

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Community Affairs

BILL: SB 118

INTRODUCER: Senator Brodeur and others

SUBJECT: Regulation of Presidential Libraries

DATE: February 17, 2025

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hunter</u>	<u>Fleming</u>	<u>CA</u>	Favorable
2.	_____	_____	<u>RC</u>	_____

I. Summary:

SB 118 preempts to the state all regulation of the establishment, maintenance, activities, and operations of any presidential library within its jurisdiction and defers regulation of such institutions to the Federal Government.

Presidential libraries are archives and museums that bring together the documents, historical materials, and artifacts of a United States President during their administration for public use including preservation, research, and visitation.¹

Under the bill, a local government may not enact or enforce any ordinance, resolution, rule, or other measure governing a presidential library or impose any requirement or restriction upon such libraries, except as otherwise authorized by federal law.

The bill defines a presidential library as an institution administered or designated under the federal Presidential Libraries Act.

The bill takes effect upon becoming a law.

II. Present Situation:

Presidential Libraries

Former United States Presidents and their supporters often seek to build facilities to commemorate and remember their time in office at the conclusion of a presidency with official presidential materials.² Presidential libraries are archives and museums that bring together the

¹ National Archives, *About Presidential Libraries*, available at <https://www.archives.gov/presidential-libraries/about> (last visited Feb. 15, 2025.)

² Congressional Research Service, *Presidential Libraries and Museums*, 1 (October 2024) available at <https://crsreports.congress.gov/product/pdf/IF/IF12781> (last visited Feb. 15, 2025)

documents, historical materials, and artifacts of a President during their administration for public use including visitation, preservation, research, and discussion.

Presidential libraries and museums, including the holdings of documents and archives, belong to the American people.³ Under the Presidential Records Act (PRA)⁴ “Presidential records created on or after January 20, 1981, are subject to the requirements of and are the property of the United States.”⁵ At the end of a presidency, all presidential records and materials are transferred to the National Archives and Records Administration (NARA). As such, presidential records are the responsibility of the National Archivist of the United States (Archivist)⁶ who must maintain custody, control, preservation, and access to the records.⁷

Originally, presidential records and all historical materials were considered private property, and presidents could donate any such documents to institutions on their own accord for public display.⁸ However, in 1939 President Franklin Roosevelt donated his personal and presidential records to the Federal Government, beginning the Presidential library system.⁹

In 1955, the U.S. Congress passed the Presidential Libraries Act (PLA) which established a system of privately constructed and federally maintained libraries.¹⁰ Presidential library lands and facilities are under the purview of the Archivist. While the PRA requires presidential records to be archived, and the Act provides a system for establishing presidential libraries, federal law does not require construction of a new and separate presidential library for each presidency.¹¹

The PLA allows the Archivist, when it is in the public interest, to accept and take title to land, a facility, and equipment offered as a gift to the United States for the purpose of creating a presidential library.¹² The PLA also allows the Archivist to “maintain, operate, and protect the land, facility, and equipment as a Presidential archival depository¹³ and as part of the national archives system”¹⁴

The Archivist may also “make agreements for land and facilities with a state, political subdivision, university, institution of higher learning, institute, or foundation or other

³ National Archives, *About Presidential Libraries*, available at <https://www.archives.gov/presidential-libraries/about> (last visited Feb. 15, 2025.)

⁴ Pub. L. 95-591, 44 U.S.C. §§2201-2209

⁵ *Id.*

⁶ The National Archivist of the United States is the head of the National Archives and Records Administration.

⁷ *Id.*

⁸ Congressional Research Service, *Presidential Libraries and Museums*, 1 (October 2024) available at <https://crsreports.congress.gov/product/pdf/IF/IF12781> (last visited Feb. 15, 2025)

⁹ National Archives, *Laws and Regulations*, available at <https://www.archives.gov/presidential-records/laws-and-regulations> (last visited Feb 15, 2025.)

