

# Agenda

## LOCAL GOVERNMENT EFFICIENCY TASK FORCE

### Meeting 02

January 20, 2021

Zoom Webinar

<b>I.</b>	<b>Call to order</b>	Chair
<b>II.</b>	<b>Roll call</b>	Administrative Assistant
<b>III.</b>	<b>Task force member questions on local government efficiency issues provided to the task force</b>	Chair, Members Tiffany Henderson, Senior Public Policy Coordinator, Florida Association of Counties Rebecca O'Hara, Deputy General Counsel, Florida League of Cities, Inc.
<b>IV.</b>	<b>Task force member questions for OPPAGA on research provided to the task force</b>	Chair, Members OPPAGA staff
<b>V.</b>	<b>Discussion on task force areas of focus</b>	Chair, Members
<b>VI.</b>	<b>Task force next steps</b>	Chair, Members
<b>VII.</b>	<b>Other business</b>	Chair and Members
<b>VIII.</b>	<b>Public comment</b>	Open to public
<b>IX.</b>	<b>Closing remarks</b>	Chair

**From:** [LEVENTHAL.EMILY](#)  
**To:** [Baker](#); [Caldwell](#); [Caragiulo](#); [Kelley](#); [Rodrigues](#); [Ray](#); [Whitmore](#)  
**Cc:** [TWOGOOD.PHILIP](#); [COLLINS-GOMEZ.KARA](#); [JONES.ERYN](#); [HOLLIGAN.LAKEISHA](#); [Vida Gordon](#); [Morris](#); [Timothy](#); [Kulavic](#); [Krissy](#)  
**Subject:** OPPAGA Task#1: Local Government Financial Data  
**Date:** Friday, January 15, 2021 11:12:02 AM

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Good morning, task force members.

The Task Force requested information on The Taxpayers Accountability & Transparency Project website, which had provided local government rankings and report cards for Florida counties and cities. While the Project website is no longer available, the city and county financial information that had been the base for the Project data is still being collected and stored by the Florida Legislature's Office of Economic and Demographic Research (EDR). This material may be found on EDR's website under [Local Government Financial Reporting](#).

If you have any concerns or questions, please do not hesitate to contact me directly and please do NOT "reply to all."

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Regards,

Emily Leventhal

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Emily Leventhal, Ph.D.  
Staff Director, Government Operations Policy Area  
The Florida Legislature's Office of Program Policy Analysis and Government Accountability (OPPAGA)  
(850)717-0525



Date: January 6, 2021

To: Chair Whitmore, Vice Chair Caldwell, and Members of the Local Government Efficiency Task Force

From: The Florida Association of Counties

RE: Local Government Efficiency

**MELISSA MCKINLAY**  
PRESIDENT  
PALM BEACH

**RALPH C. THOMAS, JR.**  
PRESIDENT ELECT  
WAKULLA

**LEE CONSTANTINE**  
FIRST VICE PRESIDENT  
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SECOND VICE PRESIDENT  
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**NICK MADDOX**  
IMMEDIATE PAST PRESIDENT  
LEON

**VIRGINIA "GINGER"  
DELEGAL**  
EXECUTIVE DIRECTOR

Thank you for the opportunity to provide information relating to local government efficiency. For over 80 years, the Florida Association of Counties (FAC) has represented the diverse interests of Florida's counties, emphasizing the importance of protecting home rule – the concept that communities and their local leaders should make the decisions that impact their community.

The task force has asked us to present five issues that affect local government efficiency the most. We believe that local governments have found innovative ways to address efficiency issues within their individual communities and local governments are continuously being strategic while working within the parameters of their local governance structure, as well as state mandates, to deliver critical and essential services to their citizens. Below are the five examples of issues that impact local government efficiency.

- Unfunded mandates that require counties to take on additional administrative and policy responsibilities, which change the structure in how counties operate and do business.
- Preemptions continue to be an area that plagues the efficiency of local government. The state legislature has passed a complete preemption on the regulation of firearms and ammunition, additional restrictions on smoking, use of plastic bags/styrofoam by retail establishments, tree trimming, beach access, autonomous vehicles, small cell bill and scooters. We have included a list of all preemptions local governments have faced from 2013 to 2020.
- Local government plays a vital role in economic development and the business community. Businesses should not be forced to navigate the state legislative process for minor matters that are easily addressed at the local level. This is particularly problematic for small businesses, which may lack the resources to pursue matters legislatively. Local governments are the most accessible venue to resolve business concerns because most familiar with their communities.
- Working with other local government entities forming interlocal agreements for shared services that offer efficiencies and potential





*All About Florida*

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cost savings. The shared services model will become ever more important as local governments navigate the effects of the Coronavirus pandemic.

