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NAVIGATING STATE LAW IN LOCAL CLIMATE ACTION
MISSISSIPPI

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Vincent M. Nolette, Daniel J. Metzger & Olivia N. Guarna

Columbia Law School, Sabin Center for Climate Change Law
Edited by Amy E. Turner

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Sabin Center for Climate Change Law Columbia Law School
435 West 116th Street
New York, NY 10027
Tel: +1 (212) 854-3287
Email: columbiaclimate@gmail.com
Web: https://climate.law.columbia.edu/
Bluesky: @sabincenter.bsky.social
Blog: http://blogs.law.columbia.edu/climatechange

About the Authors: Vincent M. Nolette is the Equitable Cities Climate Law Fellow at Columbia Law School's Sabin Center for Climate Change Law. Daniel J. Metzger is a Senior Fellow for Smart Surfaces at the Sabin Center. Olivia N. Guarna is the Sabin Center's Climate Justice Fellow. Amy E. Turner is the Director of the Cities Climate Law Initiative at the Sabin Center for Climate Change Law. Part of their work supports the Sabin Center's Cities Climate Law Initiative, which provides resources to efficiently and effectively address legal questions confronting the urban climate transition.

About this Document: This is an excerpt of a longer report, *Navigating State Law in Local Climate Action*, which covers nineteen states. The excerpt below contains the report's introduction, along with information and analysis related only to Mississippi. The full report, as well as other state-specific reports, are available in Columbia Law School's Scholarship Archive.

INTRODUCTION

Local governments are well-positioned to lead the fight against climate change by reducing community-wide greenhouse gas emissions, promoting renewable energy resources, and otherwise advancing climate mitigation and adaptation goals. Many local governments have already taken actions, and there is more they can do. In taking action to mitigate and adapt to the climate crisis, local governments must be aware of and act consistently with preemptive state laws that limit their authority. This report provides state-by-state information, resources, and analysis for nineteen states on key state-local preemption issues.

1. CROSS-CUTTING THEMES

The courts, constitutions, and statutes of each state handle the balance of power between the state and its local governments differently. But broadly, all seek to offer local governments some degree of autonomy, usually expressed as a variety of "home rule," while preserving ultimate authority in the state itself. The specific ways in which the states wield their authority are similarly varied, but they usually include both instances where the state passes laws that withdraw whole fields from local regulatory authority, and ones in which states broadly regulate in an area but allow local governments latitude to regulate so long as there is no conflict between the two. The sections below provide general background on the kinds of considerations that shape the relationship between states and local governments, and the chapters that follow expand on each in the context of particular states.

2. SCOPE

The states covered in this report are ones within which the authors have ongoing research projects and partnerships. They represent several of the "swing" states that are the most closely politically divided, ones where control of the state is split between political parties, and others—like Texas and Florida—where legislatures have taken particularly noteworthy steps to preempt local climate law. For each state covered, the chapters highlight the sources of local authority to regulate and the limits imposed by the state, including: (1) constitutional and statutory delegations of home rule authority and police powers to local governments; (2) state law governing the nature and content of home rule charters, as well as preemption of local law generally; (3) a catalog of current state laws that may preempt local climate action; (4) leading case law on home rule and preemption of local law; (5) where applicable, information on recent and ongoing litigation; (6) a summary of how the state handles building codes; (7) discussion of legal considerations related to public utilities; (8) helpful secondary sources; and (9) additional relevant information.

Many of the issues presented in each state's preemption case law section in this report arise outside the environmental, energy, and climate context. This is intentional, as case law that specifically discusses climate-related preemption measures is too limited to fully illustrate the doctrines through which courts would likely

consider those cases. We would not be able to explain state-specific preemption doctrines by only examining cases that are topically relevant.

These resources are intended to help local governments, policymakers, city attorneys, academics, advocates, and other stakeholders craft resilient climate policies, anticipate and respond to preemption challenges, and mobilize public engagement. The information provided is not exhaustive—it is intended instead as a starting point and a guide to the topics most relevant to state-local preemption. Links to publicly available versions of the constitutional provisions, statutes, and cases cited are provided where those are available.

3. HOME RULE AND THE POLICE POWER

Determining whether a local government may take a particular action involves a two-part inquiry, asking first whether the locality has the authority to legislate on a given issue, and second whether the state has preempted local governments from exercising that authority. The scope of local governments' authority to legislate is significantly shaped by the extent to which their states have allowed for home rule.

