

FLORIDA HOUSE OF REPRESENTATIVES BILL ANALYSIS

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BILL #: [HB 1137](#)

TITLE: Preemption Over Utility Service Restrictions

SPONSOR(S): Shoaf

COMPANION BILL: [SB 1002](#) (Truenow)

LINKED BILLS: None

RELATED BILLS: None

Committee References

[Economic Infrastructure](#)

18 Y, 0 N



[Intergovernmental Affairs](#)



[Commerce](#)

SUMMARY

Effect of the Bill:

The bill adds “board, agency, commission, or authority of any county, municipal corporation, or political subdivision” to the list of entities that are expressly preempted from prohibiting certain types of fuel sources of energy production or the use of appliances that use these specified types or fuel sources of energy production.

Fiscal or Economic Impact:

None.

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ANALYSIS

EFFECT OF THE BILL:

The bill adds “board, agency, commission, or authority of any county, municipal corporation, or political subdivision” to the list of entities expressly [preempted](#) from enacting or enforcing a resolution, ordinance, rule, code, or policy, or taking any other action that restricts or prohibits, or has the effect of restricting or prohibiting, the types or fuel sources of energy production which may be used, delivered, converted, or supplied by the following entities to serve customers that these entities are authorized to serve:

- [Investor-owned electric utilities](#);
- [Municipal electric utilities](#);
- [Rural electric cooperatives](#);
- Entities formed by interlocal agreement to generate, sell, and transmit electrical energy;
- Investor-owned [gas utilities](#);
- Gas districts;
- Municipal natural gas utilities;
- Natural gas transmission companies; and
- Certain propane dealers, dispensers, and gas cylinder exchange operators. (Section [1](#)).

The bill also adds “board, agency, commission, or authority of any county, municipal corporation, or political subdivision” to the list of entities that may not enact or enforce a resolution, ordinance, rule, code, or policy or take any action that restricts or prohibits, or has the effect of restricting or prohibiting, the use of an [appliance](#), including a stove or grill, which uses the types or fuel sources of energy production described above. (Section [1](#)).

The bill adds that any “board, agency, commission, or authority of any county, municipal corporation, or political subdivision” action that violates the above preemptions over utility service restrictions and existed prior to July 1, 2021, is void. (Section [1](#)).

The bill has an effective date of July 1, 2025. (Section [2](#)).

STORAGE NAME: h1137a.EIS

DATE: 3/13/2025

RELEVANT INFORMATION

SUBJECT OVERVIEW:

Local Government Authority

The Florida Constitution grants county and municipal governments broad home rule authority. Specifically, non-charter county governments may exercise those powers of self-government that are provided by general or special law.¹ Those counties operating under a county charter have all powers of self-government not inconsistent with general law or special law approved by vote of the electors.² Likewise, municipalities³ have those governmental, corporate, and proprietary powers enabling them to conduct municipal government, perform their functions and provide services, and exercise any power for municipal purposes, except as otherwise provided by law.⁴

A “special district” is a unit of local government created for a particular purpose, with jurisdiction to operate within a limited geographic boundary.⁵ Special districts are created by general law,⁶ special act,⁷ local ordinance,⁸ or by rule of the Governor and Cabinet.⁹ A special district has only those powers expressly provided by, or reasonably implied from, the authority provided in the district’s charter. Special districts provide specific municipal services in addition to, or in place of, those provided by a municipality or county.¹⁰ As of March 8, 2025, there are 603 active dependent¹¹ special districts and 1,442 active independent special districts in Florida.¹²

State Preemption

Local governments have broad authority to legislate on any matter that is not inconsistent with federal or state law. A local government enactment may be inconsistent with state law if (1) the Legislature “has preempted a particular subject area” or (2) the local enactment conflicts with a state statute. State preemption precludes a local government from exercising authority in that particular area.¹³

Florida law recognizes two types of preemption: express and implied. Express preemption requires a specific legislative statement; it cannot be implied or inferred.¹⁴ Express preemption of a field by the Legislature must be accomplished by clear language stating that intent.¹⁵ In cases where the Legislature expressly or specifically

¹ Art. VIII, s. 1(f), Fla. Const.

² Art. VIII, s. 1(g), Fla. Const.

³ A municipality is a local government entity created to perform functions and provide services for the particular benefit of the population within the municipality, in addition to those provided by the county. The term “municipality” may be used interchangeably with the terms “town,” “city,” and “village.”