- Reporting required by the state that do not lead to actionable items or changes yet requires staff time and resources to develop and submit.

We have also included an electronic copy of the *Florida County Government Guide*. This *Guide* serves as a handbook that will explain the basic elements of county governance, administration, policy making, and budgeting. This *Guide* includes chapters on all aspects of Florida county government, including Florida's history on home rule, county government structure, leadership and management, budgeting methods and strategies, economic development and growth management, human resources, purchasing and contracting, health and safety, and infrastructure.

Additionally, we wanted to provide a list of preemption bills filed that we tracked during the 2020 legislative session. This is not an exhaustive list, but those that rose to a heightened level for our members. These preemptions and threat of preemptions often have unintended consequences on local governments and the services they provide to their citizens; therefore, tying the hands of local governments and frequently resulting in litigation.

Preemptions filed that failed:

- Vacation Rentals (HB 1011/SB 1128)
- Local Occupational Licensing (HB 3/SB 1336)
- Local Communications Services Tax Limitations (SB 1174/HB 701)
- Local Pet Store Regulations (HB 1237/SB 1698)
- Conditions of Employment (HB 305/ SB 1126)
- Home Based Businesses (HB 537/ SB 778)
- Local Government Accountability (HB 611/ SB 766)
- Supermajority Vote to Raise Taxes (HB 477)

Preemptions filed that passed:

- Sunscreen Preemption (HB 113/SB 172)
- Deregulation of Professions (HB 1193/ SB 474)
- Environmental Rights Preemption Passes in Water Package (SB 712)

Due to the Coronavirus pandemic, it is anticipated that a huge impact to local government efficiency will occur. Local governments have always been innovative in providing services to its citizens before, during and after natural





disasters and we are confident that this will continue. However, the challenges of the pandemic should be taken into consideration and how services are executed moving forward, trusting that local governments will do what is best for their communities.

Again, thank you for allowing us to provide information on local government efficiency and we look forward to working with you throughout this process.

**MELISSA MCKINLAY**  
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Enclosure:

Florida County Government Guide  
Preemption Tracker 2013-2020



**From:** [Rebecca O'Hara](#)  
**To:** [LEVENTHAL.EMILY](#)  
**Cc:** [Casey Cook](#); [Amber Hughes](#); [Kraig Conn](#)  
**Subject:** Efficiency Issues for Municipalities  
**Date:** Wednesday, January 06, 2021 5:05:43 PM  
**Attachments:** [Efficiency Task Force Required Web Postings 2019 FLGISA.docx](#)

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Good Afternoon, Emily –

Following the request from the Local Government Efficiency Task Force for the League to identify the “Top Five Efficiency Issues” for municipalities, the League requested input from various city officials, including the associations for city clerks, city managers, finance officers, and city attorneys. Based on these responses, the League has identified the following four areas for consideration. Given the timeframe for response and the small size of the survey sample, please note these four issues may not be the experience or opinion shared by all municipalities statewide. Please also note the League’s membership has not had an opportunity to meet, discuss or take any official position on any of these items. Lastly, these items are not assigned any preference by their rank on the list. I would be happy to elaborate on any of these items at the next Task Force meeting.

1. Newspaper Publication requirements for legal notices in Chapter 50, F.S. – whether this requirement is the most effective means of public notice and the most efficient use of public money given modern technology and how the public obtains information
2. Physical quorum “requirement” for public meetings in extraordinary or emergency circumstances – Section 166.041(4) as interpreted by the Attorney General in various Opinions. Lack of clarity over local government authority to waive this requirement during the pandemic caused uncertainty, administrative burdens and duplication because local governments had to wait for the Governor’s to issue an Executive Order to clarify such authority and each extension of the Order was made on the last day. In some cases this required meeting notices that had already been published to be re-noticed.
3. Ordinance adoption – city ordinances must be “read aloud” on two separate days. Counties do not have this requirement. Compare 166.041(3)(a) with section 125.66(2)(a). This is a built-in inefficiency for municipal ordinance adoption.
4. Various Statutory Reporting Requirements – specific examples follow.
  - Retirement/Pension reporting requirements – Sections 112.664 and 112.665(1)(e). This information is already provided in the reporting required under section 112.63 and requires public expenditures for additional actuarial services. Unclear whether any benefit is gained from these requirements.
  - Section 760.80 F.S. - requirement for filing reports with the state on appointments of disabled and minority persons – Unclear whether any benefit is gained or whether the information is even used.
  - Financial Reporting – cities must file an annual Audited Financial Report with the state as well as a new annual report to the Office of Economic and Demographic Research, which is essentially the same data. The EDR data is duplicative and less reliable because it is due prior to full close out and reconciliation of annual financial info. The new EDR report is an administrative burden, duplicative and generates potentially conflicting info. The requirement has been effective for only two reporting cycles and any benefit

from this additional report is not yet apparent.

