Legal Maneuvers to Promote or Prevent Preemption

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State Preemption of Local Authority
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Catalogue of Tools

- **Challenges to jurisdiction’s power**
  - Orange County, FL (administrative)
  - Eugene, OR (legislative)

- **Challenges to process**
  - Orange County, FL
  - San Diego, CA

- **Sunshine laws related to public records**
  - Orange County, FL

- **State legislative procedure**
  - Pennsylvania

- **Voter initiatives to challenge or protect**
  - San Diego, CA
  - Washington State
**Florida’s Sick Days Saga**

**Step 1:** City action blocked via city registrar (2012)

**Step 2:** County ballot blocked via county commission (2013)

**Step 3:** Court says O.C. acted unlawfully.

**Step 4:** State preemption


**PPS:** Voters approve O.C. charter amendment limiting county voters from regulating wages, benefits, working conditions by initiative
Pennsylvania’s Gunning... for Guns and Sick Days

**On Guns:** Super-preemption (NRA/citizen right to sue localities for legislating on guns (successful, 2014)

**On sick days:** Amended state proposal to protect victims of domestic violence with proposal to preempt local paid sick days laws (unsuccessful, 2014)
San Diego’s **Holding Pattern**, Eugene’s **Preemptive Preemption**

**Lane Co. preemption** of Eugene city power (probably unlawful). City passed law anyway (2014). City may need to defend against lawsuit.

**City council actions** in 2014 creating sick days standard and raising the minimum wage subject to **voter review in 2016**.

**Challenge** to voter signatures used to obtain voter review (unsuccessful).
Ballot success: Voters simultaneously defeated concealed carry and approved background checks (2014)
Putting it **Together**

- Know the players who run the relevant institutions
- Know the rules of relevant institutions
- Be prepared to pivot quickly from one venue/set of rules to another
- Anticipate the challenges
- Think a step ahead
- Adjust tactics to make best use of public sentiments
- Build and mobilize strong coalition
- Have legal advisors lined up and ready to go