

## PREEMPTION OF COUNTY REGULATORY AUTHORITY

The following is a list of areas over which the Legislature has preempted counties from acting in whole or in part. The relevant statute should be evaluated to determine the extent to which regulatory authority has been reserved to the state.

Section 57.112, Florida Statutes, provides for prevailing party attorney's fees, costs, and damages in a civil action filed against a local government to challenge the adoption or enforcement of a local government ordinance on the grounds that it is arbitrary, unreasonable, or expressly preempted by the State Constitution or by State law.

- A. State Lottery
  - 1. Operation of the State Lottery: FS § 24.122(3)
- B. Elections
  - 2. All matters set forth in Chapters 97-105 relating to elections: FS § 97.0115
- C. Ethics, Public Records and Public Meetings
  - 3. Chapter 112, Part III, Fla. Stat.
  - 4. Chapter 119, Fla. Stat.
  - 5. Section 286.011, Fla. Stat.
- D. County Organization and Government
  - 6. Commissioners' Districts: FS § 124.01; Art. VIII § 1(e), Fla. Const.
  - 7. Adoption of County Charter: FS §§ 125.60-125.64
  - 8. Ordinance Enactment Procedure: FS §§ 125.66-68
  - 9. Publication of Legal Notices: Chapter 50, Fla. Stat.
  - 10. Constitutional Officers: Art. VIII § 1(d), Fla. Const.; FS § 125.691
  - 11. Elected Sheriffs: FS § 30.15; FS § 125.01015
- E. Budget and Finance
  - 12. Chapter 129, Fla. Stat.
  - 13. Chapter 200, Fla. Stat.
  - 14. Minimum Wage and Employment Benefits: FS § 218.077
  - 15. Part III, Chapter 218, Fla. Stat.: Local Financial Management and Reporting
  - 16. Part VII, Chapter 218, Fla. Stat.: Local Government Prompt Payment Act
  - 17. Extra compensation prohibited: FS § 215.425
- F. Taxation
  - 18. All forms of taxation except AVTs: Article VII § 1, Fla. Const.
  - 19. Ad Valorem Tax Exemptions: Art. VII § 3 and § 6, Fla. Const.; Chapter 196, Fla. Stat.
  - 20. Excise Tax on Cigarettes: FS § 210.03
  - 21. Tax on manufacture, distribution, exportation, transportation, importation, or sale of alcoholic beverages by municipality: FS § 561.342
- G. Eminent Domain
  - 22. Chapter 127, Fla. Stat.
- H. Growth Policy, Land Use and Planning
  - 23. Community Planning Act: FS §§ 163.3161, et seq.
  - 24. Florida Impact Fee Act: FS § 163.31801

25. Zoning of solar facilities: FS § 163.3205(3)
26. Zoning of family day care homes: FS § 125.0109
27. Zoning of Community Residential Homes: FS § 419.001
28. Zoning of home-based business: FS § 559.995
29. Affordable housing: FS § 125.01055
30. Farm worker housing facilities: FS § 381.00896(3)
31. Regulation of trimming of a tree on residential property: FS § 163.045
32. Maintenance of vegetation within electrical transmission and distribution rights-of-way: FS § 163.3209
33. Regulation of vegetable gardens on residential property: FS § 604.71(2)
34. Farm operations: FS § 163.3162(3); FS § 823.14(6)
35. Regulation of motor vehicles parked on private property: FS § 715.075(2)

#### I. Building Standards

36. Nonresidential farm buildings, farm fences, and farm signs: FS § 604.50
37. Handicapped accessibility standards: FS § 553.513
38. Amendments to Florida Building Code: FS § 553.73(4); FS § 553.79(4); and FS § 125.56(1)
39. Review of building permit applications: FS § 553.79; FS §§ 553.792-.7922
40. Requirements or conditions for gasoline signage: FS § 553.79(24)
41. Restrooms and changing facilities: FS § 553.865
42. Lactation spaces: FS § 29.24

#### J. Emergency Management

43. Emergency management powers of political subdivisions: FS § 252.38
44. Temporary shelters: FS § 125.023

#### K. Competitive Procurements

45. Electronic bid submission: FS § 50.0311
46. Procuring voting machines and equipment: FS § 101.293(2)
47. Public-Private Partnerships: FS § 255.065
48. Procuring construction services paid with state funds: FS § 255.0991
49. Contracts for Public Works Project paid with state funds: FS § 255.0992
50. Procuring vehicles under state plan: FS § 286.29
51. Person or affiliate on convicted vendor list: FS § 287.133
52. Person or affiliate on discriminatory vendor list: FS § 287.134
53. Prohibition against contracting with Scrutinized Companies: FS § 287.135
54. Prohibition against contracting with entity in foreign country of concern: FS § 287.138
55. Competitive award of contracts for Public Construction Works: FS § 255.20
56. Consultants' Competitive Negotiation Act (CCNA): FS § 287.055
57. Procuring services for which DOT issues certificate of qualification: FS § 287.05705
58. Procurement of auditor: FS § 218.391
59. Public Bid Disclosure Act: FS § 218.80(3)
60. E-Verify: FS § 448.095