¹⁰ *Id.*

¹¹ Congressional Research Service, *Presidential Libraries and Museums*, 1 (October 2024) available at <https://crsreports.congress.gov/product/pdf/IF/IF12781> (last visited Feb. 15, 2025)

¹² Pub. L. No. 99-323, amending SEC. 3. (a) Section 2112(a) of title 44, United States Code

¹³ Presidential libraries are referred to as an "archival depository" in the Presidential Libraries Act. The terms are used interchangeably

¹⁴ *Id.*

organization to use as a Presidential archival depository, to be made available by it without transfer of title to the United States.”¹⁵

Additionally, the Archivist is responsible for promulgating architectural and design standards to ensure the preservation of records, and that the building contains adequate research facilities.¹⁶ This includes federal requirements relating to protection against water damage, security requirements, humidity ranges, and other federally required construction standards.¹⁷

The Act was substantially amended in 1986.¹⁸ There was a growing concern for the cost of libraries to taxpayers, and the amendments in 1986 shifted the financial burden from taxpayers to endowed funds, organizations, and foundations.¹⁹ These private organizations, often referred to as presidential library foundations, financially support construction and maintenance of the libraries and financially support exhibitions in the libraries. Each presidential library has a unique relationship with the presidential foundation that supports the facility through agreements negotiated with the federal government. Presidential libraries are not constructed with the use of federal funds but are maintained, staffed, and operated by the national archives.²⁰

Presidential foundations, the former president, and the Archivist consult on the placement and hiring of a director for the chosen facility before materials are deposited in the library. However, the final placement of presidential libraries has historically rested with the former president and their supporters, and according to the National Archives and Records Administration (NARA), “Presidents have often acknowledged their origins by placing their Libraries in their hometowns. However, in some cases Presidents place their Libraries on or near a university campus.”²¹

There are 13 presidential libraries in the national archives system, placed in 10 states across the country. Currently 4 of the 13 libraries are associated with a university system.²² The map below depicts the current placement of presidential libraries in the United States.

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ Congressional Research Service, *Presidential Libraries and Museums*, 2 (October 2024) available at <https://crsreports.congress.gov/product/pdf/IF/IF12781> (last visited Feb. 15, 2025)

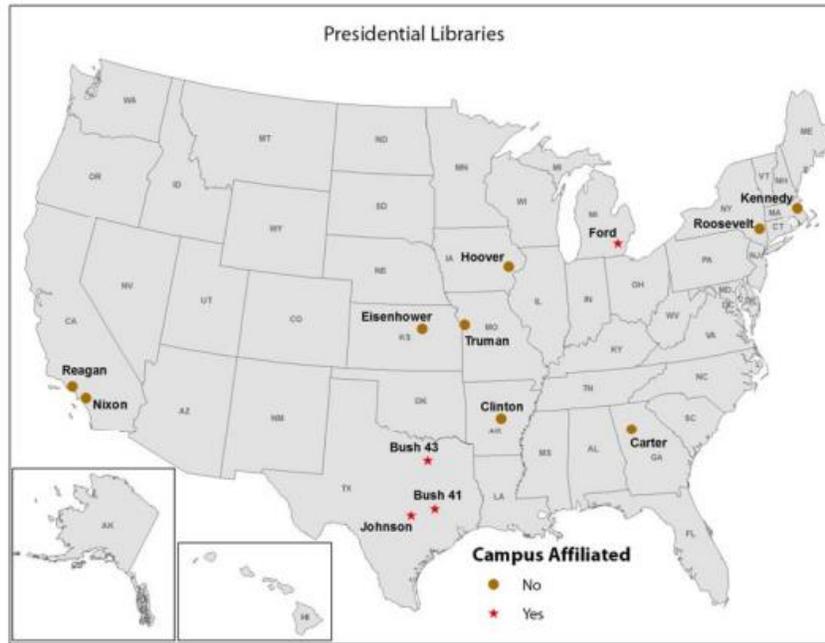
¹⁸ Pub. L. No. 99-323

¹⁹ Congressional Research Service, *Presidential Libraries and Museums*, supra note at 1.

²⁰ Congressional Research Service, *The Presidential Libraries Act and the Establishment of Presidential Libraries*, February 2015, available at <https://sgp.fas.org/crs/secrecy/R41513.pdf> (last visited Feb. 13, 2025)

²¹ Congressional Research Service, *Presidential Libraries and Museums*, 2 (October 2024) available at <https://crsreports.congress.gov/product/pdf/IF/IF12781> (last visited Feb. 15, 2025)

²² The NARA system currently includes the library depositories of 13 former Presidents: (1) *Herbert Hoover (West Branch, IA)*; (2) *Franklin D. Roosevelt (Hyde Park, NY)*; (3) *Harry Truman (Independence, MO)*; (4) *Dwight D. Eisenhower (Abilene, KS)*; (5) *John F. Kennedy (Boston, MA)*; (6) *Lyndon B. Johnson (Austin, TX)*; (7) *Richard Nixon (Yorba Linda, CA)*; (8) *Gerald Ford (Ann Arbor, MI)*; (9) *Jimmy Carter (Atlanta, GA)*; (10) *Ronald Reagan (Simi Valley, CA)*; (11) *George H. W. Bush (College Station, TX)*; (12) *Bill Clinton (Little Rock, AR)*; and (13) *George W. Bush (Dallas, TX)*. It also includes the collections of former Presidents Barack Obama and Donald Trump.



