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LOCAL GOVERNMENT LAW SYMPOSIUM

INTRODUCTION

As we enter the second decade of publishing the Local Government Law Symposium, a joint effort of the Local Government Law Section of the Florida Bar and the *Stetson Law Review*, the issue continues to be at the forefront of issues affecting local government law. Last year saw significant changes in the way local governments conduct their affairs. In the true spirit of the constitutional balance of powers, the Florida Legislature responded to court decisions with a series of proposed statutory amendments aimed at dealing with the change in case law. As a result, local governments are heavily impacted by the decisions made by both the courts and the legislature.

Local governments are often caught in the middle of this power struggle, as they are forced to comply with the statutory mandates and judicial changes while remaining limited by the restrictions placed upon local powers by the states. In its development of this edition, the symposium focuses on different aspects of the delicate balance of powers which exists between the courts, the state, and local governments.

The effect of legislative and judicial changes upon local governments is discussed by Lucia A. Dougherty and Elliot H. Scherker in *Rights, Remedies, and Ratiocination: Toward a Cohesive Approach to Appellate Review of Land Use Orders After Board of County Commissioners v. Snyder*. Ms. Dougherty and Mr. Scherker set forth the application of certiorari as a means for review of administrative action, with particular attention to rezonings and similar site-

specific orders, concluding that the state courts and the legislature have left local governments in a perplexing situation when attempting to use certiorari as a means of administrative review. The article calls for the legislative enactment of a structure for statutory review of land use decisions in order to overcome the confusion which presently exists at both the local government and judicial level in applying writs of certiorari in the land use context.

In establishing the balance required for effective regulation, state legislatures may look to existing legislation where such a balance has been achieved. In *The Beach and Shore Preservation Act: Regulating Coastal Construction in Florida*, Kenneth E. Spahn discusses the elements of the Act, concluding that the Florida Legislature has struck the necessary balance by furthering the state interest of regulating coastal construction while preserving local governments' ability to protect their local interests through land use and zoning regulations.

In *Does Direct Democracy Threaten Constitutional Governance in Florida?*, Joseph W. Little discusses the powers bestowed upon citizens in Florida and the Florida Legislature in enacting constitutional amendments. In his article, Professor Little reviews the procedures for enacting constitutional amendments and sets forth the means by which constitutional amendments have been proposed and enacted. Although the people and the legislature are both empowered with the means to propose constitutional amendments, Professor Little's article demonstrates that the legislature's process is open to abuse and calls for the imposition of limitations on the legislature's ability to enact constitutional amendments.

George D. Vaubel, in *Toward Principles of State Restraint upon the Exercise of Municipal Power in Home Rule*, examines the power struggle between the state and local governments created by state preemption of municipal powers. In his article, Professor Vaubel recognizes the necessity to exercise preemption where legislation has a statewide effect, but suggests that states and courts need to avoid preempting municipal legislation where the interest involved in the legislation is strictly municipal and preemption will not further any state interests.

We hope the articles presented in this symposium will encourage the establishment of a true balance of power, where the judiciary, the legislature, and local governments are given the ability to protect their interests, while allowing for the flexibility necessary to

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effectively respond to change. We are pleased to continue offering such timely issues to our readers and welcome your comments and contributions for future editions of the symposium.

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