Home rule is a constitutional or statutory delegation of authority from a state to its local governments, permitting them to govern within their jurisdictions and adopt laws, regulations, and policies across a broad range of subjects.[1] In the vast majority of states, this "commitment to local lawmaking capacity [is] codified in [state] constitutions and statutes."[2] The core purpose of home rule is to empower local governments to act independently on local matters, so long as their actions are not inconsistent with state law, the state constitution, or their own home rule charters.[3] Today, all but three states provide some level of home rule—forty-one via the state's constitution and six through statute.[4]

Local action in states without a home rule system is cabined by an approach that was first described by Iowa Supreme Court Chief Justice John Dillon, and which has come to be known as Dillon's Rule. Under that approach, courts considering the scope of local governments' authority recognize only those powers that "are essential to municipal government or that the state has explicitly given to them, including any powers that are necessary for or implied by those explicitly given powers."[5] When Dillon's Rule applies, local governments' ability to regulate is more restricted.

[1] *See* Paul Diller, *Intrastate Preemption*, 87 B.U. L. REV. 1113, 1124 (2007) (describing home rule as "a system of state and local relations that gives some degree of permanent substantive lawmaking authority to localities beyond that which was provided by the traditional Dillon's Rule regime."); NAT'L LEAGUE OF CITIES, PRINCIPLES OF HOME RULE FOR THE 21ST CENTURY (2020), https://perma.cc/A3VP-NXZZ.
[2] Richard Briffault, *The Challenge of the New Preemption*, 70 STAN. L. REV. 1995, 2011 (2018), https://perma.cc/3B53-S66J.
[3] *See* NAT'L LEAGUE OF CITIES, *supra* note 1.
[4] *See* Briffault, *supra* note 2.
[5] *See City of Clinton v. Cedar Rapids & Missouri Railroad Co.*, 24 Iowa 455 (1868).

Home rule's "primary purpose and [] principal effect . . . has been to undo Dillon's Rule" and empower local governments to legislate proactively, without prior state approval.[6] However, even in states with expansive home rule systems, local authority is limited by the almost absolute power of state preemption.[7]

4. PREEMPTION

Broadly speaking, preemption is a legal doctrine that allows the federal or a state government to restrict or eliminate the authority of lower levels of government in a specific policy area.[8] There are three ways a state can preempt local action: (1) expressly through clear statutory language (known as "express preemption"); (2) by demonstrating the state's legislative intent to occupy a whole field of regulation (known as "field preemption"); or (3) by enacting state laws that conflict with local ones (known as "conflict preemption").[9] State governments can employ all or a mixture of preemption methods, depending on the state.

While related, home rule and preemption are distinct legal doctrines. Strong home rule increases baseline local authority but it does not limit a state's power to preempt particular laws or fields of regulation. Further, a municipality is generally only affected by preemption to the extent that its actions cross into areas of state concern. Home rule should be viewed as a source of local initiative, while preemption as a legal boundary.

Many state courts liberally construe home rule authority and avoid finding preemption under certain conditions. A few states, like Ohio, have even reined in state power in order to protect local lawmaking.[10] In *City of Canton v. State*, the Supreme Court of Ohio held that "a state law preempting local regulation cannot merely block local action but must include some substantive replacement regulation."[11] Home rule has developed differently in each state, resulting in a patchwork of fifty distinct and nuanced systems of local power.

5. KEY ENVIRONMENTAL, ENERGY, AND CLIMATE CASES

In most states, there is relatively little preemption case law specific to environmental issues. Where there are cases, they are not broadly applicable because of each state's unique home rule and preemption frameworks. As a result, many of the issues discussed in each state's preemption case law section fall outside the environmental, energy, and climate context. That said, some state courts have decided significant preemption disputes in the environmental, energy, and climate sectors. Even though each state's decisions are not binding on other states, courts in states in which there is little applicable case law may find these examples persuasive:

[6] *See* Briffault, *supra* note 2, at 2012.
[7] *Id*.; Diller, *supra* note 1, at 1126–27.
[8] *See* *Arizona v. United States*, 567 U.S. 387, 398–99 (2012) (explaining the principle of supremacy).
[9] *See* *Holt's Cigar Co. v. City of Philadelphia*, 608 Pa. 146, 153 (2011).
[10] *See, e.g.*, *City of Canton v. State*, 95 Ohio St. 3d 149, 151–52 (Ohio 2002).
[11] *See* Briffault, *supra* note 2, at 2013; *City of Canton*, 95 Ohio St. 3d at 152–53.

