

Preemption and the COVID-19 Pandemic:

EXPLORING STATE INTERFERENCE
BEFORE, DURING, & AFTER THE CRISIS

About the National
League of Cities

The National League of Cities (NLC) is the voice of America’s cities, towns and villages, representing more than 200 million people. NLC works to strengthen local leadership, influence federal policy and drive innovative solutions.

NLC’s Center for City Solutions provides research and analysis on key topics and trends important to cities and creative solutions to improve the quality of life in communities.

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About NLC’s Local
Democracy Initiative

This text is part of NLC’s broader Local Democracy Initiative. This Initiative strengthens the capacity and vibrancy of local governance through research and engagement on issues from state preemption to civic engagement.

Acknowledgements

The authors would like to acknowledge Kim Haddow, Director of the Local Solutions Support Center, for her contributions to this paper.

Table of Contents

5	Introduction
6	Preemption Before COVID-19
10	Confusion at the Outset of COVID-19
12	Equity Considerations During COVID-19
14	Reopening & State Interference
16	What’s Next?
18	Preemption, Public Health, & Equity in the Time of COVID-19
20	Conclusion



Introduction

The COVID-19 pandemic has, as of this writing, killed over 200,000 Americans and continues to infect millions of people. It has fundamentally altered daily life, brought the economy to a screeching halt, and has challenged every level of government.

Cities, towns, and villages not only face challenges confronting the virus, but in confronting state interference in their response as state preemption has severely limited or outright prevented local leaders from implementing the policies their communities need.

Preemption has a long and complex history. It has been used to set minimum standards to protect people, but it has also been used to prevent cities from implementing tailored policies to serve their residents. This paper explores how the preemption doctrine has been used before and during the crisis to limit how municipalities were, or were not, able to respond. This paper also explores where cities and states have been able to work together; what the future may hold in the face of a continuing crisis; and options for cities to address this state interference in a proactive way.

Preemption before COVID-19

What is Preemption?

Preemption is when a higher level of government removes or limits the authority of a lower level of government. The impact on people’s well-being, health, and economic situation can be severe. During the COVID-19 pandemic, for example, states preempted local governments from being able to enact mask mandates, meaning local leaders could not make mask-wearing mandatory in their local communities¹. At times, these states were not implementing any sort of mandate at the state level.

Preemption is neither inherently good nor bad. Preemption can be used to set minimum standards or can be used in policy areas that should be left to the state. The misuse and abuse of preemption, however, represents state interference, where the higher level of government unnecessarily constrains the actions of local leaders. For instance, states implementing emergency orders during the pandemic to close businesses

to prevent the spread of the virus across the state.

But the state does not need to act alone. North Carolina modeled a collaborative approach in enacting its emergency order, because the state left a specific provision that allowed localities to implement more stringent policies than the state-wide emergency actions the governor enacted. North Carolina’s action is an example of floor preemption, or where a state sets a minimum standard that allows cities to build off of that policy base.²

There are a few different types of preemption, including floor preemption as North Carolina used, and each has been used in the current crisis. These types of preemptions are laid out below.

“The misuse and abuse of preemption, however, represents state interference.”

What are the types of preemption? And how were they used during the pandemic?

Types of Preemption

Express Preemption

Express preemption is when a law or executive order explicitly (or expressly) conveys its intent to limit or restrict entirely the ability of a lower level of government from regulating a policy area.

Implied Preemption

Implied preemption occurs when a state law does not use explicitly preemptory language, but the meaning of the law can be used to invalidate the actions of lower levels of government. Implied preemption is most often clarified through litigation (i.e., case law) and Attorney General Opinions.

Forms of Preemption

Vacuum Preemption

When a state prohibits cities from enacting a policy without the state setting any policy of its own. This has occurred in Iowa, where the governor has not issued a mask mandate, and stated local governments do not have the authority to implement mask mandates.

Ceiling Preemption

This is when a state prohibits cities from doing anything above or different from what state law already mandates. In Texas, the governor, after the requests of cities for a mask mandate, issued a mask mandate for people in public spaces for certain

counties. Localities cannot enact mask measures beyond this state standard.

Floor Preemption

This is when a state sets a minimum standard and allows cities to enact laws with requirements above that minimum standard. North Carolina set this early in the pandemic with its emergency order allowing for greater local restrictions.

Punitive Preemption

This is when a higher level of government threatens to punish a lower level of government. Nebraska used this when it threatened to withhold CARES Act funding if a county implemented a mask mandate.

Sources:

ChangeLab Solutions. 2019, Fundamentals of Preemption.