Source: Mapping completed by the Congressional Research Service (CRS) using ArcGIS software.

Notes: The Lyndon Baines Johnson Library and Museum is affiliated with the University of Texas at Austin. The Gerald R. Ford Library and Museum is affiliated with the University of Michigan. The George Bush Presidential Library is affiliated with Texas A&M University. The George W. Bush Library is affiliated with Southern Methodist University.

Prior to accepting and taking title to any land, facility, or equipment, or prior to entering into any agreement, including a change, the archivist shall submit a written report on the proposed presidential library to the President of the United States Senate and the Speaker of the United States House of Representatives.²³ Congress has a period of 60 days from the day the report is transmitted to approve or disapprove of a proposed presidential library.²⁴

President Barack Obama’s Presidential Library has begun construction in Chicago, Illinois, and is set to open in 2026. The law doesn’t provide a particular timeline for the announcement of the placement or construction of presidential libraries, so it is unknown where or when libraries may be established for President Donald Trump or President Joe Biden.

Local Government Authority

The Florida Constitution grants local governments home rule authority. Specifically, non-charter county governments may exercise those powers of self-government that are provided by general or special law.²⁵ Those counties operating under a county charter have all powers of local self-government not inconsistent with general law or special law approved by the vote of the electors.²⁶ Likewise, municipalities have those governmental, corporate, and proprietary powers

²³ *Id.*

²⁴ *Id.*

²⁵ FLA. CONST. art. VIII, s. 1(f).

²⁶ FLA. CONST. art. VIII, s. 1(g).

that enable them to conduct municipal government, perform their functions and provide services, and exercise any power for municipal purposes, except as otherwise provided by law.²⁷

Other local government entities also have statutory authority to operate in the state as well, and the term “political subdivision” is defined as all local governments “including counties, cities, towns, villages, special tax school districts, special road and bridge districts, bridge districts, and all other districts in the state.”²⁸

Special districts are separate governmental entities created for a special purpose that have jurisdiction to operate within a limited geographic boundary.²⁹ Special districts are created by general law, special act, local ordinance, or by rule of the Governor and Cabinet.³⁰

Local Government Approval of Development

All development, both public and private, and all development orders³¹ approved by local governments must be consistent with the local government’s comprehensive plan.³² The Growth Management Act requires every city and county to create and implement a comprehensive plan to guide future development.³³

A comprehensive plan is implemented through the adoption of land development regulations³⁴ that are consistent with the plan, and which contain specific and detailed provisions necessary to regulate the subdivision of land and the use of land in the comprehensive plan.³⁵ Land development regulations are passed through local ordinances and resolutions that govern the establishment, and often the maintenance, and operation of certain development as well.

A locality’s comprehensive plan lays out the locations for future public facilities, including roads, water and sewer facilities, neighborhoods, parks, schools, and commercial and industrial developments including libraries.

As it relates to the siting of presidential libraries, the PLA allows a political subdivision to make agreements upon terms and conditions with the federal government, that the Archivist considers proper, for the use of land or facilities.³⁶ The PLA also allows for the Archivist to accept land and facilities in the name of the United States offered as a gift for the use of a presidential

²⁷ FLA. CONST. art. VIII, s. 2(b). *See also* s. 166.021(1), F.S.

²⁸ Section 1.01(8) F.S.

²⁹ Section 189.012(6), F.S.

³⁰ *Id.*

³¹ “Development order” means any order granting, denying, or granting with conditions an application for a development permit. *See* s. 163.3164(15), F.S. “Development permit” includes any building permit, zoning permit, subdivision approval, rezoning, certification, special exception, variance, or any other official action of local government having the effect of permitting the development of land. *See* s. 163.3164(16), F.S.

³² Section 163.3194(3), F.S.

³³ Section 163.3167(2), F.S.

