Works Association, National Association of County Engineers, and the National Association of Flood & Stormwater Management Agencies, these organizations expressed that the rule must include the following provisions that are priority concerns for local governments:

- Separate municipal storm sewers will continue to be regulated and permitted under Section 402 of the Clean Water Act, and shall not be considered, either in their entirely or any individual feature thereof, waters of the U.S.;

- Green infrastructure developed to improve water quality or achieve multiple public benefits shall be encouraged and given priority consideration that does not impose additional financial and regulatory burdens of permittees and shall not be considered waters of the U.S.;
- Water delivery, reuse, and reclamation systems and facilities shall not be considered waters of the U.S.;
- Ditches and other drainage features that protect and ensure the operation of public infrastructure shall not be considered waters of the U.S.;
- Wastewater treatment systems and all associated infrastructure shall not be considered waters of the U.S.;
- Any proposal to regulate waters within a floodplain, riparian, or any other general area must include a specific definition, including the specific boundaries, of the floodplain, riparian, or other area subject to the rule; and
- The rule must include sufficient clarity and specificity to better inform regulators and permittees and to minimize the potential for litigation.

Meanwhile, the EPA's own Local Government Advisory Committee submitted 105 pages of comments, saying "there is no doubt that the proposed rule…should be modified" and that the EPA should "engage state, local, and tribal agencies in the rule development process."

Congress has paid increasing attention to this issue over the past year. In the fall of 2014, the House passed legislation through a bipartisan vote that would prevent the EPA from implementing the proposed rule. The White House issued a veto threat in response, saying the legislation "would derail current efforts to clarify the scope of the CWA, hamstring future regulatory efforts, and create significant ambiguity regarding existing regulations and guidance."

Ultimately, there was no provision included in the FY 2015 omnibus that would prevent the EPA from implementing the proposed WOTUS rule if it is finalized in 2015. However, with political control shifting for the 114th Congress, this issue is certain to continue to be a point of contention between Congress and the Administration for the foreseeable future.

POSITION: ***Monitor*** activity related to the EPA's proposed rule on Waters of the U.S. ***Oppose*** any aspects of the proposed rule that could lead to unrealistic and over-burdensome regulations that would negatively affect Charlotte County.

FEDERAL ISSUE: Charlotte Harbor Conservation; Central Sewers

BACKGROUND; HOW IT MAY AFFECT CHARLOTTE COUNTY: The health of Charlotte Harbor is critical to the future of Charlotte County. A significant issue that threatens the Harbor is the need to transition residents from older, often failing septic systems to central sewers.

The Environmental Protection Agency estimates that over the next 20 years, the nation must collectively invest $390 billion to update or replace existing wastewater systems and build new ones to meet increasing demand. This is an issue that affects the whole country, but in Charlotte County, fewer than 60,000 residents are on central sewer.

Many of the County's homes are within 150 feet of waterways that flow into Charlotte Harbor, necessitating that residents will ultimately need to be on central sewer. The County is currently undertaking the first phase of converting homes within close proximity to the Harbor to central sewer. In addition to taking advantage of State Revolving Funds and tax assessments, the County is pursuing funding for additional phases of this environmentally significant project.

The RESTORE Act offers the County opportunities to develop central sewers. In late 2012, the County presented a proposal to the Charlotte Harbor National Estuary Program for a more than $16 million project to remove septic systems, install a central sewer system, construct stormwater improvements, and implement an educational program on Best Management Practices on 10,400 total properties, 6,800 of which are existing homes.

Meanwhile, a new process codified by the Water Resources Reform and Development Act (WRRDA) of 2014 presents an avenue from which to seek assistance from the Army Corps of Engineers for water quality restoration activities. Under WRRDA, the Corps is required to seek proposals for water resources studies and project modifications on an annual basis. From the proposals submitted by local sponsors, the Corps identifies those that meet certain criteria and recommend them to Congress for authorization within an Annual Report. The Report will also include an Appendix listing those proposals that are not recommended for authorization and the reasons for the lack of recommendation. Congress then has the opportunity to authorize the recommended studies and project modifications through a yes or no vote.

In late 2014, the County submitted to the Corps a project modification proposal for water supply infrastructure. The County requested that the authorization permit $16,000,000 for waste water infrastructure to address the County's Restoration of Water Quality in the Impaired Waters of Charlotte Harbor Project.

By providing a long term solution to significantly reduce non-point source pollutants into the receiving waters of Charlotte Harbor, the ability to support economic activities dependent on water quality will improve with the reduction/elimination of beach closures, sanitary health hazard complaints, and related impacts of nutrient and sediment loading. Removal of septic systems will increase the amount of developable land for businesses and provide for a larger variety of uses. Improving water quality will retain and increase tourism. And, a continuation of the cooperative effort between public, private, and nonprofit organizations will continue the enforcement of water quality regulations and Best Management Practices.

RECOMMENDED POSITION: ***Support*** efforts to secure funding for Charlotte County sewer system expansion.