- **Buildings:** *Glen Oaks Village Owners, Inc. v. City of New York*, No. 42, 2025 WL 1458090 (N.Y. May 22, 2025) (holding that New York State's climate law, the Climate Leadership and Community Protection Act (CLCPA), does not field preempt Local Law 97, New York City's building performance standards);
- **Oil & Gas:** *Wallach v. Town of Dryden*, 23 N.Y.3d 728 (2014) (holding that New York's Oil, Gas and Solution Mining Law does not preempt local zoning laws that ban oil and gas production activities, including hydrofracking);
- **Renewable Energy:** *Town of Copake v. New York State Off. of Renewable Energy Siting*, 191 N.Y.S.3d 181 (N.Y. App. Div. 3d Dept. 2023) (upholding the discretionary authority of New York State's Office of Renewable Energy Siting to override local restrictions on major renewable energy facilities when such a restriction is "unreasonably burdensome in view of the CLCPA targets and the environmental benefits" of the facility); and
- **Utilities:** *StopAquila.Org v. Aquila*, 180 S.W.3d 24 (Mo. Ct. App. 2005) (holding that state public utilities law does not preempt local zoning law); *PPL Electric Utilities v. City of Lancaster*, 214 A.3d 639 (Pa. 2019) (state public service law field preempted a municipal ordinance that imposed additional controls on state-regulated public utilities for the use of the municipality's rights-of-ways); *Boston Edison Co. v. City of Boston*, 459 N.E.2d 1231, 1234 (Mass. 1984) (holding that local ordinances that regulate utilities are broadly preempted by comprehensive state legislation that occupies the field of utility regulation); *Boston Gas Co. v. City of Somerville*, 652 N.E.2d 132 (Mass. 1995) (holding a local ordinance was preempted by state law governing the sale of gas and electricity by public utilities because the ordinance imposed additional requirements on gas companies that were inconsistent with the state law).

6. THE POLITICS OF PREEMPTION

Preemption exists in every state and, as a legal concept, is content neutral. States have used their preemptive powers across diverse subject matters including, for example, laws that restrict local taxation authority,[12] ones that regulate alcohol ordinances,[13] and others that occupy the field of firework regulation.[14] Historically, preemption "consisted of a judicial determination of whether a local law conflicted with preexisting state law."[15] Over the past two decades, though, state legislatures have aggressively and frequently used preemption to enact sweeping statutes barring "local efforts to address a host of local actions."[16] This trend, sometimes referred to as "New Preemption," is characterized deregulatory action against larger, often progressive cities—either to prevent the enactment of certain ordinances or to retaliate against those already passed.[17] A quintessential example of this style of preemption occurred in 2016, when Alabama enacted legislation preempting local

[12] *See, e.g.*, *Mayor of Ocean Springs v. Homebuilders Ass'n of Mississippi*, 932 So. 2d 44 (Miss. 2006).
[13] *See, e.g.*, *State v. Williams*, 283 N.C. 550 (1973).
[14] *See, e.g.*, *People v. Bahnke*, 2024 WL 647931 (Mich. App. Feb. 15, 2024).
[15] *See* Briffault, *supra* note 2, at 1997.
[16] *Id*.
[17] *See generally* Briffault, *supra* note 2.

minimum wage regulation just two weeks after Birmingham passed an increase.[18] On the climate front, one of the most replicated state preemption laws has been the so called "ban on natural gas bans," which swept through conservative states after Berkeley, California enacted an ordinance prohibiting natural gas piping in new construction in 2019.[19] Recent preemption of local climate-related laws fits squarely within the framework of New Preemption, with conservative-led states increasingly targeting climate-related initiatives led by progressive city governments.

* * *

There is an observable trend towards state governments seeking to preempt local climate-related actions, but how and to what extent states will succeed in that effort depends on specific circumstances and varies significantly by state. The following chapters offer a state-by-state primer on state preemption of local action in nineteen states, with particular attention to climate considerations.