Gothner, Chris. “Ames City Council Approves Mask Mandate in 5-1 Vote.” KCCI, KCCI, 2 Sept. 2020, www.kcci.com/article/ames-city-council-approves-mask-mandate-in-5-1-vote/33867374.

Markowitz, Andy. “Does Your State Have a Mask Mandate Due to Coronavirus?” AARP, www.aarp.org/health/healthy-living/info-2020/states-mask-mandates-coronavirus.html.

Weiner, Rachel. “Republican Governors Who Opposed Mask Mandates Start to Soften.” The Washington Post, WP Company, 10 July 2020, www.washingtonpost.com/health/republican-governors-who-opposed-mask-mandates-start-to-soften/2020/07/10/465baf14-c070-11ea-b4f6-cb39cd8940fb_story.html.

Walton, Don. “Ricketts: Counties Cannot Require Masks If They Want Federal Coronavirus Cash.” JournalStar.com, 18 June 2020, journalstar.com/news/state-and-regional/federal-politics/ricketts-counties-cannot-require-masks-if-they-want-federal-coronavirus-cash/article_6bb36a1e-bff7-5ad1-8486-f01ec72e48c9.html.

Why State Interference Before the Pandemic Matters During the Crisis

Preemption has a long history as a tool of governments to set minimums or to constrain local governments. These previous actions created a precedent for continued state interference, even during a global pandemic and national crisis.

In 2018, the National League of Cities, tracking seven policies found over 160 instances of preemptions across the country.³ In 2019, the Local Solutions Support Center tracked 15 policy areas and found over 250 preemptive laws, some in new policy areas such as e-cigarettes and 5G regulations.⁴ That same year, a new project by NLC and the Policy Surveillance Program of the Center for Public Health Law Research at Temple University Beasley School of Law found 255 preemptions across 12 policy areas, from paid leave to tax and expenditure limits to firearms.⁵ Originally focused on express preemptions passed by state legislatures, the scope of the project has been expanded to include caselaw preemptions and the preemptive opinions

issued by state attorneys general, as well as other barriers to local action.

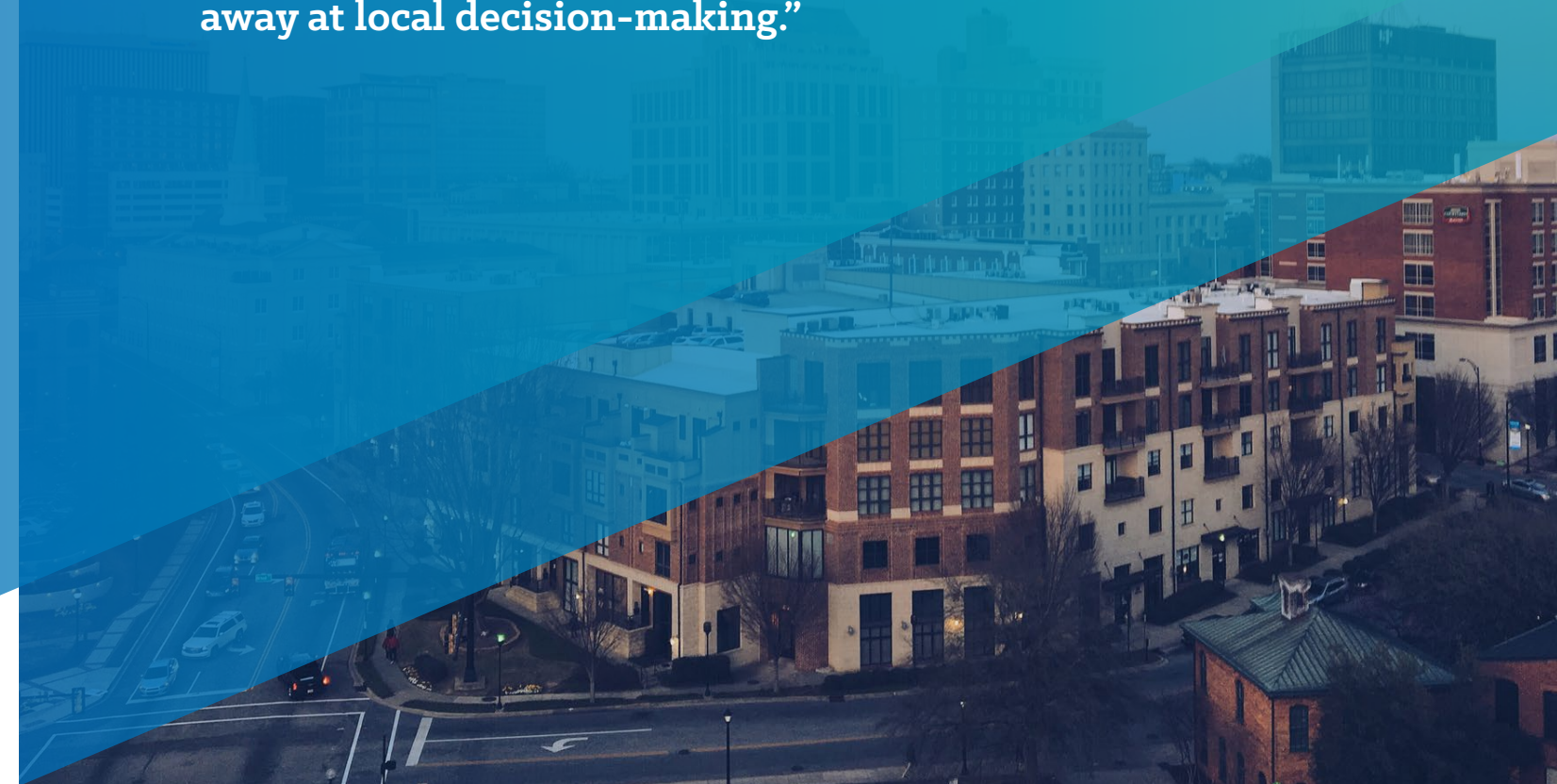
The numbers show a dramatic increase in the use of state preemption which has chiseled away at local decision-making, leading to an environment where few states question their actions to override local leaders and residents.