FEDERAL ISSUE: Shoreline and Inlet Management

BACKGROUND; HOW IT MAY AFFECT CHARLOTTE COUNTY:

Knight Island and Stump Pass
Knight/Don Pedro Island in Charlotte County is a popular tourist destination and residential area that lies to the south of the Stump Pass inlet. Independent engineering analyses have demonstrated that the inlet causes severe erosion to these downdrift beaches, yet it still serves as a vital navigation inlet for recreational and other boating.

To address the inlet impact and to maintain its navigational use, Charlotte County implemented a management plan and beach restoration project in 2003 by dredging Stump Pass' navigation channel and ebb shoal and transferring that sand to the downdrift beaches. Directly bypassing the trapped sand offsets erosion losses and protects upland development on the islands while also providing for safer navigation. In 2006 and 2011, the County conducted storm damage recovery and maintenance projects to address severe erosion and navigational concerns experienced in the wake of the 2004 and 2008 hurricane seasons. Unfortunately, these efforts are not long-term solutions for Stump Pass.

Congress provides the U.S. Army Corps of Engineers with standing authorization, known as the Continuing Authorities Programs (CAP), to respond to a variety of water resource problems without the need to seek specific congressional authorization or funding for each project. Related specifically to Stump Pass, two authorities are likely most relevant. They include CAP Sections 103 (Small Beach Erosion Control Projects) and 107 (Small Navigation Projects).

In 2012, the County engaged the Corps to explore opportunities to work with the Corps on solutions to Stump Pass erosion and shoaling concerns. A Corps team from the Jacksonville District visited the County to meet with staff, gather information, and tour Stump Pass and the downdrift beaches. While the Corps determined that there was little opportunity to get involved given the limitations of their authorities, there may be other Federal opportunities in the future.

Manasota Key
In December 2014, the County Board of County Commissioners declared a local state of emergency related to ongoing erosion on Manasota Key north of Stump Pass. However, support for creation of a local funding mechanism to help formalize a beach erosion response strategy over the years has been mixed, with some constituents supportive while others remain seemingly uninterested. Should the community coalesce around a more active shoreline management response, likely partner with Sarasota County to the north, and ensure adequate public access, funding from the State and the Corps of Engineers could be sought to develop short- and long-term solutions to the erosion problem.

Knight Island FEMA Reimbursement
Knight Island experienced erosion to various areas of the improved beach during Tropical Storm Debby, which passed by the Gulf Coast of Florida in 2012. Shortly thereafter, the Federal Emergency Management Agency (FEMA) declared a major disaster due to the storm and deemed Charlotte County eligible for Public Assistance. Since then, FEMA determined that the County has not sustained any sand

loss volume within the engineered beaches design profiles via Project Worksheet (PW) 1067, Category G, DR-4068.

PW 1067 states:

> *"The FEMA Beach Specialist, when considering only the applicant's engineered beach segments described above and using CEC's volume calculations, computed an eligible net accretion of 36,550 CY."*

With regard to "eligible beach erosion," FEMA Fact Sheet 9580.8: Eligible Sand Replacement on Public Beaches states:

> "*Occasionally a storm causes such dramatic changes in the tides, currents, and wave actions that affect a beach, that sand moved outside of the beach profile. It is moved too far on-shore, off-shore, or along shore such that it is not recoverable by the natural process. In this case, the beach is considered damaged by the storm.*"

The entire portion of the Knight Island improved/engineered beach extends over 25,000 LF or approximately 5 miles. Debby caused significant erosion to portions of the engineered beach and accretion in other areas. Areas that experienced accretion were not nourished in the recent 2011 project. Rather, they have been stable to naturally accreting areas as documented by the project's annual monitoring.

The FEMA Fact Sheet also states:

> *"When conducting evaluations of sand losses due to storm-induced erosion, the entire beach profile must be considered. The beach profile includes a dune or elevated back beach, a backshore consisting of a relatively flat berm(s) above high tide or high water and a sloped foreshore that is subject to variations in water levels, and a sub-aqueous nearshore zone that is influenced by the tides, currents, and wave action. The beach profile is very dynamic, constantly changing with changes in the tides, currents, and wave action that affect it. Sand moves from the dune and/or berm to the foreshore and sub-aqueous nearshore zone, and back again. This movement or redistribution of sand within the beach profile is a natural process that does not constitute beach damage."*

FEMA representatives have cited this portion of FEMA policy as the reason for netting accretion and erosion quantities. This, however, does not apply to our project. The "beach profile" above describes the portion of sub-aqueous and above water sand that is perpendicular to the water line. Sand often moves above and below the water line in a perpendicular path, which allows for natural recovery of the above-water sand. The County is not requesting reimbursement for any sand that was shifted within a "beach profile." In this case, it appears that "beach profile" is being defined as the entire horizontal limits of the engineered beach.