[18] *See* Yuki Noguchi, *In Battle Pitting Cities Vs. States Over Minimum Wage, Birmingham Scores A Win*, NAT. PUB. RADIO (July 27, 2018), https://perma.cc/82SY-KUXS.

[19] Berkeley's ordinance was later repealed after losing a federal preemption challenge in federal court. *See Cal. Restaurant Ass'n v. City of Berkeley*, 89 F.4th 1094 (9th Cir. 2024); BERKELEY, CAL., CITY CODE § 12.80 (repealed by Ord. No. 7907-NS (2024)).

MISSISSIPPI

1. DELEGATION OF HOME RULE AUTHORITY AND POLICE POWER

Mississippi cities have relatively broad statutory home rule powers, giving them the discretion to manage their municipal affairs and exercise the police power to protect the health, welfare, and safety of their residents, so long as a city's ordinance is not inconsistent with state law or constitution. *See* *Ryals v. Bd. of Sup'rs*, 48 So. 3d 444, 448 (Miss. 2010) ("If a county or municipality passes an ordinance which stands in opposition to the law as pronounced by the legislature, the ordinance, to the extent that it contradicts state law, will be found void by this Court, as the laws of this state supersede any and all local ordinances which contradict legislative enactments."). As discussed further below, Mississippi's Supreme Court has not explored the boundaries of home rule in great detail, so the scope of municipal home rule in Mississippi may change with further judicial interpretation.

1.1 Constitutional Provisions

The Mississippi delegation of home rule authority is statutory, but the constitution does allow the legislature to enact statutes allowing cities and towns to adopt charters.

Miss. Const. art. 4 § 88: "The Legislature shall pass general laws, under which local and private interest shall be provided for and protected, and under which cities and towns may be chartered and their charters amended, and under which corporations may be created, organized, and their acts of incorporation altered; and all such laws shall be subject to repeal or amendment."

1.2 Statutory Provisions

The statutory grant of home rule authority to Mississippi municipalities is found at Miss. Code Ann. § 21-17-5(1): "The governing authorities of every municipality of this state shall have the care, management and control of the municipal affairs and its property and finances. In addition to those powers granted by specific provisions of general law, the governing authorities of municipalities shall have the power to adopt any orders, resolutions or ordinances with respect to such municipal affairs, property and finances which are not inconsistent with the Mississippi Constitution of 1890, the Mississippi Code of 1972, or any other statute or law of the State of Mississippi and shall likewise have the power to alter, modify and repeal such orders, resolutions or ordinances." Counties have been granted the same powers as cities. Miss. Code Ann. § 19-3-40(1) ("The board of supervisors of any county shall have the power to adopt any orders, resolutions or ordinances with respect to county affairs, property and finances, for which no specific provision has been made by general law and which are not inconsistent with the Mississippi Constitution, the Mississippi Code of 1972, or any other statute or law of the State of Mississippi . . .").

Municipalities are not permitted to levy taxes, issue bonds, regulate certain parts of local elections, or to change the structure or form of the municipal governments, among other restrictions. Miss. Code. Ann. § 21-17-5(2).

For these restricted activities, cities must be given express authority elsewhere in state law to exercise such legislative power. *Id*.

2. PREEMPTION OF LOCAL LAW

Mississippi courts have found preemption where a statute expressly states the legislature's intent to preempt a matter or when a local ordinance and state law directly conflict. *See* *Maynard v. City of Tupelo*, 691 So. 2d 385, 387 (Miss. 1997). It appears that Mississippi courts do not recognize field preemption. *See* *Delphi Oil, Inc. v. Forrest Cty. Bd. of Supr's*, 114 So. 3d 719, 724 (Miss. 2013) (finding no support for the "federal doctrine" in state case law to apply to the matter). A unique feature of Mississippi home rule case law, held in at least one case, is that when a local ordinance serves an important public policy, there must be a "clear expression of [legislative] intent" to preempt the ordinance. *Maynard*, 691 So. 2d at 388.

2.1 Express Preemption

Express preemption occurs when the state legislature includes explicit preemptive language in state statutes. For example, Mississippi has expressly preempted local governments from enacting any ordinance that restricts firearms: "Subject to the provisions of Section 45-9-53, no county or municipality may adopt any ordinance that restricts the possession, carrying, transportation, sale, transfer or ownership of firearms or ammunition or their components." Miss. Code Ann. § 45-9-1(1).