Some egregious examples of preemption specifically caught national attention, such as HB 2, or the “bathroom bill” in North Carolina that nullified the City of Charlotte’s LGBTQ-friendly ordinance; minimum wage preemption in Missouri that reversed a minimum wage increase that was set to occur in St. Louis; and state interference that overturned a local ballot initiative to limit fracking passed by residents in Denton, Texas.⁶

More specifically, paid leave preemption hampered early efforts to respond to the virus as 20 states have preempted paid sick leave policies, with nine states having no statewide minimum for paid leave.⁷



“The numbers show a dramatic increase in the use of state preemption which has chiseled away at local decision-making.”



Preemptive policies that limit minimum wage, paid leave, municipal broadband and LGBT rights, among others, disproportionately impact essential workers, people of color, and the LGBTQ community. Cities, towns and villages that have tried to respond to these communities have encountered resistance from their states, which only sets the stage for the same type of

state interference that hampered local responses to COVID-19, a virus which has disproportional negative outcomes for Black, Indigenous, and people of color.

Confusion at the Outset of COVID-19

As COVID-19 began to rapidly spread through the United States, all levels of governments were attempting to navigate the best policy responses to a new virus. In such a chaotic environment, confusion can have drastic consequences. Yet as local governments attempted to navigate their response, state interference caused just that.

In Mississippi, after mayors had issued emergency orders without state action, the governor finally issued an executive order. While the governor was trying to establish a preemptive floor, his order had much broader definitions of essential businesses and relaxed standards compared to what local leaders had implemented. This caused confusion for mayors, trying to understand if their preexisting orders, usually more stringent than the governors, were valid. Even with the claim of a floor, several cities, such as Tupelo, had to revise their orders to allow for the governor's more relaxed policies.⁸

In South Carolina, perhaps one of the worst instances of confusion at a critical

junction occurred. As Greenville was considering implementing an emergency stay at home order, the state attorney general issued an opinion claiming localities did not have the authority to implement such a measure. The city had to immediately “re-evaluate” its plans.⁹ However, by the end of the weekend, the attorney general had reversed course and stated he would not sue cities for implementing emergency orders related to COVID-19. A local South Carolina publication said it best, as the state backed down from its preemptive threat to cities: “SC AG Wilson says he will not sue towns trying to protect citizens from coronavirus.”¹⁰

But a weekend of confusion about who has authority to enact emergency orders took time away from cities being able to respond to the spread of the virus during the critical month of March, as Greenville reconsidered its actions and large cities such as Charleston and Columbia already had stay at home orders that were suddenly in doubt.

As authorities devise local enforcement protocols for stay at home orders, in some areas hit particularly hard by COVID-19 such as low-income communities of color, the potential for inequitable enforcement by public safety officials placed many marginalized communities at high risk. Data collected by NBC News from major US cities such as Chicago and New York showed disproportionate enforcement (such as fines or arrests) against Black individuals.¹¹ ChangeLab Solutions has published recommended approaches to help equitable enforcement, including issuing guidance documents for enforcement, minimizing incarceration, and shifting the focus to businesses and institutions.¹²

Across the country, there were at least 43 executive orders issued by governors that were specifically stay-at-home or shelter-in-place orders. Twenty of these orders had some sort of preemptive

clause—nearly half setting some sort of preemptive floor where localities could enact more stringent measures.¹³