Some areas of the Knight Island beach were significantly eroded by sand shifting outside of the beach profile and moved along or off shore. Nowhere in FEMA policy does it recommend or allow for netting accretion that occurred "along shore." Sand that eroded and moved between 1,000 ft – 25,000 ft along shore is not recoverable by any natural process and therefore we believe should be an eligible cost.

Since this determination, the County has formally appealed FEMA's negative finding, submitted supplemental information, attended a meeting in Washington with the Chief of the Regulations and Policy

office in the Public Assistance Division, and sought the active engagement of Rep. Rooney to help fight this misinterpretation of long-standing FEMA policy.

RECOMMENDED POSITION: ***Monitor*** opportunities for Federal involvement in a solution at Stump Pass or on Knight Island and Manasota Key to address sediment management and erosion of beaches, and to provide for safer navigation. ***Monitor*** the Federal Emergency Management Agency's future interpretation of Eligible Sand Replacement on Public Beaches fact sheet.

FEDERAL ISSUE: Energy Exploration

BACKGROUND; HOW IT MAY AFFECT CHARLOTTE COUNTY:

Offshore Energy Development
Active energy drilling currently occurs in both the western and central Gulf of Mexico, while nearly the entire eastern Gulf is protected from drilling until 2022 by the Gulf of Mexico Energy Security Act of 2006 (GOMESA). State waters in the Gulf of Mexico extend 10.5 miles from shore. The Federal government controls waters beyond that point.

For many years, the Federal government has developed five-year Outer Continental Shelf (OCS) Oil and Gas Leasing programs to guide energy exploration activities in Federal waters. The most recent plan, developed for 2012-2017, did not propose to lease any areas in the Atlantic OCS for oil and gas drilling. However, the Administration's plan did indicate that it would allow seismic analyses to determine energy resource potential in areas of the Atlantic OCS from Delaware to parts of Florida (approximately north of Brevard County).

In 2014, the Department of Interior's (DOI) Bureau of Ocean Energy Management (BOEM) finalized a Programmatic Environmental Impact Statement (PEIS) on seismic air-gun testing for offshore oil and gas exploration in the Atlantic Ocean, which opens the door for the first new oil and gas surveys in three decades. Specifically, the plan allows for the deployment of high-volume air-guns in Federal waters to pinpoint the depth and size of oil and gas deposits. While it is viewed by many to include stringent regulations to mitigate against the effects these air guns may have on wildlife, some argue that the testing will still have devastating impacts on the affected areas.

Seismic testing could begin in 2015. Should the analysis of the seismic surveys be completed in time for potential inclusion in the next DOI OCS Oil and Gas Leasing Program for 2017-2022, some believe that drilling could take place in areas identified as having resource potential as early as 2020. Senator Nelson and 10 other members of the Florida delegation sent a letter to President Obama expressing their disapproval of the decision, citing the effects seismic testing could have on Florida's wildlife and fisheries.

Meanwhile, active energy drilling occurs in both the western and central Gulf of Mexico. However, nearly the entire eastern Gulf is protected from drilling until 2022 by the Gulf of Mexico Energy Security Act of 2006 (GOMESA). GOMESA does not prevent seismic testing in the eastern Gulf though, and there is nothing that would prohibit such testing from being included in the next five-year OCS Oil and Gas Leasing Program, nor prohibit any future Administration from allowing such testing as well.

Finally, in 2014 BOEM began the process of preparing a new five-year OCS Oil and Gas Leasing Program for 2017-2022. The South Florida Atlantic Coast and the Straits of Florida are being considered for exploration. Seismic testing could be proposed in both locations, as well as the eastern Gulf of Mexico. Further, with the recent political changes in Congress, new technologies creating new resource opportunities, and a seemingly endless need for fossil fuels, it is possible drilling could occur in all three locations after 2022.

Onshore Energy Development (Hydraulic Fracturing)

The rapid expansion of oil and gas extraction using hydraulic fracturing — both in rural and more densely populated areas — has raised concerns about its potential environmental and health impacts. These concerns have focused primarily on potential impacts to groundwater and surface water quality, public and private water supplies, and air quality.

States broadly regulate oil and gas exploration and production on non-federal lands. In Florida, oil and gas extraction activities are managed by the Department of Environmental Protection. State laws and regulations governing unconventional oil and natural gas development have evolved in response to changes in production practices, largely in response to the use of high-volume hydraulic fracturing in combination with directional drilling. However, state regulations vary considerably, leading to calls for more federal regulation of unconventional oil and natural gas extraction activities.

Today, Florida produces about 6,000 barrels per day of oil via onshore development, a level that represents a gradual decrease over the last decade. However, hydrologists have recently focused on two areas of Florida — southwest Florida's Lower Sunniland, which spreads over the southwest Everglades, and the Jay field and other areas in the Panhandle — where the state's geology could support hydraulic fracturing and therefore increase the daily yield. According to DEP's website, 15 applications for oil and gas mining were either issued or applied for in 2013, all in southwest Florida and the panhandle.

