

County, fire suppression and EMT services

Number: INFORMAL

Date: November 09, 2007

Mr. Marlin M. Feagle
Columbia County Attorney
Post Office Box 1653
Lake City, Florida 32056-1653

Dear Mr. Feagle:

You have asked on behalf of the Columbia County Board of County Commissioners whether the Florida Constitution or any Florida Statute mandates a county to provide fire suppression services or emergency medical services for its citizens in the unincorporated area or any municipality within the county. You further inquire if the county may provide such services in the unincorporated area only, without providing them in municipal areas, when the services are funded by revenues collected and attributable only to the unincorporated area of the county, such as non-ad valorem assessments, state revenue sharing, and the ½ cent sales tax. If the county provides a basic level of fire suppression services or emergency medical services throughout the county, there is a question of whether an enhanced level of service may be provided to the unincorporated areas, if the additional level is funded with revenues not collected from the municipal areas or revenues already shared with the municipalities. Finally, you ask whether there is a constitutional or statutory mandate that the sheriff provide dispatch services for fire suppression or emergency medical services to the county or a municipality under the sheriff's jurisdiction.

Section 125.01, Florida Statutes, recognizes that counties have the authority to carry on county government, including, but not limited to, the power to "[p]rovide fire protection, including the enforcement of the Florida Fire Prevention Code, as provided in ss. 633.022 and 633.025, and adopt and enforce local technical amendments to the Florida Fire Prevention Code as provided in those sections and pursuant to s. 633.0215." [1] Section 125.01(1)(e), Florida Statutes, allows counties to "[p]rovide hospitals, ambulance service, and health and welfare programs."

While counties operate as political subdivisions of the state, the Florida Constitution recognizes that counties have powers of self-government and are clearly created to carry out local governmental purposes. Although clearly a governmental function, neither the Florida Constitution nor Florida Statutes mandate a county to provide fire suppression services or emergency medical services for its citizens in the unincorporated area or any municipality within the county.

In general, counties are authorized to establish municipal service taxing or benefit units for "*any part or all* of the unincorporated area of the county, within which may be provided fire protection . . . from funds derived from service charges, special assessments, or taxes within such unit only." [2] (e.s.) Moreover, it is recognized that counties may levy and collect taxes both for county purposes and for municipal purposes within each municipal service taxing unit. [3] Taxes

collected pursuant to these statutes must be used to provide services described in the levy.[4]

However, Columbia County currently holds a license to provide emergency medical transport services, and provides such services for the entire county.[5] The Legislature has recognized that the systematic provision of emergency medical services saves lives and reduces disability associated with illness and injury.[6] Part III, Chapter 401, Florida Statutes, sets forth the standards for those providing medical transportation services. While there has been no portion of these statutes brought to this office's attention that addresses the funding of such services or allowing a different standard of service depending upon whether the recipient resides within a city or the unincorporated area of a county, section 401.45(1)(a), Florida Statutes, clearly states that except in cases where there is an order not to resuscitate, "a person may not be denied needed prehospital treatment or transport from any licensee for an emergency medical condition."

Thus, it would appear that a determination of whether the county may provide a varying level of emergency medical services based upon whether an individual lives within the unincorporated area of the county would depend upon a mixture of factual and legal issues that may not be resolved by this office. It would be advisable for the county and the cities located within the county to endeavor to resolve the questions of the level of services each is to provide or receive.

Your final question necessarily involves comment upon the duties and authority of the sheriff. Absent a request from the sheriff, this office will not comment on questions involving an interpretation of that office's powers. I trust that these comments will be of assistance in evaluating the county's position in this matter.

Sincerely,

Lagran Saunders
Assistant Attorney General

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[1] Section 125.01(1)(d), Fla. Stat.

[2] Section 125.01(1)(q), Fla. Stat.

[3] Section 125.01(1)(r), Fla. Stat.

[4] See *Walter E. Heller & Company Southeast, Inc. v. Williams*, 450 So. 2d 521 (Fla. 3d DCA 1984), *rev. den.*, 462 So. 2d 1108 (Fla. 1985); *State ex rel. Seaboard Air Line R. Co. v. Gay*, 35 So. 2d 403 (Fla. 1948); *Maas Brothers, Inc. v. Dickinson*, 195 So. 2d 193 (Fla. 1967) (taxes may be levied, assessed, and collected only in the manner prescribed by statute).

[5] Section 401.25, Fla. Stat., requires every person, firm, corporation, association, or

governmental entity which furnishes prehospital or interfacility advanced life support services or basic life support services to be licensed by the Florida Department of Health.

[6] See s. 401.211, Fla. Stat.