The remaining orders, however, were a mixed bag for localities. About a quarter of the researched executive orders were entirely restrictive, setting a ceiling preemption that did not allow for local action. In Georgia for instance, the governor's executive order set a ceiling preemption, not allowing localities to enact stay at home orders that were different from the state's. The remaining third of executive orders researched by the team included clauses that implemented both floor and ceiling preemption, depending on the policy, which creates constraints and confusion for local leaders.¹⁴

Equity Considerations During COVID-19

Throughout the pandemic we have seen local governments develop equitable solutions for controlling the spread of COVID-19, particularly for low-income people and marginalized communities such as seniors and people of color, which have been hardest hit. By utilizing federal CARES Act funding, many local jurisdictions quickly adopted policies aimed at emergency responses such as tenant protection, paid sick and family leave, and unemployment assistance benefits. As emergency response efforts waned, examples of preemptive measures utilized to support equitable responses to COVID-19 include:

Housing

In a recent report by the Urban Institute, thirty-three states passed preemption laws that prevent local governments from adopting some type of affordable housing policy or tenant protection.¹⁵ Michigan issued a statewide temporary suspension of evictions lasting until July 15, 2020, setting a preemptive floor that the city


of Detroit followed by implementing an eviction moratorium extension which suspended evictions within its jurisdiction through August 15¹⁶. This effort gave increased time and shelter which helped thousands of residents vulnerable to eviction stay in their homes during the pandemic. Federal preemption was recently issued to protect tenants as the CDC Eviction Moratorium is now in place until December 31¹⁷.

Utilities

The city of Durham announced a suspension on water shutoffs in early spring of 2020, weeks before North Carolina's executive order went into effect.¹⁸ The order preempts localities from being able to turn off utilities if payments are not submitted, protecting residents. However, Elizabeth City requested to receive a waiver from the statewide order citing city financial strains.¹⁹ In a more aggressive stance, the city of Le Grange sought legal action and filed a lawsuit against North Carolina's governor.²⁰ Many

small cities and towns that provide utility services to their residents must absorb the financial losses, which could lead to dire budget shortfalls for local governments and higher rates for consumers. Yet, the loss of water, gas or electricity can create unsafe living conditions, placing residents' health at risk and leaving many marginalized groups vulnerable to poor health and living conditions during a pandemic.

These two examples highlight the challenges of governing during a pandemic and how preemption can be used to set a floor, in which case localities can choose to do more for their residents, and how targeted preemption can be used to help residents. It is important for states to work with local governments



“States can encourage this partnership by setting regulatory floors that allow localities to enact additional policies.”

over issues related to social determinants of health such as employment practices, landlord-tenant relationships, utilities, and nutrition assistance programs to combat COVID-19, particularly in low-income communities. States can encourage this partnership by setting regulatory floors that allow localities to enact additional policies. But, as is the case of utilities, targeted state action can be used to promote fairness and equity, where the state could also seek to help communities with the financial impact of COVID-19.²¹

Reopening & State Interference

While the onset of COVID-19 presented its own challenges, with its rapid spread and the lack of knowledge about the disease, “reopening” presented another set of contentious issues. In particular for the US, the spread of the virus tended to be regional, if not hyper local, as certain areas experienced faster spreads than others. Targeted actions and responses were necessary. Or, in most cases, cities needed more time to slow the spread of the virus and “flatten the curve.”

Georgia presented one of the national examples of state interference in reopening. For the small beach community of Tybee Island, the state reopening of beaches was a major concern for fear of tourists bringing the virus to the community.²² Additionally, the City of Atlanta was far from ready to reopen as it sought to control the spread and as it had limited resources to enforce restrictions. After the city was forced to go along with the state, the mayor sought to implement a mask mandate, but was sued by the governor. Eventually, this suit was dropped.²³ In place, Georgia’s governor has allowed cities to implement mask mandates but only in public spaces

and only if they reach a “threshold” of COVID-19 cases; they are preempted from requiring masks inside businesses.²⁴

Education—typically a staple of local decision making—has also encountered state interference during COVID-19. In Iowa, the governor has mandated schools to hold at least 50% of classes in-person. Localities such as the Iowa City and Des Moines school districts, experiencing higher COVID-19 rates than other parts of the states, sued the state to be able to teach.²⁵ In Florida, waivers were offered by the state to school districts in South Florida to start the 2020-2021 school year entirely online, an area experiencing “extremely high coronavirus rates.” But as other districts applied, all were denied and forced to reopen by the governor, which has caused a lawsuit from the Florida Education Association and the national NAACP. While the district court agreed with these organizations, the state won on appeal.²⁶ The Hillsborough County school district—encompassing Tampa—wanted to wait to re-open its schools but Florida Governor Ron DeSantis threatened to withhold nearly \$200 million in state funding if they did not open.²⁷

Preemption & Public Safety

After the murder of George Floyd at the hands of Minneapolis police officers, the country experienced a summer of protest and policy change to address the systemic racism that contributed to Floyd’s death. These protests were not always met with peaceful treatment by police, and federal forces.