Lastly, I recall there was some discussion at the Task Force meeting about website posting requirements. I wanted to share the attached compilation with you and the Task Force, which identifies the various website posting requirements under state law. It was prepared in 2019 by a member of the Florida Local Government Information Systems Association and may not reflect any changes in the law since that time.

Please let me know if you have any questions about this information.

Regards,  
Rebecca

Rebecca O'Hara  
Deputy General Counsel  
Florida League of Cities, Inc.

# Local Government Efficiency Task Force

Rebecca O'Hara, Deputy General Counsel  
Florida League of Cities, Inc.



## **Top Efficiency Issues Identified by City Managers, Finance Officers, City Clerks & City Attorneys**

- Municipal Ordinance Adoption
- Waiver of Physical Quorum in Emergencies
- Legal Notice Requirements
- Statutory Reporting Requirements

# Municipal Ordinance Adoption

- Municipalities – a proposed ordinance may be read by title, or in full, on at least two separate days and shall, at least 10 days prior to adoption, be noticed once in a newspaper of general circulation within the municipality. Section 166.041(3)(a), F.S.
- Counties – may enact or amend any ordinance...if notice of intent to consider such ordinance is given at least 10 days prior to said meeting by publication in a newspaper of general circulation in the county. Section 125.66(2)(a), F.S.
- It is unclear why municipal ordinances are subject to the “two separate day” requirement.
- The requirement for two ordinance readings on two separate days is a built-in inefficiency for the conduct of public business.

# Waiver of Physical Quorum in Emergencies

- Section 286.011, F.S. (Sunshine Law) – meetings “at which official acts are to be taken are declared to be public meetings open to public at all times” (silent on quorum requirement)
- Section 166.041(4), F.S. – “A majority of the members of the governing body shall constitute a quorum. An affirmative vote of the majority of the quorum present is necessary to enact any ordinance or adopt any resolution”
- AGO 2020-03 (March 19, 2020)
  - “Unless and until legislatively or judicially determined otherwise, if a quorum is required to conduct official business, local government bodies may only conduct meetings by teleconferencing or other technological means if either a statute permits a quorum to be present by means other than in-person, or the in-person requirement for constituting a quorum is lawfully suspended during the state of emergency.”
- AGO’s recognize the AG’s interpretation that 166.041 requires a physical quorum is a “conservative” construction and that is it not a requirement of the Sunshine Law.
- Executive Order 20-69 suspended any statute that requires a quorum be present in-person and permitted local government bodies to use technology for such meetings. This order was extended on several occasions, typically with short notice.
- Local governments faced dilemma about how to properly notice meetings scheduled to occur after the expiration of the Executive Order and how to safely and efficiently conduct public business.

## Legal Notice Requirements – Chapter 50, F.S.

- Government legal notices must be in a newspaper meeting the following qualifications:
  - Published at least once/week
  - At least 25% of words in English
  - Considered a periodical by the U.S. Post Office
  - For sale to the general public
  - Contains information of interest to general public in affected area
- If the newspaper has a website, the notice must be published online the same day, published at no additional charge
- Fees set by statute – 70 cents per square inch for first and 40 cents per square inch for subsequent insertion

## Legal Notice Requirements – Chapter 50, F.S., Cont'd

- CS/CS/HB 7 (Fine) & SB 1340 (Gruters) filed in 2020 legislative session
- Allowed gov'ts the option to publish legal notices on a publicly accessible website
  - In non-fiscally constrained counties, gov't agencies could publish online if would result in cost savings
  - In fiscally constrained counties (currently 29), agency must make determination at public meeting that online notice would be less expensive than newspaper, and that it would not unreasonably restrict access to notices given conditions in the area
  - Residents or property owners could opt to receive notices via first class mail or email upon registration with agency
- HB 35 (Fine) has been filed for 2021 legislative session

# Statutory Reporting Requirements

## Financial Reporting Requirements Example:

- Local governments required to file an annual financial report with DFS after end of fiscal year. Section 218.32, F.S.
- Local governments required to conduct annual financial audit after end of fiscal year. Section 218.39, F.S.
- Local governments required to file annually specified financial information with EDR by Oct. 15. Section 166.241(4), F.S. (effective 2019)
  - Spending per resident
  - Debt per resident
  - Average employee salary
  - Number of special taxing districts
  - Percent of budget spent on salaries and benefits
  - Annual expenditures for affordable housing
- The EDR report data is not as reliable because the report is due prior to close out and reconciliation of annual financial information.
- The value of the EDR data for comparing local governments is questionable
- Only two reporting cycles have occurred since passage of EDR requirement