2.2 Field Preemption

At the time of this publication, we were not able to identify any cases in which Mississippi courts recognized field preemption. *See* *Delphi Oil, Inc.*, 114 So. 3d at 724.

2.3 Conflict Preemption

Conflict preemption occurs when there is outright or actual conflict between state and local law. There is little case law in Mississippi that addresses conflict preemption. Mississippi's Supreme Court has affirmed, however, that "in any conflict between an ordinance and a statute, the latter must prevail." *Collins v. City of Hazlehurst*, 709 So. 2d 408, 411 (Miss. 1997). Additionally, "[i]f a county or municipality passes an ordinance which stands in opposition to the law as pronounced by the legislature, the ordinance, to the extent that it contradicts state law, will be found void by this Court." *Delphi Oil, Inc.*, 114 So. 3d at 722. In *City of Hazlehurst*, the court held that a city ordinance prohibiting individuals under twenty-one from entering an establishment with an on-premises retail beer permit was validly enacted pursuant to a specific legislative grant of power to cities to regulate the sale of alcohol. 709 So. 2d at 412. The court further found that the ordinance did not conflict with a state statute that allowed minors to enter premises for retail sale of beer or wine when accompanied and supervised. *Id*. at 414.

2.4 State Laws with Potential for Local Climate Preemption

Building Electrification. Miss. Code Ann. § 17-25-34: "No political subdivision of this state may adopt an ordinance, resolution, regulation, code or policy that prohibits, or has the effect of prohibiting the expansion, utilization, connection or reconnection of a service based upon the type or source of energy to be delivered to an individual customer."

Plastic Containers. Miss. Code Ann. § 17-1-73: No local government may "adopt or enforce an ordinance that regulates the use, disposition or sale of auxiliary containers; prohibits or restricts auxiliary containers; or imposes a fee, charge or tax on auxiliary containers or additional sales tax to consumer, where an 'auxiliary container' is defined as, among other things, a plastic bag, cup, bottle, or other packaging."

3. CASE LAW ON HOME RULE AND PREEMPTION OF LOCAL LAW

Mississippi case law related to municipal home rule and preemption of local laws is limited, but several cases describe how Mississippi courts generally view municipal authority and the state's power to preempt local ordinances:

- *Jones v. City of Canton*, 278 So. 3d 1129 (Miss. 2019): In this appeal to the Mississippi Supreme Court, the question was whether a city ordinance violated the state constitution. The plaintiff was removed as a trustee from the Canton Public School District by the Board of Aldermen (the Board) of the City of Canton under a city ordinance and sued, arguing that the Board lacked the authority to remove him as a public official. *Id*. at 1131. The parties agreed that there existed no statutory grant of power to the Board to remove a school-board trustee from that position, but the court considered whether, pursuant to the home rule statute, the Board's action was inconsistent with state law or the state constitution. *Id*. The court noted that article 6, section 175 of Mississippi's constitution provides the removal process for all public officers, and that the attorney general's office stated that a trustee of a municipal separate school district "can only be removed pursuant to a specific statutory provision." *Id*. at 1132. The city argued that because the home rule statute did not include removal of public officers as an exception to municipal power, and that cities do not need authorization from the legislature to adopt ordinances, the city was within its authority to provide a mechanism to remove public officers. *Id*. at 1133–34. The court held that section 175 represents the exclusive means of removal, and because the plaintiff was a public officer, he could only be removed in accordance with section 175. *Id*. at 1134. Thus, the city ordinance was inconsistent with the state constitution.

- *Mayor of Ocean Springs v. Homebuilders Ass'n of Mississippi*, 932 So. 2d 44 (Miss. 2006): The Mayor and Board of Alderman of the city of Ocean Springs adopted impact fee ordinances for various public improvements and services, including fire and police facility development. *Id.* at 47. Construction and development groups challenged the ordinances, arguing that the impact fees constituted illegal taxes that the city did not have the power to enact. *Id*. The lower court held in favor of the construction and

development groups, finding the impact fees to be taxes. *Id*. at 48. On appeal, the Mississippi Supreme Court found that no constitutional provision, state statute, or common law authorized the adoption and implementation of impact fees like the ones adopted by the city. *Id*. at 51–53. In other words, the state had not expressly granted that power to cities. Still, the city maintained that its authority to adopt impact fees was derived in part from the home rule statute. *Id*. The court agreed in part, finding that home rule authority grants municipalities authority to impose *fees*, but not taxes. *Id*. In this case, the court held the charge at issue to be a tax, and therefore the city did not have the authority to assess it.