In Portland, Oregon, federal agents that were present at the federal courthouse located in the city began to expand their patrol zone, pushing protestors blocks away from the courthouse. These moves, and other aggressive actions used by the federal agents, were met with

condemnation by the Mayor of Portland, Ted Wheeler, and a lawsuit by the Oregon Attorney General, Ellen Rosenblum.

Federal preemption is not new. In the past, it has been used to set floor preemption, otherwise known as minimum standards, in legal domains such as civil rights and environmental regulation. But as Robert Tsai, a professor at the Washington College of Law at American University, explained, local policing has been left to the local jurisdiction. The presence of federal agents wandering the streets of a city represented a significant departure and created a preemption of police force.

Sources:

Baker, Mike, et al. “Federal Agents Push Into Portland Streets, Stretching Limits of Their Authority.” The New York Times, The New York Times, 25 July 2020, www.nytimes.com/2020/07/25/us/portland-federal-legal-jurisdiction-courts.html.

In Nebraska, as localities also considered mask mandates, the governor threatened to withhold funding from counties that implemented it, representing punitive preemption.²⁸ Cities in Texas also were met with fierce resistance from their governor for attempting to implement mask mandates, even as the governor eventually began to implement some versions of a mask mandate.²⁹

These mask mandates and social distancing policies, while important for slowing the spread of the virus, have not been enforced equally. For example, there have been reports of police officers in New York that have targeted people of color for non-compliance.³⁰

What's Next?

The pandemic is not over. The nation faces a potentially challenging fall and winter with a second wave, flu season, and schools attempting to hold in-person classes.

As COVID-19 cases spike in certain locations, will states allow localities to respond to their unique situations? Or will states continue to hinder local responses until it is too late? It is important for local, state, and federal officials to work together as we face such an unprecedented crisis—but the frequent preemption of local efforts hinders a unified response and only harms local efforts.

Additionally, the pandemic has created an economic crisis. As it erases millions of jobs, cities have struggled to bring in revenue and face difficult choices to regain their revenue or cut city services. This is in part due to tax and expenditure limits (TELs).

Tax and expenditure limits are another example of preemption, specifically limiting the options of how cities enact or raise their taxes, and sometimes how those revenues are spent. TELs can be imposed by state legislatures or can be

passed by referendum. They can restrict municipal revenue via general revenue limits, which places a limit on annual increases in total revenues, thus slowing the growth of revenue in response to rapid economic expansion. Or they can restrict revenues through tax assessment limits, which limits the annual assessed value by either freezing the value or tying increased to an index or formula.

This intersection of COVID-19 and TEL preemption is taking place in Colorado, where the residential assessment rate formulae could cause the rate to drop from 7.15%, to 5.88%. This would represent a roughly 18% drop in residential property tax revenues for Colorado's local governments.³¹

As the nation learns the true depths of the economic crisis, cities will need to be dynamic in order to respond to their local

“**..cities have struggled to bring in revenue and face difficult choices to regain their revenue or cut city services.**”

fiscal needs. Current fiscal structures do not allow that, as 48 of the 50 states have some type of tax and expenditure limit in place.³²

The economic crisis, as well as the pandemic itself, present an opportunity to reevaluate the social safety net. The social safety net is riddled with holes that allow too many Americans to fall through the cracks. This can be seen in issues ranging from paid leave, labor protections, unemployment income supports, and more.

Paid sick leave became a flashpoint as the country entered the pandemic and states had preempted localities from enacting paid leave and in some instances not enacting leave at the state-level. Paid sick leave has consistently been popular with the American public even when there wasn't any national action, but the level of support has increased dramatically during the pandemic. Cities have passed paid sick leave policies for years now, seeking to expand the social safety net wherever they can. Unfortunately in nearly half the country, states have blocked these laws through preemption. Thankfully short-term measures were passed at the federal level to respond to the lack of a national

policy on paid leave during the crisis, but these safety net supports need to be made permanent.

Some essential workers—such as grocery store employees—were earning minimum wage (until some chains enacted “hero bonuses”) before and during the pandemic. In a number of states, the minimum wage is tied to the federal level which is just \$7.25 an hour. In others that may have a higher minimum wage, the decision over the amount is preempted so that cities with hundreds of thousands of residents have the same minimum wage as smaller communities.