In 2013, DOI began updating regulations governing hydraulic fracturing on public lands (note, exploration on private lands would not be covered). In response, proponents of the practice introduced several bills related to preempting or negating the proposed rules. Many suggested that the Federal rules are unnecessary and would slow energy development. In 2013, the House passed the Protecting States Rights to Promote American Energy Act, a bill that would block DOI from regulating hydraulic fracturing in states that have already developed their own rules. When the Senate did not take action on that bill, the House incorporated the language of the bill into a larger bill aimed at increasing both offshore and onshore U.S. energy exploration and development. The subsequent bill passed but also moved no further before the close of the 113th Congress.

In September 2014, DOI sent the proposed rules to the Office of Management and Budget (OMB) for review. The updated regulations would require the following of companies engaged in hydraulic fracturing on public lands:

- Mandates public disclosure of the chemicals used during the process;
- Must ensure that fluids do not seep into surrounding groundwater; and
- Excess fluids from the process must be disposed of properly.

The rule is expected to be finalized in 2015.

RECOMMENDED POSITION: ***Monitor*** the potential expansion of energy exploration in Florida.

FEDERAL ISSUE: Transportation Authorization

BACKGROUND; HOW IT MAY AFFECT CHARLOTTE COUNTY: After several years of short-term authorizations, Congress passed and the President signed the Moving Ahead for Progress in the 21st Century Act (MAP-21) on July 6, 2012. MAP-21 funded Federal surface transportation programs at roughly the levels of the previous authorization ($48 billion) through September 30, 2014. The law also eliminated, consolidated, or changed many programs, transformed nearly all discretionary transportation grant programs into formula programs, and left much discretion to state Departments of Transportation on how to allocate funding among the remaining programs.

Under the transit funding formula apportionments of MAP-21, the North Port-Port Charlotte UZA is expected to receive $2,151,529 in Section 5307 and Section 5340 Urbanized Area formula apportionments from the Federal Transit Administration (FTA) for Fiscal Year (FY) 2014. Additionally, Charlotte County could see formula funding from the previously competitive discretionary Section 5339 Bus and Bus Facilities program, which provides funds to rehabilitate or replace buses or bus equipment and/or to construct bus facilities. Florida is expected to have $2,681,580 available in FY 2014 for transit agencies in UZA's with populations between 50,000 and 199,999. For eligible entities in UZA's of this size, FDOT will also have $4,578,587 available for transportation programs that help meet the special needs of elderly individuals and individuals with disabilities from the Section 5310 Enhanced Mobility of Seniors and Individuals with Disabilities program.

Prior to the expiration of MAP-21 in September 2014, Congress passed a short-term reauthorization of Federal highway programs based on MAP-21 levels that is set to expire in May of 2015. Congress will now need to re-address transportation funding next year amid debates related to sequestration and the debt ceiling.

In developing both MAP-21 and the current authorization, Congress did not address the need for a long-term, sustainable plan to finance our nation's transportation infrastructure. Fuel taxes, which provide most of the money for surface transportation, do not provide a solid long-term foundation for generally desired transportation funding growth, even if Congress were to raise them modestly. The choice then becomes finding new sources of income for an expanded program, or alternately, to settle for a smaller program that might look very different than the one currently in place. Less Federal funding via a future transportation reauthorization bill would mean significantly less funding available to FDOT, and ultimately Charlotte County, to support both surface transportation and transit projects and programs.

In January, Senator Rand Paul (R-KY) and Senator Barbara Boxer (D-CA) announced plans to introduce legislation to transfer a portion of repatriated income from foreign subsidiaries of U.S. corporations into the Highway Trust Fund to help address its insolvency issues. Congress is also expected to consider a long-term reauthorization of our nation's surface transportation programs during the 114th Congress.

RECOMMENDED POSITION: ***Support*** full funding of transit programs to their MAP-21 authorized levels. ***Monitor*** proposed changes to Federal highway and transit programs. ***Monitor*** efforts to enhance Federal transportation revenue streams. ***Support*** any and all opportunities to secure funding for Charlotte County priorities via this legislation or other means, including Piper Road and Burnt Store Road.

FEDERAL ISSUE: Federal Aviation Administration Authorization

BACKGROUND; HOW IT MAY AFFECT CHARLOTTE COUNTY: Congress passed an authorization of the Federal Aviation Administration (FAA) in February 2012, which extended the program through Fiscal Year (FY) 2015. Congress will need to pass a new or extended FAA authorization prior to October 1, 2015. The FAA measure may include reforms such as updated software systems and a discussion of increases in taxes and fees.

Airport Improvement Program
Among other things, the FY 2012 legislation authorizes $3.35 billion annually for the Airport Improvement Program (AIP). AIP is a federal grant program that provides funds to public airports to improve safety and efficiency, which is subject to annual appropriations. With the record growth in passenger traffic at the Punta Gorda Airport, including an 88 percent increase in 2014 from the prior year, it is critical to ensure that the airport can compete for sufficient Federal funding as necessary to continue this trend.