⁴ Art. VIII, s. 2(b), Fla. Const. See also [s. 166.021\(1\), F.S.](#)

⁵ See *Halifax Hospital Medical Center v. State of Fla., et al.*, 278 So. 3d 545, 547 (Fla. 2019).

⁶ S. [189.031\(3\), F.S.](#)

⁷ *Id.*

⁸ S. [189.02\(1\), F.S.](#)

⁹ S. [190.005\(1\), F.S.](#) See, generally, [s. 189.012\(6\), F.S.](#)

¹⁰ *Local Gov’t Formation Manual*, p. 60,

<https://www.flhouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=3304&Session=2025&DocumentType=General+Publications&FileName=Local+Government+Formation+Manual+%5b2024-2026%5d.pdf> (last visited Mar. 8, 2025).

¹¹ Dependent special districts are under some control by a single county or municipality. S. [189.012\(2\), F.S.](#) An independent special district is any district that is not a dependent special district. S. [189.012\(3\), F.S.](#) A special district that includes more than one county is independent unless it lies wholly within the boundaries of a single municipality.

¹² Florida Department of Economic Opportunity, Official List of Special Districts Online, *State Totals*, available at <https://www.floridajobs.org/community-planning-and-development/special-districts/special-district-accountability-program/official-list-of-special-districts> (last visited Mar. 8, 2023).

¹³ Wolf, *The Effectiveness of Home Rule: A Preemptions and Conflict Analysis*, 83 Fla. B.J. 92 (June 2009), <https://www.floridabar.org/the-florida-bar-journal/the-effectiveness-of-home-rule-a-preemption-and-conflict-analysis/> (last visited Mar. 8, 2025).

¹⁴ See *City of Hollywood v. Mulligan*, 934 So. 2d 1238, 1243 (Fla. 2006); *Phantom of Clearwater, Inc. v. Pinellas County*, 894 So. 2d 1011, 1018 (Fla. 2d DCA 2005), approved in *Phantom of Brevard, Inc. v. Brevard County*, 3 So. 3d 309 (Fla. 2008).

¹⁵ *Mulligan*, 934 So. 2d at 1243.

preempts an area, there is no problem with ascertaining what the Legislature intended.¹⁶ In cases determining the validity of ordinances enacted in the face of state preemption, the effect has been to find such ordinances null and void.¹⁷

[Preemption Over Utility Service Restrictions](#)

Section [366.032, F.S.](#), expressly preempts the area of restricting utility services. It prohibits a municipality, county, special district, community development district, or other political subdivision of the state from enacting or enforcing a resolution, ordinance, rule, code, or policy, or taking any other action that restricts or prohibits, or has the effect of restricting or prohibiting, the types or fuel sources of energy production which may be used, delivered, converted, or supplied by the following entities to serve customers that these entities are authorized to serve:

- Investor-owned electric utilities;
- Municipal electric utilities;
- Rural electric cooperatives;
- Entities formed by interlocal agreement to generate, sell, and transmit electrical energy;
- Investor-owned gas utilities;
- Gas districts;
- Municipal natural gas utilities;
- Natural gas transmission companies; and
- Certain propane dealers, dispensers, and gas cylinder exchange operators.¹⁸

An electric utility is an entity which owns, maintains, or operates an electric generation, transmission or distribution system. An electric utility can be investor-owned, municipally-owned, or a rural electric cooperative.¹⁹ There are four [investor-owned electric utilities](#) in Florida: Florida Power & Light Company, Duke Energy Florida, Tampa Electric Company, and Florida Public Utilities Corporation.²⁰

Additionally, there are thirty-five [municipal electric utilities](#) and eighteen [rural electric cooperatives](#).²¹ Further, the Florida Municipal Power Agency was created through a series of interlocal agreements under [s. 163.01, F.S.](#), to provide wholesale power supply to municipal electric utilities.²² Fuels that Florida electric utilities use to generate electric power include, but are not limited to: natural gas, nuclear, coal, and renewables like solar and biomass.²³

A natural [gas utility](#) is a utility that supplies natural or manufactured gas, or liquefied gas with air admixture, or a similar gaseous substance by pipeline, to or for the public. A natural gas utility can be an investor-owned utility, gas district, or municipal gas utility.²⁴ Currently, there are five investor-owned natural gas utilities, twenty-seven municipally owned natural gas utilities, and four gas districts.²⁵

Liquefied petroleum gas is any material which is composed predominately of any of the following hydrocarbons, or mixtures: propane, propylene, butanes, and butylenes.²⁶ A category I liquid petroleum gas dealer is someone who sells or offers to sell by delivery, or at a stationary location, any liquefied petroleum gas to a consumer for

¹⁶ *Sarasota Alliance for Fair Elections, Inc. v. Browning*, 28 So. 3d 880, 886 (Fla. 2010).