- *Delphi Oil, Inc. v. Forrest Cty. Bd. of Sup'rs*, 114 So. 3d 719 (Miss. 2013): In response to an explosion at an oil and gas storage tank in Forrest County that killed two teenagers, the Forrest County Board of Supervisors passed an ordinance requiring that oil and gas facilities within Forrest County be sited within fencing. *Id*. at 720. Delphi Oil appealed the ordinance to the Circuit Court of Forrest County, which found that the fencing ordinance was within the Forrest County Board's authority to protect the health and safety of county residents. *Id*. at 721. On appeal to the Mississippi Supreme Court, Delphi Oil argued that the regulatory authority of the Mississippi Oil and Gas Board (OGB) preempts any local regulation of oil and gas activity, and thus the ordinance should be invalidated. The court considered "the express language of a statute to determine whether there is a direct conflict between the state statute and the local ordinance." *Id*. at 723. Looking to the statutes and regulations governing the OGB, the court found that state law did not expressly define OGB's role in promoting the public safety from the dangers posed by oil and gas operations nor did it give exclusive authority to OGB concerning the prevention of blowouts and fire hazards. *Id*. at 724. Consequently, the court held that the ordinance was not inconsistent with the OGB statutes and regulations, which did not address perimeter fencing, and could instead "be read as supplemental to th[o]se laws." *Id*.

3.1 Other Relevant Cases

Ryals v. Bd. of Sup'rs, 48 So. 3d 444 (Miss. 2010) (partially preempting a county ordinance regulating alcohol where it conflicted with state law but upholding the portion that addressed matters not expressly covered by state statute).

Maynard v. City of Tupelo, 691 So. 2d 385 (Miss. 1997) (holding that a local ordinance prohibiting alcohol consumption in commercial establishments during certain hours was not preempted because state law did not clearly express an intent to preempt and strong public policy considerations supported local regulation).

Somerville v. Keeler, 145 So. 721 (Miss. 1933) (upholding a local ordinance as a valid exercise of municipal authority over streets because it was "merely supplementary" to a state driving statute and did not conflict with state law).

4. BUILDING CODES

The Mississippi Building Codes Council adopts statewide codes. Miss. Code Ann. § 17-2-3. Local governments can opt out of the latest statewide codes, but they must adopt at a minimum any of the three latest adopted edition of the International Code Council's (ICC) International Building Code (IBC), the International Residential Code (IRC), and any other rules adopted by the Mississippi Building Codes Council.[20] *See* Miss. Code Ann §§ 17-2-4(3); § 17-2-5. Building code adoption is therefore managed locally, and the process for updating local building codes can have different permutations. Local governments must enforce any codes they adopt. Miss. Code Ann. § 17-2-5(3). Mississippi's Building Codes Council has most recently adopted the 2018 version of the IBC, among other ICC codes updated in 2018.[21] Jackson, for example, has adopted the ICC's 2018 editions.

In addition, H.B. 1281 of 2013 updated the state's commercial building energy efficiency codes to the American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) Standard 90.1, which applied to certain public buildings, commercial buildings, and state-owned buildings. Miss. Code Ann. § 57-39-21. But Mississippi has not kept up with the ASHRAE's three-year updates, and the energy efficiency standards were repealed as of July 1, 2023. *Id*. at § 57-39-21(4).

5. ELECTRIC UTILITY CONSIDERATIONS

What is the relevant utility regulatory body in the state? Who and what does it regulate? The Mississippi Public Service Commission (MPSC) is vested with "exclusive original jurisdiction over the intrastate business and property of public utilities." Miss. Code Ann. § 77-3-5. The MPSC has regulatory authority over the state's two investor-owned utilities[22] for both electricity and gas and limited authority over municipal utilities and electric cooperatives (code of conduct, electric choice rates, service territory designation, and service quality and safety standards). *See* Miss. Code Ann. §§ 77-3-1; 77-3-5. The MPSC's authority over Entergy Mississippi and Mississippi Power includes ratemaking. *See* Miss. Code Ann. §§ 77-3-35, 77-3-37.