In its FY 2014 budget, the Administration proposed a reduction in funding for AIP from $3.35 billion in FY 2013 to $2.9 billion by eliminating guaranteed funding for large and medium hub airports. The purpose of the proposal was to focus Federal grant support on smaller commercial and general aviation airports that are less likely to have access to additional revenue or other outside sources of capital. Punta Gorda Airport is a non-hub airport.

At the same time, the budget would allow larger airports to increase non-federal passenger facility charges (PFC), thereby giving larger airports greater flexibility to generate their own revenue. However, in the final FY 2014 omnibus appropriations bill, this was rejected by Congress, and the program received its fully authorized limit at $3.335 billion. Authorized by Congress in 1992, the PFC allows commercial airports controlled by public agencies to charge $3.00 per passenger through airline tickets. The PFC cap was raised in 2001 to $4.50, yet has not been increased since. Several airport groups, including the American Association of Airport Executives, advocate for local authority to raise the cap to $8.50 per enplanement in order to meet current needs and prepare for future demand.

The Administration's FY 2015 budget included the same proposed changes and funding levels as its FY 2014 budget proposal for AIP, but Congress again rejected the approach and funded the program at $3.335 billion.

Contract Tower Program
Meanwhile, in response to cuts mandated by the budget sequestration, the FAA announced in 2013 that it would phase out Federal funding for 149 contract air control towers around the country, including the tower at Punta Gorda Airport. This proposal was met with substantial Congressional and local opposition, and ultimately legislation was passed that provided the Department of Transportation flexibility to keep these towers funded through the remainder of FY 2013. It is important to note, however, that the funding that was provided to keep these towers open was taken from the AIP, which ultimately resulted in reduced availability of funds for the AIP program that year.

In the FY 2014 omnibus appropriations bill, Congress provided $140 million for the FAA Contract Tower Program and added language that guarantees full funding for the entire fiscal year in order to prevent the

Administration from making cuts to the program. While the Administration's FY 2015 budget once again recommended no dedicated funding for the Contract Tower program, Congress again ignored this request and provided $144.5 million for the program in the FY 2015 omnibus appropriations bill.

RECOMMENDED POSITION: ***Support*** $3.35 billion in annual appropriations for the Airport Improvement Program. ***Support*** Charlotte County Airport Authority grant proposals through the FAA Airport Improvement Program. ***Support*** annual full and dedicated funding for the FAA Contract Tower Program.

FEDERAL ISSUE: Excise Tax on High-Cost Health Insurance Plans

BACKGROUND; HOW IT MAY AFFECT CHARLOTTE COUNTY: The Patient Protection and Affordable Care Act (PPACA), often referred to simply as the Affordable Care Act (ACA) or "Obamacare," was passed by Congress and signed into law in 2010. The primary goal of the ACA was to increase the quality and affordability of health insurance, as well as lower the uninsured rate by expanding public and private insurance coverage. The law includes a number of mechanisms, including individual and employer mandates, insurance exchanges, minimum standards of care, and new taxes/fees to accomplish these goals and reduce the cost of health care.

One such mechanism is the excise tax on high-cost health insurance plans, often referred to as the "Cadillac tax." Under the ACA, a Cadillac health plan is defined as a plan with annual premiums exceeding $10,200 for individuals or $27,500 for families. Beginning in 2018, a 40 percent excise tax will be assessed on any dollar amount paid in premiums exceeding the aforementioned values, which, after 2018, will adjust to inflation annually. For example, a $12,000 individual plan in 2018 would pay an excise tax of $720 per covered employee (12,000 - 10,200 = 1,800 x 40% = 720). However, the rate of growth in healthcare costs often outpaces the rate of inflation, meaning employers are likely to pay significantly more each year. The tax, which is estimated to generate $80 billion over the next ten years, is an offset to pay for the ACA.

Cadillac plans were targeted for taxation due to the idea that these benefit-rich plans (i.e. low, if any, deductible, little cost-sharing by patients, wider provider networks, greater available health services, etc.) often insulate workers from the high cost of health care, thereby encouraging the overuse of care. Excessive, and sometimes unnecessary, tests and hospital visits have been shown to raise the cost of U.S. health care overall. Therefore, the tax was designed to discourage employers from choosing these types of plans.

The Cadillac tax, however, is hitting public sector employers and workers the hardest, including Charlotte County. Those who work in the public sector have long-understood that strong health-care benefits are often granted in lieu of lower pay. However, Charlotte County, and many other public employers, must now choose whether to cut employees' health plans so they fall below the Cadillac threshold, pass the tax onto the workers, or pay the tax themselves and make difficult budget cuts elsewhere. Many large employers, both public and private, have already begun laying the groundwork to avoid the 40 percent surcharge by passing more costs down to employees. Originally envisioned as a tool to reduce healthcare costs, the tax in practice looks increasingly like an increase in out-of-pocket costs for workers.