## Statutory Reporting Requirements – Cont'd

- No overwhelming consensus on other reporting requirements (likely due to survey size and response time)
- Common examples included:
  - Appointments of disabled or minority Persons. Section 760.80, F.S. (1994)
    - Annual report to Sec'y of State, Governor, and legislature of appointments; info describing each person's race, ethnicity, gender, disability must be available for public inspection.
  - Defined benefit pension plan reporting requirements
    - Section 112.664, F.S. – report annual financial statements to DMS
    - 112.665(1)(e), F.S. – provide fact sheet summarizing plan actuarial status; posted on DMS website
    - This information is already required by section 112.63; requires expenditures for additional actuarial services; purpose for fact sheet unclear.
  - Impact fee studies and reporting. Section 163.31801(11), F.S.
    - New 2020 requirement for info in addition to what is provided in annual financial reports
  - CRA audits and reporting. Section 163.387(8), F.S.
    - Same data included in reports to DFS. New requirement in 2019.

# Suggestions

- Reporting and Web Posting Requirements
  - Recommend statutory reporting and web posting requirements be subject to periodic sunset review
  - Periodic review would help assess relative costs vs benefits and provide opportunity for update
- Legal Notice – recommend updating Chp. 50 to authorize electronic publication in lieu of newspaper publication
- Municipal Ordinance Adoption – recommend aligning municipal process in Chp. 166 with county process in Chp. 125
- Physical Quorum – recommend clarifying Chps. 125 and 166 to authorize municipalities and counties to adopt procedures for waiving physical quorum requirements in extraordinary circumstances

# Thank You

# Florida Local Administrative Divisions

The Local Government Efficiency Task Force asked OPPAGA to prepare an overview of local government entities broken out by the four key types – counties, municipalities, school districts, and special districts. Below, we present key features of each, including their structure, authority, and form of government, as well as examples where they may be illustrative.

## I. COUNTIES

The 1885 Florida Constitution first formally recognized counties. The 1968 Florida Constitution further established that counties could be, “*created, abolished or changed by law, with provision for payment or apportionment of the public debt*” and gave counties the option of adopting a charter to establish their government and additional power under home rule.<sup>1</sup> Florida currently has 67 counties.

### Key Features<sup>2</sup>

#### Authority: Charter vs. Non-Charter

In 1968, Florida citizens voted to allow local governments the power to adopt charters to govern their counties. Charters are formal written documents that confer powers, duties, or privileges on the county and must be approved, along with any amendments, by county voters. A key difference between charter and non-charter counties is extent of home rule and freedom from state control.

The Florida Constitution provides an overview of county authority.

- **Charter Counties**, “*shall have all powers of local self-government not inconsistent with general law...*”<sup>3</sup> Additionally, charter counties must have a government structure specified in their charter and approved by county residents. In general, charter counties have wide discretion as long as it does not conflict with state law. Twenty counties are charter counties.
- **Non-Charter Counties**, “*shall have the power of self-government as is provided by general or special law.*”<sup>4</sup> Non-charter counties must use a government structure specified by state law. More specifically, for non-charter counties, the government structure can only be changed by the Legislature or by amending the Florida Constitution. Forty-seven counties are non-charter.

#### Form of Government

**Charter Counties** may use the Commission-Administrator/Manager or the Commission-Executive form of government.

**Non-Charter Counties** may use the County Commission or Commission-Administrator form of government.

Counties vary in the form of government used.

- County Commission-9 counties

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<sup>1</sup> Article VIII, section 1(a) 1968 Florida Constitution, Article VIII, section 1(c) 1968 Florida Constitution.

<sup>2</sup> All data presented is from the 2018 Florida County Government Guide, published by The Florida Association of Counties.

<sup>3</sup> Article VIII, section 1(g) 1986 Florida Constitution.

<sup>4</sup> Article VIII, section 1(f) 1986 Florida Constitution.

- Commission-Administrator/Manager<sup>5</sup> - 55 counties
- Commission-Executive - 3 counties

## Districting Plan

A districting plan is the process counties use to establish districts for the purposes of voting. Counties have three options for establishing districts.

- Single Member Districts - 23 counties
- At-Large District Residency System - 38 counties
- Mixed System - 6 counties

## II. MUNICIPALITIES

Municipalities are formed when a community creates a charter that allows it to establish its own government, and the Legislature passes a special act permitting the community to incorporate a legal community. According to the League of Cities, Florida currently has approximately 411 municipalities.

### Key Features

#### Form of Government

Florida law does not prescribe or prohibit forms of municipal government; the Florida Constitution requires only that, “each municipal legislative body shall be elective.”<sup>6</sup> Municipalities in the state utilize numerous forms of government.