#### L. Purchase and Sale of County Property

61. Sale of real/personal property and lease of real property owned by a county: FS § 125.35
62. Purchase of real property by a county: FS § 125.355
63. Purchase or sale of water, sewer, or wastewater reuse facility: FS § 125.3401
64. Disposition of surplus property: FS § 274.05-06

#### M. Maritime Commerce in Ports

65. Maritime commerce in Florida's seaports: FS § 311.25

N. Motor Vehicles and Roads

- 66. Any matter covered by Chapter 316, Fla. Stat.: Florida Uniform Traffic Control Law
- 67. Commercial mobile radio services within a motor vehicle: FS § 316.0075
- 68. Use of cameras for enforcing Chapter 316: FS § 316.0076
- 69. Additional fees and fines on civil traffic penalties assessed under Chapter 318: FS § 318.121
- 70. State roads and bridges: DOT v. Lopez-Torres, 526 So.2d 674 (Fla. 1988)
- 71. Standards or specifications for permissible use of aggregates: FS § 334.179
- 72. Standards or specifications for reclaimed asphalt pavement material: FS § 336.044(5)

O. Drones

- 73. Unmanned Aircraft Systems Act: FS § 330.41(3)

P. Regulated Utilities

- 74. Taxes or fees on dealers of communications services for occupying rights-of-way: FS § 202.24(1)
- 75. Communications facilities in county rights-of-way: FS § 337.401(3)
- 76. Wireless communications facilities: FS § 365.172(13)(b)
- 77. Regulation of telecommunications companies (Public Service Commission): FS § 364.01(2)
- 78. Rates and service of public electric and gas utilities (PSC): FS § 366.04(1)
- 79. The authority, service, and rates of water and wastewater utilities (PSC): FS § 367.011
- 80. Utility Service Restrictions: FS § 366.032

Q. Natural Resources and Conservation

- 81. Regulation of waters in the state except with respect to water quality: FS § 373.023(2)
- 82. Regulation of the consumptive use of water: FS § 373.217(4)
- 83. Underground petroleum storage tanks: FS § 376.317
- 84. Taking or possession of saltwater fish: FS § 379.2412; FS § 125.01(4)
- 85. Wild animal life, freshwater aquatic life, and marine life (FWCC): Art. IV § 9, Fla. Const.

R. Environmental Control

- 86. Local Pollution Control Programs: FS § 403.182(1)
- 87. Motor Vehicle Noise Prevention and Control Act: FS § 403.415(10)
- 88. Regulation and certification of electrical power plants and power plant sites: FS § 403.510
- 89. Regulation and certification of transmission lines and transmission line corridors: FS § 403.536
- 90. Regulation and certification of gas transmission pipelines and natural gas transmission pipeline corridors: FS § 403.942
- 91. Environmental control definitions: FS § 403.7031
- 92. Auxiliary containers, wrappings, or disposable bags: FS § 403.7033
- 93. Regulations relating to trimming of mangroves: FS § 403.9324

S. Public Health

- 94. Public employee COVID-19 vaccine mandates: FS § 112.0441
- 95. Public health emergencies and quarantines: FS § 381.00315(6)
- 96. Documentation/Discrimination regarding COVID-19: FS § 381.00316
- 97. Public health policies: FS § 381.00321
- 98. Biomedical waste generators: FS § 381.0098(8)
- 99. Access to or use of public facilities for collection of blood from volunteer donors based on whether the blood establishment is for-profit or not-for-profit: FS § 381.06014(5)
- 100. Licensing/regulation of medical marijuana treatment centers: FS § 381.986(8)

- 101. Regulation of smoking: FS § 386.209
- 102. Impairment in public places: FS § 397.701 (some regulation allowed under FS § 397.702)
- 103. Fees for services provided by first responders: FS § 125.01045(1)
- 104. Emergency Medical Transportation Services Act: Chapter 401, Fla. Stat.

T. Labor

- 105. Workers' Compensation: Chapter 440, Fla. Stat.; Barragan v. City of Miami, 545 So.2d 252 (Fla. 1989)
- 106. Public Employees Relations Act: Chapter 447, Fla. Stat.