The excise tax was originally slated to begin in 2013. However, due to strong concerns expressed by labor groups and others, the ACA was amended by Congress to delay the tax until 2018. Opponents of the tax hope this delay will allow for greater time to further amend the provision. While no bills related to the Cadillac tax have been introduced in the 114th Congress thus far, the new congressional leadership has already shown a willingness to alter controversial portions of the ACA, and the Cadillac tax may be addressed sometime in the future.

RECOMMENDED POSITION: ***Support*** efforts to repeal the excise tax on high-cost health insurance plans (a.k.a. the Cadillac tax) within the Affordable Care Act.

FEDERAL ISSUE: Community Services Block Grants & the Low Income Home Energy Program

BACKGROUND; HOW IT MAY AFFECT CHARLOTTE COUNTY: The Community Services Block Grant (CSBG) program allocates Federal funding to alleviate the causes and conditions of poverty in communities. The funds provide for a range of services and activities to assist the needs of low-income individuals, including those addressing employment, education, better use of available income, housing, nutrition, emergency services and/or health.

In Charlotte County, the Human Services Department administers CSBG funding, which is the most flexible funding source the County has for addressing self-sufficiency initiatives. The program has income requirements, yet is not an entitlement program, thereby allowing the County to work with clients that are highly motivated to reduce their dependence on public benefits.

In Fiscal Year 2013, Congress provided $682 million for LIHEAP before the approximately 5 percent sequestration cut to $648 million. The FY 2014 omnibus reversed some of these cuts to the program, funding CSBG at $674 million. For FY 2015, the Administration proposed a nearly 48 percent decrease in funding for CSBG to $350 million. Congress, however, rejected this request and provided level funding at $674 million for FY 2015.

The Low Income Home Energy Program (LIHEAP) provides heating assistance to low-income households. Also administered in Charlotte County by the Human Services Department, LIHEAP is the only lifeline for some of the most impoverished families and seniors in the community. While LIHEAP is often thought of as a program that benefits northern states, it is equally important in Florida due to the expense of cooling a residence during excessive heat in the summer months.

In FY 2013, Congress provided $3.7 billion to LIHEAP before sequestration reduced funding to $3.5 billion. The FY 2014 omnibus appropriations bill further reduced funding for LIHEAP to $3.425 billion, which provided $77.35 million to the state of Florida. In FY 2015, the Administration's budget request proposed additional cuts to $2.8 billion, a greater than 45 percent reduction from FY 2010 when LIHEAP was funded at $5.1 billion. Congress, however, ultimately provided $3.39 billion to LIHEAP in the FY 2015 omnibus.

In anticipation of the Administration's FY 2016 budget request, 124 members of Congress, including three from Florida, sent a letter to President Obama in December 2014 asking him to include no less than $4.7 million for LIHEAP. The President's FY 2016 budget will be released in February 2015.

RECOMMENDED POSITION: ***Monitor*** funding levels for the Community Services Block Grant and the Low Income Home Energy Program because of their critical role in the County's efforts to support those that are least fortunate. ***Support*** any applicable funding opportunities for the Human Services Department.

FEDERAL ISSUE: Economic Development Administration Programs

BACKGROUND; HOW IT MAY AFFECT CHARLOTTE COUNTY: The Economic Development Administration (EDA) is primarily a granting agency that funds economic development projects throughout the country. Successful projects usually leverage roughly 200 new jobs and $24 million in private investment for every $1 million of EDA investment.

Local governments or non-profits such as Charlotte County are local sponsors of the projects. For example, infrastructure projects such as those designed to support the recent construction of a Cheney Brothers distribution center in Charlotte County could be eligible for funding from the EDA. Funding from the EDA could also offer opportunities to help fund projects in Community Redevelopment Areas, including road and water infrastructure improvements that can help reinvigorate the regions and lead to additional reinvestment in homes and businesses.

The President's Deficit Commission, as well as more recent Congressional proposals, has proposed the elimination of EDA, as its mission is seen as duplicative by some. In June 2012 the Senate failed to pass the "Economic Development Revitalization Act," which would have reauthorized the Economic Development Administration (EDA) through 2015. EDA's authorization expired in September 2008, but funding via the appropriations process has kept it functioning without an authorization. In addition to reauthorizing EDA, the Senate legislation would increase the authorized funding for the program from $300 to $500 million annually. Despite the failure to pass the legislation, the EDA will continue to operate through the annual appropriations process if provided sufficient funding by Congress.

The FY 2014 omnibus appropriations bill provided an increase in funding for the EDA from $220.6 million in FY 2013 to $246.5 million. The Administration had proposed a small increase in funding the EDA in its FY 2015 budget to just over $248 million, but Congress went even further by providing a $3.5 million increase for the EDA to $250 million for FY 2015.

RECOMMENDED POSITION: ***Support*** Charlotte County EDA grant applications as applicable, including potential applications for improvements to Parkside, Charlotte Harbor, and Murdock Village Community Redevelopment Areas or other infrastructure projects. ***Monitor*** continued funding of the Economic Development Administration.