¹⁷ See, e.g., *Nat'l Rifle Ass'n of Am., Inc. v. City of S. Miami*, 812 So.2d 504 (Fla. 3d DCA 2002).

¹⁸ S. [366.032, F.S.](#)

¹⁹ S. [366.02, F.S.](#)

²⁰ Florida Public Service Commission, *Facts & Figures of the Florida Utility Industry* (2024), p. 4, available at <https://www.psc.state.fl.us/reports> (last visited Mar. 8, 2025).

²¹ *Id.* at 1.

²² Currently, FMPA serves the following municipalities: Alachua, Bartow, Blountstown, Bushnell, Chattahoochee, Clewiston, Fort Meade, Fort Pierce, Gainesville, Green Cove Springs, Havana, Homestead, Jacksonville Beach, Key West, Kissimmee, Lake Worth Beach, Lakeland, Leesburg, Moore Haven, Mount Dora, New Smyrna Beach, Newberry, Ocala, Orlando, Quincy, St. Cloud, Starke, Tallahassee, Wauchula, Williston, and Winter Park. Florida Municipal Power Agency, *Members*, <https://fmpa.com/members/> (last visited Mar. 8, 2025).

²³ Florida Public Service Commission, *Facts & Figures of the Florida Utility Industry*, *supra* at n. 35, p. 2.

²⁴ S. [366.04\(3\)\(c\), F.S.](#)

²⁵ Florida Public Service Commission, *Facts & Figures of the Florida Utility Industry*, *supra* at n. 35, p. 14.

²⁶ S. [527.01\(1\), F.S.](#)

industrial, commercial, or domestic use.²⁷ A category II liquefied petroleum gas dispenser is a person who operates a liquefied petroleum gas dispensing unit for the purpose of serving liquid products to the consumer for industrial, commercial, or domestic use, and who sells, or offers to sell or lease equipment for the use of liquefied petroleum gas.²⁸ A category III liquefied petroleum gas cylinder exchange operator is a person who operates a storage facility used for the purpose of storing filled propane cylinders of certain capacities while awaiting sale to the consumer, or a facility used for the storage of empty or filled containers which have been offered for exchange.²⁹

Additionally, s. [366.032](#), F.S., prohibits a municipality, county, special district, community development district, or other political subdivision of the state from enacting or enforcing a resolution, ordinance, rule, code, or policy to take any action that restricts or prohibits, or has the effect of restricting or prohibiting, the use of an [appliance](#), including a stove or grill, which uses the types or fuel sources of energy production which may be used, delivered, converted, or supplied by the [entities listed above](#). Current law provides an exception for circumstances in which the political subdivision must enforce the Florida Building Code or the Florida Fire Prevention Code.

Section [366.032](#)(5), F.S., provides that any municipality, county, special district, community development district created pursuant to chapter 190, or political subdivision charter, resolution, ordinance, rule, code, policy, or action that violates the above preemptions over utility service restrictions and existed prior to July 1, 2021, is void.

RECENT LEGISLATION:

YEAR	BILL #	HOUSE SPONSOR(S)	SENATE SPONSOR	OTHER INFORMATION
2024	CS/CS/HB 1645	Payne	Collins	The bill became law on July 1, 2024.
2023	CS/CS/HB 1281	Buchanan	Collins	The bill became law on July 1, 2023.
2021	CS/CS/HB 919	Tomkow	Hutson	The bill became law on July 1, 2021.

BILL HISTORY

COMMITTEE REFERENCE	ACTION	DATE	STAFF DIRECTOR/ POLICY CHIEF	ANALYSIS PREPARED BY
Economic Infrastructure Subcommittee	18 Y, 0 N	3/12/2025	Keating	Bauldree
Intergovernmental Affairs Subcommittee				
Commerce Committee				

²⁷ This category also includes “any person leasing or offering to lease, or exchanging or offering to exchange, any apparatus, appliances, and equipment for the use of liquefied petroleum gas; any person installing, servicing, altering, or modifying apparatus, piping, tubing, appliances, and equipment for the use of liquefied petroleum or natural gas; any person installing carburetion equipment; or any person requalifying cylinders.” S. [527.01\(6\), F.S.](#)

²⁸ S. [527.01\(7\), F.S.](#)

²⁹ S. [527.01\(8\), F.S.](#)