Municipally-owned utilities may set their own electricity rates, free from MPSC oversight, and do not need to obtain a franchise or other state permit "to construct, improve, enlarge, or repair any system" of electricity generation or distribution. *See* Miss. Code Ann. § 21-27-29; *see also* Miss. Code Ann. § 21-27-1(b).

What authority, if any, do municipalities have over utilities? Mississippi state law has not delegated general authority to local governments to regulate utilities. Municipal authority over utilities is very limited because of the MPSC's "general jurisdiction and extensive regulatory power[] over public utilities." *Capital Elec. Power Ass'n v. Mississippi Power & Light Co.*, 216 So. 2d 428, 430 (Miss. 1968). However, municipalities retain some control

[20] Local governments had the option to opt out of this requirement within 120 days of Senate Bill 2378's (2014) passage. Miss. Code Ann. § 17-2-4(3).
[21] *Mississippi*, INT'L CODE COUNCIL, https://perma.cc/9LBZ-NJRD.
[22] Mississippi's two IOUs are Entergy Mississippi and Mississippi Power.

over utilities and electricity procurement within their jurisdiction. In addition to franchise authority, and subject to certain requirements, "[a]ny municipality shall have the right to acquire by purchase, negotiation or condemnation the facilities of any utility that is now or may hereafter be located within the corporate limits of such municipality." Miss. Code Ann. § 77-3-17. There appears to be no state law requiring municipally-owned electric utilities to purchase power from a particular investor-owned utility.

Can cities enter into franchise agreements with utilities? Generally, utilities must be granted a franchise by a municipality before they can locate and operate within a municipality where "streets and other public places are essential to such location and operation." Miss. Code Ann. § 77-3-19. However, "such [a] franchise shall not contain any provision conflicting with or repugnant to the exclusive jurisdiction of the [MPSC] to regulate rates and services of the utilities as provided in this article." *Id*.

How can cities intervene in Public Service Commission proceedings? Local governments can intervene in MPSC proceedings "[u]pon a timely motion . . . when the movant has a substantial interest relating to the property, transaction or outcome of the proceeding at issue and the movant is so situated that the disposition of the proceeding may as a practical matter impair or impede his or her ability to protect that interest." Miss. Pub. Util. Rules of Pract. & Proc., Ch. 6, Rule No. 121(1). If granted, the intervenor gains "the status of a party and to participate as a party, subject to such conditions as may be prescribed by the Commission." *Id*.

Does the state have an obligation to serve statute? Yes, public utilities[23] have an obligation to serve under Miss. Code Ann. § 77-3-33(2): "Such utility shall furnish adequate, efficient and reasonable service, and may establish reasonable rules governing the conduct of its business and the conditions under which it shall be required to render service. The commission may, after hearing upon reasonable notice had, upon its own motion or upon complaint, ascertain and fix just and reasonable standards, regulations and practices of service which are to be furnished, imposed, observed and followed by all public utilities."

Has the state passed enabling legislation for community choice aggregation (CCA)? No, Mississippi currently lacks enabling legislation for community choice aggregation programs.[24]

6. SECONDARY SOURCES

Municipal Government in Mississippi, 7th Ed., Ctr. for Gov't & Cmty. Dev., Miss. State Univ. (2021), https://perma.cc/ZG8X-XGKQ (providing comprehensive background on the organization and operation of municipal government in Mississippi).

[23] *See* Miss. Code Ann. § 77-3-3(d) (defining "public utility").
[24] *Community Choice Aggregation*, U.S. Env't Protection Agency, https://perma.cc/8GKA-3GWN.

7. MISCELLANEOUS

Mississippi has enacted a law penalizing local officials who take actions inconsistent with the state's preemption of local firearms regulations. Miss. Code Ann. § 45-9-53(5) makes liable "[a]ny elected county or municipal official under whose jurisdiction" a violation of the state preemption occurred for up to $1,000 plus attorney's fees and costs.

Mississippi residents can initiate amendments to the state constitution. Miss. Const. art. XV, § 273(3). If an initiative to amend the constitution reaches the required number of signatures, the Mississippi Legislature may adopt the initiative by a majority vote. *Id*. § 273(6). If no action is taken on the initiative, it will be placed on the ballot for the next statewide general election. *Id*. § 273(6)–(7).