- Council-Manager - voters elect the council, including the mayor, which then appoints the city manager; manager serves as the chief administrative officer of the city. This is the most common form of municipal government in Florida, used by approximately 270 cities<sup>7</sup>
- Council-Weak Mayor Form- widely used in small towns
- Council-Strong Mayor Form - distinct division of powers between council and mayor; mayor serves as chief executive
- Commission Form - combines executive and legislative powers in a governing board

## III. SCHOOL DISTRICTS

State law provides one school district for each of Florida’s 67 counties.<sup>8</sup>

- Superintendents and locally elected school boards govern school districts.
- The Florida Constitution grants authority to the school board in each district to, “operate, control and supervise all free public schools within the school district and determine the rate of school district taxes...”<sup>9</sup>

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<sup>5</sup> Under Florida’s County Administration Law, “Administrator” is technically the proper term for the person in a *non-charter* county who oversees operations and implements policy. Under the Optional County Charter Law, “Manager” is the proper term for this person in a *charter* county. However, in Florida, the terms are used interchangeably. Thus, “as a practical matter in Florida a commission-administrator form of government is equivalent to a commission-manager form of government” (Florida County Government Guide: 15)

<sup>6</sup> Article VIII, Section 2(b) Florida Constitution

<sup>7</sup> The number of municipalities using the Council-Manager form of government is the number reported in the 2013 Florida Municipal Officers’ Manual. As of January 2021, the 2013 manual is the most recent version of the manual ; a new version is expected to be available later in 2021 .

<sup>8</sup> Article IX, Section 4(a) Florida Constitution

<sup>9</sup> Article IX, Section 4(b) Florida Constitution

# Key Features<sup>10</sup>

## School Boards

- By state law, school boards must include at least five members that serve staggered 4-year terms.<sup>11</sup> School board composition varies across districts.
  - Five members - 58 school boards
  - Seven members - 6 school boards
  - Eight members - 1 school board
  - Nine members - 2 school boards
- School board member elections can take several forms.
  - District-wide vote via at-large election - 42 districts
  - Residence area (single member districts) - 21 districts
  - Mixed vote in which some members are elected via single member districts and some members are elected via at-large, district-wide vote - 4 districts

## Superintendents

- Each school district has one superintendent. Superintendents may be elected in a general election or appointed and approved by electors.<sup>12</sup>
  - Elected by community - 41 superintendents
  - Appointed by school board - 26 superintendents

## IV. SPECIAL DISTRICTS

Special districts are a unit of government authorized by the state for a special purpose, often aimed at providing public services, and operated within a limited geographic boundary. Special district areas may cover more than one county. Florida currently has 1,769 active special districts.

## Key Features

### Method of Creation

- General law
- Special act passed by the Legislature
- Local ordinance passed by a county or municipality
- Rule of the Governor and Cabinet

### Authority

- Dependent or Independent
  - A special district is dependent if a single county or single municipality has authority to designate all its own governing body members to serve as the governing body of the district; appoint all members to the special district's governing body; remove any governing body member at will; or to approve or veto the special districts budget.
  - A special district is Independent if it does not have any of the characteristics of dependent districts.

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<sup>10</sup> All data presented is from August 2019.

<sup>11</sup> Article IX, Section 4(a) Florida Constitution

<sup>12</sup> Article IX, Section 5 Florida State Constitution

- Bond Authority: not all districts are established with this authority.

# Examples<sup>13</sup>

## Created by General Law

- Independent, does not have bond authority, created by general law
  - Business Improvement District (e.g. Lincoln Road)
- Dependent, has bond authority, created by general law
  - Wakulla County Industrial Development Authority
- Independent, has bond authority, created by general law
  - Florida Resiliency and Energy District
  - Highway 79 Corridor Authority

## Created by Special Act

- Independent, has bond authority, created by special act
  - Fire Control and Rescue Districts (e.g. North Collier, Pace)
  - Stewardship Districts (e.g. Sunbridge, East Nassau)
  - Municipal Services Improvement District (e.g. Lehigh Acres)
  - Water Management Districts (e.g. St. Johns River)
- Dependent, does not have bond authority, created by special act
  - East Mulloch Water Control District
- Dependent, has bond authority, created by special act
  - Loxahatchee Groves Water Control District

## Created by Local Ordinance

- Independent, has bond authority, created by local ordinance
  - Community Development Districts (e.g. VillaMar)
- Dependent, has bond authority, created by local ordinance
  - Parks and Recreation Districts (e.g. City of Sarasota)

# MORE INFORMATION

- Counties: [Florida County Government Guide, Chapter 2: Florida County Government Structure](#)
- Municipalities: [The Florida Municipal Officials' Manual](#)
- School Districts: [2018-2019 Florida School Board Fast Facts](#)
- Special Districts: Official list of [all special districts](#) and list of [multi-county special districts](#).