Rather than responding in an ad-hoc manner to these protections for essential workers, as the federal government did with its COVID-19 paid leave policy and as businesses did with temporary bonuses, states and localities could examine how to strengthen these measures by repealing these preemptions and allowing for local regulations. Cities have been at the vanguard of policy change on strengthening the social safety net and the country should take its cue from local leaders on how best to move forward.

Preemption, Public Health, & Equity in the Time of COVID-19

The pandemic presents an opportunity to reevaluate the structural issues that severally limit local decision-making. In a paper by the Local Solutions Support Center, ChangeLab Solutions, and ThinkForward Strategies, the following recommendations were tailored for each level of government:

Federal Government

Congress should adopt legislation prohibiting states from preempting local governments from building or expanding access to municipal broadband.

State Government

State governments should permanently remove state preemption of more protective local laws related to COVID-19 response (e.g., mask and physical distancing mandates), economic security (e.g., minimum wage, paid leave, employment protections), equitable housing (e.g., eviction moratoria, rent control, source-of-income antidiscrimination), municipal broadband, and civil rights (e.g., antidiscrimination laws, sanctuary cities).

Governors and other authorized officers should use their emergency powers to suspend preemptive laws preventing effective and equitable local responses.

Where necessary, state legislatures should amend state emergency laws to authorize the suspension of preemptive laws.

Legislatures should repeal all state preemption laws that penalize localities or local officials that enact, enforce, or attempt to enact or enforce preempted or potentially preempted laws (e.g., laws subjecting localities and local officials to fines, civil liability, removal from office, and loss of funding).

Legislatures, and voters in states that allow voter initiatives, should adopt structural reforms to strengthen home rule in alignment with the National League of Cities Principles of Home Rule for the 21st Century.

Those responsible for appointing judges, and voters in states that elect judges, should select judges receptive to legal theories protective against the misuse of state preemption.

Local Government

Local governments and residents should support resolutions, lobby state lawmakers, and call for state executive action in support of local authority to enact more protective laws related to COVID-19 response (e.g., mask and physical distancing mandates), economic security (e.g., minimum wage, paid leave, employment protections), equitable housing (e.g., eviction moratoria, rent control, source-of-income

antidiscrimination), municipal broadband, and civil rights (eg, antidiscrimination laws, sanctuary cities).

Local governments and residents should advocate for state legislation or ballot measures expanding home rule authority in alignment with the National League of Cities Principles of Home Rule for the 21st Century.

More Resources

The Local Solutions Support Center has produced several resources for local leaders as they navigate preemption, COVID-19, and reimagining public safety.

[Message Guide: Talking About Local Control During COVID-19](#)

[How do you know if your local government has the legal authority to adopt a policy response to the Coronavirus Pandemic?](#)

[Disbanding, Defunding, or Reforming Local Law Enforcement](#)

Conclusion

The current crisis, the confluence of a pandemic and economic recession, presents challenges for every level of government, and impacts the lives of every resident. Cities, towns and villages are on the front lines of responding to the virus as they seek to slow the spread and stop any outbreaks. The ability to respond in an equitable, efficient and dynamic manner is a prerequisite to handling this unprecedented moment. The abuse and misuse of preemption in the aforementioned examples are opportunities for states to reevaluate how they may be harming local efforts to address the pandemic.

Below are options for local leaders to advocate to their state governments to respond as needed to the COVID-19 pandemic.

Repeal Unnecessary Preemptions

Local leaders can advocate for the repeal or reform of unnecessary or burdensome preemptions, those hindering local actions and negatively impacting the lives of residents. These can range from simple repeals of mask mandate preemptions, to municipal broadband preemption hindering cities from providing better internet access to their communities.³³

Advocate for Home Rule Reform

Cities can advocate for a new vision of local decision-making in their states with the Principles of Home Rule for the 21st Century. This pivotal document provides legal text for states to enact meaningful home rule authority, granting local governments the powers they need to respond to their community without state interference.

Center Equitable Solutions

Local government should consider implementing an equity-first preemption framework to assess whether preemption is likely to worsen systematic inequities or whether it is an appropriate response to address existing inequities. An equity-first framework can help mitigate any negative policy impacts on low-income, marginalized communities including people of color and provide opportunities to reduce disparities during a public health crisis.³⁴

Build Partnerships

Cities are not seeking to act alone—they are seeking partners. Our federal system has a key strength in being able to work on multiple levels, set minimum standards, and respond to the local conditions that can vary across a state. Examples of local and state collaboration can flourish in a time of such rapid change and specific contexts.

