Levy County: Municipal Service Taxing Units (MSTUs)

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County Home Rule Pre-1968

- Prior to 1968 constitutional revision: County power subject to “Dillon’s Rule”
- Express grant from Legislature
- No implied power not within scope of express grant
- Primary scope of power: special act

County Home Rule Post-1968

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

CONSTITUTIONAL PREEMPTION OF TAXATION TO STATE

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

Constitutional Millage Limitations

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

Art. VII, §9(a), Fla. Const.

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Constitutional Millage Limitations

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

Art. VII, §9(b), Fla. Const.

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

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Statutory Revenue Limitations

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

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Ad Valorem Benefit Requirement

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

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THE MSTU CONCEPT

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

  §125.01(q) and (r), F.S.

MSTUs

Creation: Ordinance

Deadlines: January 1 or July 1 per Section 200.066, Florida Statutes

Consent: Municipal consent by ordinance if includes incorporated areas

Millage: Levied through annual budget process

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Section 125.01(1)(q), Florida Statutes

"…fire protection; **law enforcement**; beach erosion control…and other essential facilities and municipal services from funds derived from … taxes within such unit only…If ad valorem taxes are levied to provide essential facilities and municipal services within the unit, the millage levied on any parcel of property for municipal purposes by all municipal taxing units and the municipality may not exceed 10 mills."

Questions?