U. Regulation of Professions/Occupations

- 107. Occupational Licensing: FS § 163.211
- 108. Real estate brokers and salesmen: Chapter 475, Fla. Stat.; Op. Atty. Gen. Fla 081-50
- 109. Pest control services: FS § 482.242(1)
- 110. Pesticides: FS § 487.051(2)
- 111. Specialty Contractors: FS § 489.117

V. Regulation of Trade and Commerce

- 112. Regulation of over-the-counter proprietary drugs and cosmetics: FS § 499.002(7)
- 113. Manufacturing, processing, packing, holding or preparing food, or selling food at wholesale or retail: FS § 500.12(5)
- 114. Bottled water plants, water vending machines, and packaged ice plants: FS § 500.511(3)
- 115. Meat, poultry, and fish: FS § 500.60
- 116. Polystyrene products: FS § 500.90
- 117. Milk or milk products, or frozen desserts for wholesale: FS § 502.232
- 118. Cottage Food Products: FS § 500.80
- 119. Fines for shopping carts found off-premises: FS § 506.5131(2)
- 120. Public lodging establishments and public food service establishments: FS § 509.032(7)(a)
- 121. Vacation rentals: FS § 509.032(7)(b)
- 122. Ranking of food service establishments: FS § 509.039
- 123. Regulation of mobile food dispensing vehicles and temporary commercial kitchens: FS § 509.102(2)
- 124. Pawnbroking: FS § 539.001(20)
- 125. Sellers of travel: FS § 559.939
- 126. Home-Based Businesses: FS § 559.995
- 127. Sanitary standards in mobile home parks and R.V. parks: FS § 513.051
- 128. R.V. park lots: FS § 513.1115(4)
- 129. Mobile home park landlord-tenant issues: FS § 723.004(2)
- 130. Fuel Retailers: FS § 377.707
- 131. Fuel Measuring Devices: FS § 525.07
- 132. Fees for towing businesses: FS § 323.002(4); FS § 125.01047
- 133. Hoisting equipment used in construction: FS § 489.113(11)
- 134. Transactions of movers of household goods and moving brokers: FS § 507.13(1)
- 135. Regulated metals property: FS § 538.28(1)
- 136. Secondary metals recyclers: FS § 538.21(4)
- 137. Beverage Law: Chapters 561-565; 567 and 568
- 138. Testing of cigarettes for flammability: FS § 633.142(11)
- 139. Fire Protections Systems Contractors: FS § 633.322; Op. Atty. Gen. Fla. 080-46
- 140. Insurers and their agents and representatives: FS § 624.401(3)
- 141. Title insurers and title insurance: FS § 627.785
- 142. Transportation Network Companies: FS § 627.748(17)

- 143. Price controls: FS § 125.0103
- 144. Retail refunds: FS § 501.142(1)
- 145. Price gouging during a declared state of emergency: FS § 501.160(6)
- 146. Customer safety standards at ATMs: FS § 655.965
- 147. Standards for security cameras in businesses: FS § 163.31802
- 148. Security standards for convenience stores: FS § 812.1725
- 149. Motor vehicle sales warranties: FS § 681.116

W. Agriculture and Horticulture

- 150. Adoption of standards and fines in the following areas: FS § 570.07(16)--
  - a. Fruit and vegetable inspection/grading;
  - b. Pesticide spray, residue inspection, and removal;
  - c. Commercial stock feeds and commercial fertilizers;
  - d. Classification/Inspection/sale of poultry and eggs;
  - e. Registration/inspection/analysis of gasoline and oils;
  - f. Registration/labeling/inspection/analysis of pesticides;
  - g. Registration/labeling/inspection/sale of seeds;
  - h. Weights, measures and standards;
  - i. Foods, as set forth in the Food Safety Act;
  - j. Inspection/certification of honey;
  - k. Sale of liquid fuels;
  - l. Licensing of dealers in agricultural products;
  - m. Administration/enforcement of regulatory legislation applying to milk and milk products, ice cream, and frozen desserts;
  - n. Recordation/inspection of marks and brands of livestock;
  - o. Regulation of fertilizer; and
  - p. All other regulatory laws relating to agriculture.
- 151. Agritourism: FS § 570.85(1)
- 152. Fertilizer: FS § 576.181(5)
- 153. Commercial feed and feedstuff: FS § 580.0365
- 154. Regulation/inspection/permitting of honeybee colonies: FS § 586.10(1)

X. Animals

- 155. Livestock at large: Chapter 588, Fla. Stat.
- 156. Dangerous Dogs: Chapter 767, Fla. Stat.
- 157. Animal control and cruelty: FS § 828.27(7)

Y. Firearms and Ammunition

- 158. Possession or sale of ammunition: FS § 125.0107
- 159. Firearms and ammunition: FS § 790.33(1)
- 160. Firearms and ammunition use at shooting ranges: FS § 790.333(8)

Z. Explosives and Fireworks

- 161. Sale of Fireworks: FS § 791.001
- 162. Use of explosives in construction materials mining activities: FS § 552.30(1)

AA. Cybersecurity and Technology

- 163. Local Government Cybersecurity Act: FS § 282.3185
- 164. Prohibited Applications: FS § 112.22

165. Technology Transparency: FS § 112.23
- BB. Obscenity
166. Obscene movies and shows: FS § 847.09; FS § 847.013(5)
- CC. National Guard
167. Regulation/compensation/operation of the National Guard: Op. Atty. Gen. Fla 080-46