³⁴ “Land development regulations” means ordinances enacted by governing bodies for the regulation of any aspect of development and includes any local government zoning, rezoning, subdivision, building construction, or sign regulations or any other regulations controlling the development of land, except that this definition does not apply in s. [163.3213](#). *See* s. 163.3164(26), F.S.

³⁵ *Id.*

³⁶ Pub. L. No. 99-323

library,³⁷ which could potentially be incongruous with the comprehensive plan of a local government. If a local government entered into an agreement with the federal government regarding siting of a presidential library or the Archivist has accepted land for use as a presidential library, a comprehensive plan amendment may be necessary. This is because local development and zoning regulations, including comprehensive plans, do not apply to activities of the United States government under the Supremacy Clause of the United States Constitution.³⁸

Local Government 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. Where state preemption applies, it precludes a local government from exercising authority in that particular area.³⁹

Florida law recognizes two types of preemption: express and implied. Express preemption requires a specific legislative statement; it cannot be implied or inferred.⁴⁰ Express preemption of a field by the Legislature must be accomplished by clear language stating that intent.⁴¹ In cases where the Legislature expressly or specifically preempts an area, there is no problem with ascertaining what the Legislature intended.⁴²

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.⁴³ In one case, the court stated that implied preemption “is actually a decision by the courts to create preemption in the absence of an explicit legislative directive.”⁴⁴ Preemption of a local government enactment is implied only where the legislative scheme is so pervasive as to evidence an intent to preempt the particular area, and strong public policy reasons exist for finding preemption.⁴⁵ Implied preemption is found where the local legislation would present the danger of conflict with the state’s pervasive regulatory scheme.⁴⁶

³⁷ *Id.*

³⁸ U.S. Const. art VI, cl. 2. The Supremacy Clause holds that the Constitution, and the Laws of the United States made under the Authority of the United States are the supreme law of the land, superseding anything in the constitution or laws in the states to the contrary, including local government home rule power.

³⁹ See James R. Wolf and Sarah Harley Bolinder, *The Effectiveness of Home Rule: A Preemption and Conflict Analysis*, Fla. B.J. 92 (June 2009) available at <https://www.floridabar.org/the-florida-bar-journal/the-effectiveness-of-home-rule-a-preemption-and-conflict-analysis/> (last visited Feb. 13, 2025).

⁴⁰ 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).

⁴¹ *Mulligan*, 934 So. 2d at 1243.

⁴² *Sarasota Alliance for Fair Elections, Inc. v. Browning*, 28 So. 3d 880, 886 (Fla. 2010). Examples of activities “expressly preempted to the state” include: operator use of commercial mobile radio services and electronic communications devices in motor vehicles, s. 316.0075, F.S.; regulation of the use of cameras for enforcing provisions of the Florida Uniform Traffic Control Law, s. 316.0076, F.S.; and, the adoption of standards and fines related to specified subject areas under the purview of the Department of Agriculture and Consumer Services, s. 570.07, F.S.

⁴³ See, e.g., *Nat’l Rifle Ass’n of Am., Inc. v. City of S. Miami*, 812 So. 2d 504 (Fla. 3d DCA 2002).

⁴⁴ *Phantom of Clearwater, Inc.*, 894 So. 2d at 1019.

⁴⁵ *Id.*

⁴⁶ *Sarasota Alliance for Fair Elections, Inc.*, 28 So. 3d at 886.

III. Effect of Proposed Changes:

Section 1 creates s. 257.51 F.S., to preempt to the state all regulation of the establishment, maintenance, activities, and operations of any presidential library within its jurisdiction and defers regulation of such institutions to the Federal Government.

The bill provides a legislative finding that presidential libraries are unique national institutions designated to house, preserve, and make accessible the records of former presidents.

The bill defines “presidential library” to mean an institution administered or designated under the Presidential Libraries Act, as amended, Pub. L. No. 99-323, established for the preservation and accessibility of presidential records and related historical materials.

The bill’s express preemption states that a county, a municipality, or another political subdivision of this state may not enact or enforce any ordinance, resolution, rule, or other measure governing the establishment, maintenance, or operation of a presidential library or impose any requirement or restriction thereon, except as otherwise authorized by federal law.

Section 2 provides that the bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

To the extent that this bill may help a presidential library be placed in Florida due to less local government control on its establishment, the bill could produce positive fiscal impacts due to construction and tourism.

C. Government Sector Impact:

To the extent that this bill may help a presidential library be placed in Florida local governments and the state may see an increase in tax collections due to tourism, however the effect is indeterminate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 257.51 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.