Write Explicit Language Allowing Local Action

State leaders can explicitly build these partnerships via laws and executive orders that set minimum standards, or floor preemptions. As was the case in North Carolina, the governor’s executive order gave localities the ability to implement more stringent emergency policies to respond to the virus.



Endnotes

¹ Weiner, Rachel. Republican Governors Who Opposed Mask Mandates Start to Soften. 10 July 2020, www.washingtonpost.com/health/republican-governors-who-opposed-mask-mandates-start-to-soften/2020/07/10/465baf14-c070-11ea-b4f6-cb39cd8940fb_story.html.

² Executive Order. No. 121, STAY AT HOME ORDER AND STRATEGIC DIRECTIONS FOR NORTH CAROLINA IN RESPONSE TO INCREASING COVID-19 CASES, 2020, p. 13.

³ DuPuis, Nicole, et al. 2018, pp. 1–32, City Rights in an Era of Preemption: A State-by-State Analysis.

⁴ Haddow, Kim, et al. The Growing Shadow of State Interference. 2019, static1.squarespace.com/static/5ce4377caeb1ce00013a02fd/t/5d66a3c36044f700019a7efd/1567007722604/LSSCSiXReportAugust2019.pdf.

⁵ State Preemption Laws. 2019, lawatlas.org/datasets/preemption-project.

⁶ DuPuis, Nicole, et al. 2018, pp. 1–32, City Rights in an Era of Preemption: A State-by-State Analysis. Graham, David A. “How St. Louis Workers Won and Then Lost a Minimum-Wage Hike.” The Atlantic, Atlantic Media Company, 5 Sept. 2017, www.theatlantic.com/business/archive/2017/08/st-louis-minimum-wage-preemption/538182/. Malewitz, Jim. “Curbing Local Control, Abbott Signs ‘Denton Fracking Bill.’” The Texas Tribune, The Texas Tribune, 18 May 2015, www.texastribune.org/2015/05/18/abbott-signs-denton-fracking-bill/.

⁷ Temple University Center for Public Health Law Research. “Preemption, Paid Leave, and the Health of America.” Bill of Health, 19 Mar. 2020, blog.petrieflom.law.harvard.edu/2020/03/16/preemption-paid-leave-and-the-health-of-america/.

⁸ Ganucheau, Adam. “Mayors Scramble to Know: Does Gov. Reeves’ Coronavirus Declaration Clash with Local Orders?” Mississippi Today, 1 Apr. 2020, mississippitoday.org/2020/03/25/mayors-scramble-to-know-does-gov-reeves-coronavirus-declaration-clash-with-local-orders/.

⁹ Brown, Eric Connor and Kirk. “Greenville to ‘Re-Evaluate’ Proposed COVID-19 Stay-at-Home Order in Light of Attorney General Opinion.” The Greenville News, Greenville News, 28 Mar. 2020, www.greenvilleonline.com/story/news/local/2020/03/27/coronavirus-sc-live-city-council-metting-legal-opinion-causes-greenville-re-evaluate-stay-home-order/2925660001/.

¹⁰ Monk, John. “SC AG Wilson Says He Will Not Sue Towns Trying to Protect Citizens from Coronavirus.” Thestate, The State, www.thestate.com/news/coronavirus/article241614661.html.

¹¹ Ross, Janell. “Pattern of Uneven Social Distancing Enforcement Coming into View, Civil Rights Experts Say.” 31 May 2020. Web. 02 Oct. 2020.

¹² Michel, Katie Hannon, and Maya Hazarika Watts. “Equitable Enforcement of Public Health Laws.” ChangeLab Solutions, 2020, www.changelabsolutions.org/blog/equitable-enforcement-public-health-laws.

¹³ McDonald, Bruce D., et al. 2020, pp. 1–10, Tensions in State-Local Intergovernmental Response to Emergencies: The Case of COVID-19.

¹⁴ McDonald, Bruce D., et al. 2020, pp. 1–10, Tensions in State-Local Intergovernmental Response to Emergencies: The Case of COVID-19.

¹⁵ https://www.urban.org/sites/default/files/publication/102981/state-preemption-of-local-housing-protections_0.pdf

¹⁶ Barmore, Breana Noble and Jasmin. “Michigan’s Moratorium on Evictions Ends; Detroit Tenants Get Extension through Aug. 15.” The Detroit News, The Detroit News, 17 July 2020, www.detroitnews.com/story/news/local/detroit-city/2020/07/16/court-extends-detroit-evictions-moratorium/5451999002/.

¹⁷ “Federal Register Notice: Temporary Halt in Residential Evictions to Prevent the Further Spread of COVID-19.” Centers for Disease Control and Prevention, Centers for Disease Control and Prevention, 2020, www.cdc.gov/coronavirus/2019-ncov/covid-eviction-declaration.html.