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<sup>13</sup> Special District examples presented are as of December 2020.

# Home Rule Concepts and Applications in Florida

## SELECTED ARTICLES

### The Effectiveness of Home Rule: A Preemption and Conflict Analysis

**Wolf, James R. and Sarah Harley Boliner (2009).** The Effectiveness of Home Rule: A Preemption and Conflict Analysis. *Florida Bar Journal*, 83(6), 92.

The authors explain that the Municipal Home Rules Act (MHRPA) of 1973 guarantees power to local governments except as otherwise provided by law, which Florida courts have interpreted to mean that local government action should only be prohibited if the action is 1) preempted by state law or 2) in conflict with state law. In examining this provision, the authors discuss key tenets of preemption and conflict and review cases of preemption (both explicit and implied) and conflict in Florida as they apply to the MHRPA. The authors highlight a variety of Florida court rulings related to preemption and conflict between state and local law. The authors conclude that the precepts and concepts of preemption and conflict should be considered when assessing the legality of local government actions.

### Preemption of County Authority in Florida

**Florida Association of Counties and Florida Association of County Attorneys (2016).** Preemption of County Authority in Florida. *Joint White Paper*.

This document focuses on express statutory preemptions and implied preemptions that have been identified by the courts in Florida. The paper provides a brief discussion of county and municipal home rule authority followed by an overview of 12 areas of state preemption, citing relevant statutes and court case examples, where applicable, for each area. These areas are (1) budgeting process; (2) contracting, purchasing, and sale of county property; (3) emergency medical; (4) eminent domain; (5) environmental management; (6) ethics, meetings, procedure and public records; (7) growth management and zoning; (8) health and human services; (9) public safety, courts and animal control; (10) sanitation and food; (11) taxes and other revenue sources; and (12) transportation.

### Preemption of Local Government Power

#### *A Selection from: Home Rule and Exercise of Taxing Power*

**Enciosa, Heather (2020).** "Preemption of Local Government Power" from Home Rule and Exercise of Taxing Power. *City, County and Local Government Law Section of the Florida Bar*. Presentation for City, County, and Local Government Certification Review Course 2020. Section III, 1.27-1.35.

The author provides a summary of home rule as it relates to counties and municipalities, reviewing the basic tenets of home rule in Florida per the 1968 constitutional revision. Following this, the author reviews four areas of preemption, providing examples of cases for each.

1. Preemption of legislative special acts, which as provided by the 1968 Florida constitution, allows the Legislature to prohibit special acts related to any subject prohibited by general law.<sup>1</sup>

<sup>1</sup> Article III, section 11 (a)(21), Florida Constitution (1968).

2. Preemption by constitutional provision wherein the home rule authority of a local government can be preempted by a constitutional provision; here the author reviews two examples: local charter provisions imposing term limits on county officers and the reservation of state power in matters of statewide concern.
3. Preemption when local government action is in conflict with state law.
4. Preemption when local government action is inconsistent with a pervasive regulatory scheme of the state.

## WHAT YOU NEED TO KNOW ABOUT PREEMPTION

**National League of Cities (2020).** What You Need to Know About Preemption. *Cities 101*. <<https://www.nlc.org/resource/what-you-need-to-know-about-preemption/>>.

This document is a fact sheet from the National League of Cities (NLC). The document provides brief overviews for five key questions on preemption.

1. What is preemption?
2. Why does preemption matter?
3. What are the types of preemption?
4. How widespread is preemption?
5. What are the forms of preemption?

The NLC notes that preemption as a legislative tool “is neither inherently good nor bad” and that preemption is a concern “when it limits the ability of cities to respond to the needs of their residents.”<sup>2</sup>

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<sup>2</sup> National League of Cities, 2020: 1.

# U.S. Local Government Structure and Management

## OVERVIEW

Local governments across the United States are charged with providing governance and public services for citizens at the local level. Local government structure varies across the U.S.; however, there are three primary types of general purpose local governments: counties, municipalities, and towns/townships. These local governments operate under the power of Home Rule, Dillon Rule, or a combination of both.<sup>1</sup> The resources below provide additional information on local government structure, local government consolidation and restructuring, and the use of Home Rule and Dillon Rule across the US.

## Local Government Structure

### Forms of Local Government

#### National League of Cities (2016)

This article reviews the five primary forms of municipal government: (1) council-manager, (2) mayor-council, (3) commission, (4) town meeting, and (5) representative town meeting. Of these forms, the council-manager form is most common; in 2006, 55% of municipalities used this form of government. Additionally, the National League of Cities notes that when changes are made to the form and structure of government, “the more common reasons for making such a change include increasing or decreasing the number of council members, modifying the method of electing the mayor, and changing the authority of the mayor.” A selected list of large cities, broken out by region and their respective municipal government form, is included in the article.