FEDERAL ISSUE: Remote Sales-Tax Legislation

BACKGROUND; HOW IT MAY AFFECT CHARLOTTE COUNTY: With some limited exceptions, retailers only collect sales tax in states where they have brick-and-mortar stores. The burden then falls to consumers to report to state tax departments any sales taxes they owe for online purchases. Often, due to complex reporting requirements, consumers do not report those purchases when completing their tax returns. As a result, local retailers can be at a competitive disadvantage because they must collect sales taxes while out-of-state retailers, including many large online and catalog retailers, often offer their customers a discount by collecting no state or local sales taxes.

Therefore, the current sales tax system is perceived as being unfair to brick-and-mortar retailers that employ local residents, including local stores as well as national chains like Best Buy or Home Depot. This lost revenue is also a drain on local government resources. In 2013, uncollected sales tax was estimated to have cost local governments $26.1 billion nationwide. Legislation to correct this inequity has the support of local, state, and national business groups, such as the National Governors Association, the National Conference of State Legislators, the Council of State Governments, the National Association of Counties, the U.S. Chamber of Commerce, the Florida Chamber of Commerce, Associated Industries of Florida, Florida TaxWatch, Florida Retail Federation, and Amazon.com, among others.

To create a level playing field, Congress introduced the Marketplace Fairness Act in both the House and Senate in the 113th Congress. The bill would create two systems from which states can choose to facilitate the process of collecting these taxes. The first is the already-established Streamlined Sales and Use Tax Agreement, which would simplify state and local sales and use tax laws. Twenty-four states have signed this agreement. The second alternative would allow for states to meet minimum requirements for their state tax laws and administration thereof. To protect small, online retailers, this legislation also exempts sellers who make less than $1,000,000 in total remote sales from the requirement to collect the tax.

In 2013, the Senate passed the Marketplace Fairness Act with bipartisan support, with Senator Nelson voting for the measure and Senator Rubio against it. In the House, companion legislation was not considered, although it had 67 cosponsors, including Florida Representatives Deutch, Crenshaw, Ross, Wilson, and Diaz-Balart.

In the 114th Congress, House Judiciary Chairman Bob Goodlatte (R-VA) and Rep. Anna Eshoo (D-CA) circulated a discussion draft of remote sales tax legislation as an alternative to the Marketplace Fairness Act. Under the draft, only states that join a multi-state clearinghouse would have the authority to collect sales tax revenue on out-of-state purchases, and retailers would charge sales tax based on their own state and local rules. The clearinghouse would then divide the sales tax revenue among member states. Although passage of remote sales tax legislation remains an uphill battle during the 114th Congress, the Goodlatte/Eshoo discussion draft could serve as a good starting point for a deal on the issue.

Meanwhile, the rise of Alibaba, the online Chinese retailer that has been compared to a combination of Amazon, eBay and PayPal, could perhaps sway opinions of those opposed to such legislation. Last year, Alibaba accounted for $248 billion in online sales and has emerged as a serious competitor to American online retailers, with none of their revenue remaining in the U.S., nor taxed.

RECOMMENDED POSITION: ***Support*** legislation that requires companies making catalog and internet sales to collect and remit the associated taxes.

FEDERAL ISSUE: Transient Occupancy Taxes

BACKGROUND; HOW IT MAY AFFECT CHARLOTTE COUNTY: In the 111th and 113th Congresses, attempts were made to insert language into various pieces of legislation that would have exempted Online Travel Companies (OTC's e.g., Expedia, Travelocity, etc.) from remitting the full bed tax rate collected from consumers to the appropriate local government. For instance, if Expedia or a similar purveyor were to pay $60 for a room in Charlotte County and then sell that room to a consumer for $100, they would be able to, under the proposal, only remit $6 dollars to the local government instead of $10 (using a 10 percent bed tax for illustrative purposes).

In 2009, Charlotte County and 16 other Florida counties filed an action against a number of online travel companies alleging that the companies have failed to collect and/or pay taxes under the respective tourist development tax ordinances. During 2012, there were several Florida State Circuit Court cases that ruled in favor of the OTCs. Two cases, including the 17 county case, cited that Florida law is not clear on the issue, while a Circuit Court Judge ruled more directly in July that the OTCs only owe local tourist taxes on the discounted rates they paid for the rooms. In May 2013, the Florida First District Court of Appeals upheld the circuit court's ruling while urging the Florida Supreme Court to make a final ruling on this matter. Finally, in September 2013, the Florida Supreme Court agreed to hear the case, which is still pending.

Meanwhile, in 2012, the District of Columbia government won a suit where a judge ruled that online travel firms should repay back taxes on the full retail price of hotel rooms they sold to consumers in the years after the D.C. City Council passed legislation mandating they do so. In 2014, a conditional settlement was reached in this case with six online travel firms. Although they have a right to appeal the D.C Superior Court decision, they agreed to pay $60.9 million in back taxes to the D.C. government. Between 1998 and 2010, the amount owed in the lawsuit was estimated to be over $200 million.

