

FLORIDA HOUSE OF REPRESENTATIVES

FINAL BILL ANALYSIS

This bill analysis was prepared by nonpartisan committee staff and does not constitute an official statement of legislative intent.

BILL #: CS/HB 69	COMPANION BILL: SB 118 (Brodeur)
TITLE: Regulation of Presidential Libraries	LINKED BILLS: None
SPONSOR(S): Andrade	RELATED BILLS: None
FINAL HOUSE FLOOR ACTION: 89 Y's 20 N's	GOVERNOR'S ACTION: Pending

SUMMARY

Effect of the Bill:

The bill prohibits a county, a municipality, or another political subdivision from enacting or enforcing any ordinance, resolution, rule, or other measure governing the establishment, maintenance, or operation of a presidential library, and prohibits local governments from imposing any requirements or restrictions on presidential libraries, except as otherwise authorized by federal law.

Fiscal or Economic Impact:

None.

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ANALYSIS

EFFECT OF THE BILL:

CS/HB 69 passed as [SB 118](#). (Please note that bill section parentheticals do not contain hyperlinks to bill sections for Senate bills.)

The bill provides findings that [presidential libraries](#) are unique national institutions designated to house, preserve, and make accessible the records of former presidents. It [preempts](#) all regulation concerning the establishment, maintenance, activities, and operations of presidential libraries to the state and defers regulation of presidential libraries to the federal government. (Section 1)

The bill prohibits a county, municipality, or other political subdivision of the state from enacting or enforcing any [ordinance](#), resolution, rule, or other measure governing the establishment, maintenance, or operation of a presidential library, and prohibits such local governments from imposing any requirements or restrictions on presidential libraries, except as otherwise authorized by federal law. The bill defines the term “presidential library” to mean an institution administered or designated under the federal Presidential Libraries Act established for the preservation and accessibility of presidential records and related historical materials. (Section 1)

Subject to the Governor’s veto powers, the bill takes effect upon becoming a law. (Section 2)

RELEVANT INFORMATION

SUBJECT OVERVIEW:

[Presidential Libraries](#)

During the early history of the United States, the papers of the president were considered to be personal property presidents would take with them after they left office.¹ Some early records were donated to the Library of Congress, while others were lost or destroyed. In 1938, President Franklin D. Roosevelt advanced the concept of presidential libraries by proposing a privately built, publicly maintained presidential library.²

¹ Congressional Research Service, [The Presidential Libraries Act and the Establishment of Presidential Libraries](#), p. 6 (last visited Feb. 10, 2025). Presidential records created on or after January 20, 1981 are considered property of the United States. 44 U.S.C. ss. 2201-2209.

² *Id.* at 6-7.

In 1955, the Presidential Libraries Act (PLA) was initially passed to preserve and administer the papers and other historical materials of presidents of the United States.³ The PLA was created to solidify a system of privately built and federally maintained libraries to house presidential documents and objects.⁴ Facing increasing concerns about the cost of operating the libraries, the PLA was substantially revised in 1986 to shift the cost of ongoing operations from the taxpayer to endowment funds.⁵

The National Archives and Records Administration (NARA) operates presidential libraries for all of the former presidents since Herbert Hoover.⁶ The Archivist of the United States serves as the head of NARA and has the authority to accept land, facilities, equipment, and gifts for the purpose of creating a presidential archival depository when the Archivist deems it in the public interest.⁷ The presidential library system contains collections of presidential materials and the physical depositories that hold them.⁸ Currently, the presidential library system comprises 15 presidential collections and 13 depositories.⁹

As their presidency concludes, former presidents and their supporters may pursue constructing facilities to memorialize their terms in office and house presidential artifacts.¹⁰ This occurs by the establishment of a foundation to raise money for acquiring land and constructing the library. After the library is constructed, NARA typically takes control of the facility, the land, and the foundation's operating endowment pursuant to an agreement between the NARA and the foundation.

Ordinances

The Florida Constitution grants local governments broad home rule authority. Non-charter county governments may exercise those powers of self-government that are provided by general or special law.¹¹ Counties operating under a county charter have all powers of self-government not inconsistent with general law or special law approved by the vote of the electors.¹² Similarly, municipalities have governmental, corporate, and proprietary powers that enable them to conduct municipal government, perform municipal functions and provide municipal services, and exercise any power for municipal purposes, except when expressly prohibited by law.¹³ A local government enactment may be inconsistent with state law if the Florida Constitution preempts the subject area, the Legislature preempts the subject area, or the local enactment conflicts with a state statute.