### Municipal Form of Government Survey Report

#### International City/County Management Association (2019)

The International City/County Management Association has conducted the Municipal Form of Government survey nine times since 1974. The 2019 report breaks out questions and results from the 2018 survey into five categories.

1. **Form of Government:** current form of government, how the municipality’s form of government is established, if the municipality has a chief appointed official, and the characteristics of that position
2. **Local Government Procedures:** residency requirements; initiatives and referendums; recalls; and the existence and nature of resident authorities, boards, or commissions
3. **Chief Elected Official:** type of chief elected official, method of election, and authority of the chief elected official
4. **Council:** characteristics of the council, method of election, and term limits
5. **Mayor/Council Compensation and Demographics:** information on the salary or stipend paid to local and chief elected officials and council member gender, age, and race/ethnicity

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<sup>1</sup> The Dillon Rule first originated in the Iowa Supreme Court with a ruling from Justice John Dillon. The Dillon Rule was then echoed by a U.S. Supreme Court ruling that stated, “Municipal corporations owe their origin to, and derive their powers and rights wholly from, the legislature.” By contrast, Home Rule provides that local governments possess some inherent rights.

## County Government Structure: A State by State Report

### **National Association of Counties (2009)**

This report reviews the historical background of counties, home rule authority, and key terms associated with county government (e.g., commission form, county administrator). Notably, the report includes a state-by-state overview table of county government for the 48 states that utilize county governments.<sup>2</sup> The state-by-state overview outlines the number of county units, the form(s) of government, and how many counties utilize each form within each state. Additionally, the report provides one-page narrative reports for each state.

## Local Government Structure and Efficiency

### **Smarter, Faster, Cheaper: An Operations Efficiency Benchmarking Study of 100 American Cities**

#### **IBM Global Business Services (2011)**

This benchmarking study examines efficiency in 100 American cities. Of the cities examined, 54% have strong mayor forms of government and 46% have city managers or hybrid governments in which management duties are shared by the executive and legislative branch. The study defines one city as being more efficient than another if it can deliver a comparable set of services using fewer resources. Based on this definition, the study examines efficiency among cities using two key proxies: spending per capita and employment per capita. The study indicates that the level of resources cities dedicate to delivering basic services varies “enormously” but that this variation in resources dedicated is not driven by contextual factors (e.g., population, geographic size, etc.). The study concludes that management and policy choices are key to the efficient allocation of resources in municipal government, noting that cities with city manager forms of government are nearly 10% more efficient than cities with strong mayor forms of government.

### **Professional Management Drives Local Government Efficiency and Effectiveness**

#### **International City/County Management Association (2017)**

This article highlights the connection between professionally managed cities and cities with an AAA rating from Moody’s, noting that more than two-thirds of the 179 municipalities that earned Moody’s highest bond rating employ a professional manager. The article identifies key characteristics of a professional city manager role. These include

- direct responsibility for policy formulation on overall problems;
- major responsibility for the preparation and administration of operating and capital improvements budgets;
- significant influence in the appointment of key administrative personnel; and
- ongoing and direct relationship with the operating department heads on implementation and administration of programs.

The article states that the data reviewed suggests a strong correlation between professional management and a community’s creditworthiness, and it concludes by noting that these findings reinforce the results of the 2011 IBM Global Business Services benchmarking study reviewed above.

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<sup>2</sup> Connecticut and Rhode Island have geographic areas called counties, but they do not have functioning county governments.

## Efficient City and County Government Campus

### Urban Land Institute: Southeast Florida/Caribbean (2018)

This report indicates that the current configuration of the Broward County Governmental Center and the Fort Lauderdale City Hall is financially inefficient and presents a case for the governments of Broward County and the City of Fort Lauderdale to combine facilities in order to lower construction and operational costs as well as create opportunities for collaboration. The report reviews the current facilities of both governments and previous efforts to create shared facilities. Notably, the report also includes a review of comparable examples from across the U.S. of counties and cities implementing shared facilities.

## Consolidation and Restructuring

### Consolidations

#### National League of Cities (2016)

This article overviews the background, purpose, and process of local government consolidation and includes a list of five potential purposes for consolidation.