These examples demonstrate how courts across the country have ruled differently on this issue over the past few years, which has led online travel purveyors to continue to seek Federal legislation that would codify their goal of not remitting taxes on the price of the hotel room paid by the consumer. Earlier in 2012, several of these online discount travel brokers (including Expedia, Orbitz, and Priceline) organized and registered to lobby under a new organization called the "Interactive Travel Services Association," whose purpose is to advocate on several issues, including "taxes and fees related to travel."

In May 2013, Expedia and other online hotel room purveyors attempted to amend the Marketplace Fairness Act to achieve their transient occupancy tax objectives. Ultimately, this effort was unsuccessful and the bill was passed out of the Senate without this language.

In Fiscal Year 2014, Charlotte County collected $2,998,949 in transient occupancy taxes, which is used to support the tourism industry in the region. This level of funding underscores the importance of this revenue source and the need to ensure it is not constrained by detrimental legislation.

RECOMMENDED POSITION: ***Oppose*** legislation that would exempt Internet travel brokers from paying taxes on the full room rate paid by the consumer, thereby costing Charlotte County and its political subdivisions the opportunity to collect the appropriate Transient Occupancy Taxes from visitors to the region.

FEDERAL ISSUE: Tax-Exempt Bonds

BACKGROUND; HOW IT MAY AFFECT CHARLOTTE COUNTY: Although municipal bonds have been tax-exempt for almost 100 years, a number of Federal proposals have been offered over the past few years that have targeted this exemption, particularly as part of any debate related to comprehensive tax reform. With local governments facing severe budget difficulties, any proposal to limit the tax exemption would put more pressure on local finances by reducing demand for tax-exempt bonds and increase borrowing costs for state and local governments, ultimately leading to higher taxes or reduced services.

It is estimated that the difference in the rate of earnings the County and other local governments would need to offer prospective buyers for their taxable bonds would depend on the market, but typically would range from 1.5 to 2 percent more for those offerings. On $1 million borrowed, this would likely cost $20,000 more in interest per year. Taking this further, if the County were to amortize a $100 million loan over 30 years at taxable bond rates 2 percent higher than if the bonds were tax-exempt, the additional cost to taxpayers over those 30 years could be roughly $30 million.

In early 2014, Rep. Dave Camp (R-MI), the 113th Congress Chairman of the House Ways and Means Committee, which has jurisdiction over tax issues, released a comprehensive tax reform discussion draft that proposes to rewrite the individual and corporate tax code. Rep. Camp's proposal contains changes that would affect municipal bonds. Specifically, bonds would become more expensive to offer because high-income individuals who are most likely to invest in municipal bonds would have to pay a 10 percent surtax on their income above a certain threshold and would not be able to deduct the tax-exempt interest. It is unclear how much of an effect this could have on costs, but the impact would likely be significant.

Beginning in the 114th Congress, Rep. Paul Ryan (R-WI) will assume the chairmanship of the Ways and Means Committee. During his tenure as the Chairman of the House Budget Committee, Rep. Ryan proposed budgets that affected the tax exemption status of municipal bonds by either eliminating the exemption or reducing the top marginal tax rate, which would cut the subsidy for municipal bonds. Should the House attempt comprehensive tax reform during the 114th Congress, most believe Rep. Ryan's proposal would put the tax exemption on municipal bonds at risk.

In the Senate, Ron Wyden (D-OR) sponsored legislation with Dan Coats (R-IN) during the 112th Congress that proposed replacing tax-exempt bonds with taxable bonds and a tax credit. Although Senator Wyden did not reintroduce the same legislation during the 113th Congress, he continued to discuss the need for comprehensive tax reform when he became the Chair of the Senate Finance Committee in 2014. Republicans will control the Senate in the 114th Congress and Senator Orrin Hatch (R-UT) will assume the chairmanship, with Senator Wyden becoming the Ranking Member. Like Senator Wyden, Senator Hatch has voiced his support for comprehensive tax reform. However, his position on the tax exemption for municipal bonds is unclear.

As in previous years, the Administration proposed a 28 percent limit on all itemized deductions for high-income individuals in its Fiscal Year (FY) 2015 budget. It is likely that this provision will also be included in the Administration's FY 2016 budget. If accepted by Congress, this would apply to all new and outstanding municipal bonds. According to a study conducted by the National Association of

Counties, if this 28 percent cap had been in place over the past decade, borrowing costs to state and local governments would have increased by over $173 billion, while a full repeal would cost nearly $500 billion over the same time period.

In 2013, 140 members of Congress, including 12 members of the Florida delegation, signed letters to congressional leadership asking that the current tax exemption for municipal bonds remain in place.

RECOMMENDED POSITION: ***Oppose*** legislation that would threaten the tax exemption on state and local bonds, including a 28 percent cap on tax-exempt municipal bonds.