Local governments exercise their powers by adopting ordinances. The adoption or amendment of an ordinance, other than an ordinance making certain changes to zoning, may be considered at any regular or special meeting of the local governing body.¹⁴ Notice of the proposed ordinance must be published at least 10 days before the meeting in a newspaper of general circulation in the area; state the date, time, and location of the meeting, the title of the proposed ordinance, and locations where the proposed ordinance may be inspected by the public; and advise that interested parties may appear and speak at the meeting. Municipal ordinances must also be read by title or in full

³ *Id.* at 8.

⁴ Congressional Research Service, [Presidential Libraries and Museums](#) (last visited Feb. 10, 2025).

⁵ Congressional Research Service, [The Presidential Libraries Act and the Establishment of Presidential Libraries](#), p. 9 (last visited Feb. 10, 2025).

⁶ Government Accountability Office, [Framework Governing Use of Presidential Library Facilities and Staff](#) (last visited Feb. 10, 2025).

⁷ 44 U.S.C. s. 2112.

⁸ Congressional Research Service, [Presidential Libraries and Museums](#) (last visited Feb. 10, 2025).

⁹ *Id.*

¹⁰ Congressional Research Service, [Presidential Libraries and Museums](#) (last visited Feb. 10, 2025).

¹¹ [Art. VIII, s. 1\(f\), Fla. Const.](#)

¹² [Art. VIII, s. 1\(g\), Fla. Const.](#)

¹³ [Art. VIII, s. 2\(b\), Fla. Const.](#); see also [s. 166.021\(1\), F.S.](#)

¹⁴ See ss. [125.66\(2\)\(a\)](#) and [166.041, F.S.](#) In addition to general notice requirements, a local government must provide written notice by mail to all property owners before adopting a zoning change involving less than 10 contiguous acres. Ss. [125.66\(4\)\(a\)](#) and [166.041\(3\)\(c\)1, F.S.](#) If a zoning change involves 10 or more contiguous acres, the local government must conduct two public hearings, advertised in a newspaper, before adopting the ordinance. Ss. [125.66\(4\)\(b\)](#) and [166.041\(3\)\(c\)2, F.S.](#)

on at least two separate days.¹⁵ Ordinances may only encompass a single subject and may not be revised or amended solely by reference to the title.¹⁶

Preemption

Preemption refers to the principle that a federal or state statute can supersede or supplant state or local law that stands as an obstacle to accomplishing the full purposes and objectives of the overriding federal or state law.¹⁷ Florida law recognizes two types of preemption: express and implied. Express preemption requires a specific legislative statement; it cannot be implied or inferred.¹⁸ To expressly preempt a subject area, the Legislature must use clear statutory language stating its intention to do so.¹⁹ Implied preemption occurs when the Legislature has demonstrated an intent to preempt an area, though not expressly. Florida courts find implied preemption when “the legislative scheme is so pervasive as to evidence an intent to preempt the particular area, and where strong public policy reasons exist for finding such an area to be preempted by the Legislature.”²⁰

Where state preemption applies, a local government may not exercise authority in that area.²¹ Whether a local government ordinance or other measure violates preemption is ultimately decided by a court. If a local government improperly enacts an ordinance or other measure on a matter preempted to the state, a person may challenge the ordinance by filing a lawsuit. A court ruling against the local government may declare the preempted ordinance void.²²

¹⁵ S. [166.041\(3\)\(a\), F.S.](#)

¹⁶ Ss. [125.67](#) and [166.041\(2\), F.S.](#)

¹⁷ Preemption Definition, Black’s Law Dictionary (12th ed. 2024).

¹⁸ 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).

¹⁹ *Mulligan*, 934 So. 2d at 1243.

²⁰ *Tallahassee Mem. Reg. Med. Ctr., Inc. v. Tallahassee Med. Ctr., Inc.*, 681 So. 2d 826, 831 (Fla. 1st DCA 1996).

²¹ *D’Agastino v. City of Miami*, 220 So. 3d 410 (Fla. 2017); Judge James R. Wolf and Sarah Harley Bolinder, [The Effectiveness of Home Rule: A Preemptions and Conflict Analysis](#), 83 Fla. B.J. 92 (June 2009).

²² See, e.g., *Nat’l Rifle Ass’n of Am., Inc. v. City of S. Miami*, 812 So. 2d 504 (Fla. 3d DCA 2002).