1. Produce cost savings
2. Increase efficiency
3. Improve resource base
4. Enhance planning capacity
5. Improve accountability

The article reports information on city-county consolidation initiatives, noting that, most frequently, city-county consolidations have been attempted, but relatively few are currently in operation. The article contains a list of 40 consolidated governments. However, it also indicates that “the precise number of city and county consolidated governments cannot be specified as there are conflicting definitions across various data resources.” Additionally, the article notes that few states permit city-county consolidation in general law.<sup>3</sup> Instead, a public referendum must pass before it can be approved by the state legislature.

### Local Government Consolidation

#### Baker Tilly Consulting Firm (2018)

This article provides an overview of two key approaches to consolidating government services: (1) structural consolidation, in which two or more local governments combine and assume the responsibilities of the previously existing entities, and (2) functional consolidation, in which local governments or districts create a shared service or cooperative agreement with one local government providing a service to another or a joint activity agreement with two or more districts performing a joint service across overlapping districts. The article also provides examples of legislative measures taken by New York and New Jersey to facilitate government consolidation. The article concludes by noting that local governments “should continue to explore streamlining and modernizing local service delivery,” as these reviews often produce additional benefits and opportunities.

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<sup>3</sup> Article VIII, section 3 of the 1968 Florida Constitution generally authorizes consolidation. City-county consolidations can only occur through a consolidation plan passed by special act of the Legislature that is then subject to approval of the electorate. Even then, consolidation may not be executed in practice. For example, the Florida Local Government Formation Manual indicates that the Legislature authorized the consolidation of Key West and Monroe County in 1935 and authorized the consolidation of Hillsborough County and the City of Tampa in 1965; however, neither authority has been exercised by the respective local governments.

# Home Rule and Dillon Rule

## Federalism, Dillon Rule and Home Rule

**Russell, Jon D. and Aaron Bostrom for American Legislative Exchange Council (2016)**

This paper argues that the Dillon Rule is “consistent with the principles of federalism and the Constitution.” The paper overviews some of the historical origins of Dillon Rule and outlines its connections to the principles of federalism. The authors posit that under Dillon Rule, local governments are extensions of the state, while indicating that critics of Dillon Rule argue that under Home Rule (e.g., in Florida), each level of government is viewed as having a separate realm of authority. Additionally, the article provides lists of states that utilize Dillon Rule, Home Rule, and a combination of Dillon Rule and Home Rule, noting that states may apply Dillon Rule “to matters or governmental units not accounted for in the constitutional amendment or statute which grants Home Rule.”

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**From:** [LEVENTHAL.EMILY](#)  
**To:** [Baker](#); [Caldwell](#); [Caragiulo](#); [Kelley](#); [Rodrigues](#); [Ray](#); [Whitmore](#)  
**Cc:** [TWOGOOD.PHILIP](#); [COLLINS-GOMEZ.KARA](#); [JONES.ERYN](#); [HOLLIGAN.LAKEISHA](#); [Vida Gordon](#); [Kulavic](#); [Krissy](#); [Morris](#); [Timothy](#)  
**Subject:** OPPAGA task #6: related OPPAGA products  
**Date:** Monday, December 14, 2020 4:33:27 PM  
**Attachments:** [OPPAGA Availability of Local Tax License and Fee Infomation FINAL.pdf](#)  
[OPPAGA CRAs Memo FINAL.pdf](#)

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Good afternoon, task force members.

The scope of OPPAGA's work is typically statewide, not local government. However, we searched through our products and have compiled the resources below related to various types of local governmental entities. This list does not include our [reports on school districts](#). If you have any concerns or questions, please contact me directly and please do NOT "reply to all."

### **Local Government**

[Fire Department Coordination Beneficial; Merger Guidelines Would Be Helpful](#) – 2001  
[Measuring the Size and Cost of Florida State and Local Government](#) – 2003  
[Pinellas County Should Track Fire and EMS Costs to Set Benchmarks, Control Costs, and Evaluate Alternative Service Delivery Models](#) – 2010  
[Miami-Dade's Discretionary Surtax Provides Benefits; Accountability Processes Should Be Improved](#) – 2012  
Availability of Local Tax, License, and Fee Information – 2013 (attached)  
[The Beach Management Funding Assistance Program Was Recently Improved, but Some Stakeholder Concerns Persist](#) - 2014  
[Miami-Dade's Discretionary Surtax Supports Affordable Housing for Low-income Residents; Recent Changes Will Improve the Program](#) - 2017

### **Special Districts**

[Review of Privatization Potential of Select Special Districts](#) – 1997  
[Fire Department Coordination Beneficial; Merger Guidelines Would Be Helpful](#) - 2001  
[Governance of Florida's Water Management Districts Options for Legislative Consideration](#) – 2007  
[Florida Water Management District Budgets Options for Legislative and Governing Board Consideration](#) – 2008  
Community Redevelopment Agencies – 2017 (attached)

Regards,  
Emily Leventhal

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