The Escalation of

Abusive State Preemption in 2023

IMLA DC Spring Seminar | 4.23.2023

LSSC Local Solutions Support Center + LOCALPROGRESS

Our Speakers

Katie Belanger

Lead Consultant

Local Solutions Support Center

she | her

Marissa Roy

Legal Team Lead

Local Solutions Support Center

she | her

LiJia Gong

Policy and Legal Director

Local Progress

she | they

LSSC Local Solutions Support Center + LOCALPROGRESS

Raise your hand if you…

…have **witnessed / been aware of** preemption in your community.

LSSC Local Solutions Support Center + LOCALPROGRESS

Raise your hand if you…

…have been **limited** in your work by preemption.

LSSC Local Solutions Support Center + LOCALPROGRESS

Raise your hand if you…

…have **fought back** against abusive preemption.

LSSC Local Solutions Support Center + LOCALPROGRESS

Raise your hand if you…

…haven't been sure **how to fight** abusive preemption.

LSSC Local Solutions Support Center + LOCALPROGRESS

Our Goals

Brief on **emerging & escalating trends**, the legal questions they give rise to, and the long-term ramifications

Equip local government attorneys with the **tools and guidance** to support and protect local democracy

LSSC Local Solutions Support Center + LOCALPROGRESS

Preemption Landscape

Tracking, Trends, & Fueling the Work of State Campaigns

LSSC Local Solutions Support Center + LOCAL PROGRESS

Not all preemption is created equal.

LSSC Local Solutions Support Center + LOCALPROGRESS

LSSC | Our Vision

Our government and elected officials have a responsibility to meet the needs of their communities and to address the policies, institutions, and cultural barriers that perpetuate harm and continue to exclude BIPOC, LGBTQ people, women, immigrants, and working people.

Truly building a more equitable and just society means that every community should have the authority and autonomy to advance equitable policies and how to most urgently meet the needs of their residents. We're committed to supporting this work by both sharing best practices and supporting locally led strategies that center local expertise and lived experience.

LSSC Local Solutions Support Center + LOCALPROGRESS

1,000+

Abusive Preemption Bills in 2022 Across All 50 States

This represents nearly a

100%

increase in the number of bills we tracked in 2021,
when we saw 475+ abusive preemption bills across the country.

We are currently tracking

626

abusive preemption bills in 2023 sessions.

Case Studies

The Evolution of Abusive Preemption

LSSC Local Solutions Support Center + LOCAL PROGRESS

2023 Issue Trends

Abortion	99 bills
Education	164 bills
Elections	77 bills
Housing	16 bills
LGBTQ+	104 bills
Prosecutorial Discretion	21 bills
TOTAL ACROSS ALL ISSUES	**626 bills**

LSSC Local Solutions Support Center + LOCALPROGRESS

How Municipal Attorneys are Making a Difference

Advocating Against Bad Bills

The TX Lege is considering an "omnibus" preemption bill to annihilate local lawmaking → City Attorneys are testifying against the bill → This lays the groundwork for litigation

LSSC Local Solutions Support Center + LOCALPROGRESS

How Municipal Attorneys are Making a Difference

Affirmative Litigation Efforts

In 2021, Florida passed HB 1 to override municipal budgeting authority

Eight cities sued the State of Florida to challenge the law as facially unconstitutional

LSSC Local Solutions Support Center + LOCALPROGRESS

Tactics & Action

The Role of City Attorneys in Combatting Abusive Preemption

LSSC Local Solutions Support Center + LOCALPROGRESS

Advising Your Clients in this Preemption Climate

Engage elected officials **early** and as **partners** in this work

LSSC Local Solutions Support Center + LOCALPROGRESS

Advising Your Clients in this Preemption Climate

Think creatively!

Consider using **other authorities beyond legislation** *(permitting, conditions on subsidies, contracting, outreach)*

Consider all of the **different agencies** and services that your municipality provides

LSSC Local Solutions Support Center + LOCALPROGRESS

Discussion