¹⁸ “Durham Water Has Returned to Regular Billing Practices.” Durham, NC, 2020, durhamnc.gov/CivicAlerts.aspx?AID=2258. Executive Order. No. 124, 142 North Carolina Utilities, 2020, p. <https://www.ncuc.net/execorder124.html>.

¹⁹ Wagner, Adam, and Charlie Innis. “Are Your Utility Bills Past Due Because of COVID-19? Prepare to Pay as NC Order Expires.” Newsobserver, Raleigh News & Observer, www.newsobserver.com/news/local/article244139627.html.

²⁰ Havlak, Julie. Cooper Order Throws Local Governments into Financial Havoc. 16 June 2020, www.carolinajournal.com/news-article/cooper-order-throws-local-governments-into-financial-havoc/.

²¹ Haddow, Kim, et al. “Preemption, Public Health, and Equity in the Time of COVID-19.” ASSESSING LEGAL RESPONSES TO COVID-19, edited by Derek Carr, 2020, pp. 71–76.

²² Farzan, Antonia. “‘Stupid and Crazy’: Local Officials Protest Gov. Kemp’s Decision to Reopen Beaches in Hard-Hit Georgia.” The Washington Post, WP Company, 6 Apr. 2020, www.washingtonpost.com/nation/2020/04/06/tybee-island-kemp-coronavirus/.

²³ Cole, Devan. “Georgia Governor Withdraws Lawsuit Challenging Atlanta Mayor’s Mask Mandate.” CNN, Cable News Network, 14 Aug. 2020, www.cnn.com/2020/08/13/politics/brian-kemp-atlanta-mask-lawsuit-withdrawing/index.html.

²⁴ CBS News. “Georgia Governor Allows Local Mask Mandates, with Limits.” CBS News. CBS Interactive, 17 Aug. 2020. Web. 02 Oct. 2020.

²⁵ “Iowa Schools Reopen amid COVID-19 Concerns: How This Year Will Be Different.” Des Moines Register, 2020, www.desmoinesregister.com/story/news/education/2020/08/23/iowa-schools-reopen-covid-concerns-changes-classrooms-online-classes-coronavirus-hybrid-pod-learning/3356847001/.

²⁶ Strauss, Valerie. “Florida Judge Blocks State Order for Schools to Reopen.” The Washington Post, WP Company, 25 Aug. 2020, www.washingtonpost.com/education/2020/08/24/florida-judge-blocks-state-order-schools-reopen/.

²⁷ Balingit, Moriah, and Lori Rozsa. “A Florida School District Wanted to Wait to Reopen School Buildings. Gov. Ron DeSantis Threatened to Cut Its Funding.” The Washington Post. WP Company, 15 Aug. 2020. Web. 02 Oct. 2020.

²⁸ Hammel, Paul. “Ricketts Tells Local Governments They Won’t Get Federal COVID-19 Money If They Require Masks.” Omaha.com, 18 June 2020, omaha.com/state-and-regional/ricketts-tells-local-governments-they-wont-get-federal-covid-19-money-if-they-require-masks/article_d15459b9-26df-527e-9899-9f579a3d8597.html.

²⁹ Weiner, Rachel. “Republican Governors Who Opposed Mask Mandates Start to Soften.” The Washington Post, WP Company, 10 July 2020, www.washingtonpost.com/health/republican-governors-who-opposed-mask-mandates-start-to-soften/2020/07/10/465baf14-c070-11ea-b4f6-cb39cd8940fb_story.html.

³⁰ Southall, Ashley. “Scrutiny of Social-Distance Policing as 35 of 40 Arrested Are Black.” The New York Times, The New York Times, 7 May 2020, www.nytimes.com/2020/05/07/nyregion/nypd-social-distancing-race-coronavirus.html?auth=login-facebook.

³¹ Eason, Brian. “Coronavirus May Trigger the Second-Largest Property Tax Cut in Colorado History, Further Crippling Local Budgets.” The Colorado Sun, coloradosun.com/2020/05/12/coronavirus-gallagher-amendment-property-taxes-colorado/.

³² State Preemption Laws. 2019, lawatlas.org/datasets/preemption-project.

³³ Haddow, Kim, et al. “Preemption, Public Health, and Equity in the Time of COVID-19.” ASSESSING LEGAL RESPONSES TO COVID-19, edited by Derek Carr, 2020, pp. 71–76.

³⁴ Carr, Derek, et al. “An Equity-First Approach to Assessing Preemption.” Equity First: Conceptualizing a Normative Framework to Assess the Role of Preemption in Public Health, The Milbank Quarterly, 2020, www.changelabsolutions.org/product/equity-first-approach-assessing-preemption.

