

# CSCA 2019 Annual Meeting, Charleston, South Carolina

## Legislative Update Roundtable

by Todd Edwards, ACCG – Georgia's County Association

### Those Pesky Preemptions and Mandates

#### Short Term/Vacation Rentals

- **Florida, Georgia, Virginia:** Prohibit or restrict local regulations.
- **Maryland, Georgia:** Require marketplace facilitators to collect sales taxes.

#### Home Design Standards and Other Local Building Regulations

- **Georgia, North Carolina, Texas:** Prohibit or restrict local regulations.

#### Legal Organ

- **Arkansas, Maryland:** Sought to allow electronic advertisements rather than mandates to subsidize newsprint.
  - o **Kentucky:** Purchase threshold that triggers newspaper ad increased from \$20,000 to \$30,000.
  - o **Virginia:** Some counties, and requests for proposals, may now evade legal organ.

#### E-Scooters and Bikes

- **Florida, Georgia:** Prohibit or restrict local regulations.
  - o **Virginia:** Authorize locals to regulate.

#### Tobacco and Vaping

- **Florida, South Carolina:** Prohibit or restrict local regulations.
  - o **Virginia:** Some counties may apply cigarette tax to vaping products.

#### Plastic Bags and Single-Use Straws

- **Florida and South Carolina:** Prohibit or restrict local regulations.
  - o **Virginia:** Authorize locals to prohibit or tax plastic bags.

#### Land Use

- **Maryland:** Intrusive mandates on local planning, forest protection and local licensing.
- **North Carolina:** Preempt county land use authority, promoting litigation on land use decisions.

#### Environmental

- **Florida, North Carolina:** Prohibit or restrict local tree ordinances.

#### Outdoor Advertising

- **North Carolina:** Limit county authority on placement of billboards.

#### Statues and Monuments

- **Georgia:** Counties cannot remove, replace, damage monuments on their property.

#### Other

- **Florida:** No local regulations on sunscreen or power generators, including transfer switches.
- **Maryland:** County employee mandates; preempt regulation of amateur radio towers; ban-the-box mandate on counties; require counties to confirm data protection processes to protect personal information; must use "state-of-the-art" natural surface materials for playgrounds or athletic fields.
- **Virginia:** Counties can't spray pesticides for the fall cankerworm in certain months.

### Omnibus County Preemption Award Winner!

- **Florida:** Void any local government ordinance, requirement, guideline or act that regulates activities regularly engaged in by a person for gain, benefit or advantage if the ordinance is not expressly authorized by general law.

## **Elections**

### Voting Machines

- **Arkansas:** Sought state funding for voting equipment.
- **Georgia:** Replace machines, uniform/statewide, touchscreen-marked paper ballots, scanners. State provides \$150 million to purchase machines and provide to counties.
- **North Carolina:** Extend deadline to cease use of electronic voting machines - law requires counties move to paper ballots by Dec. 2021.
- **South Carolina:** Establish statewide voting solution commission.
- **Texas:** Stricter penalties on voting crimes; mandates on counties to secure elections and provide voter-verifiable paper audit trail; state voting system fund to assist local procurement.

### Election Reforms

- **Georgia:** Omnibus bill covered maintenance of voter rolls, polling places, ERIC, voter assistance, among other areas. Georgia in midst of several lawsuits over its election equipment.
- **Kentucky:** Change candidate filing deadline.
- **Maryland:** Increase early voting centers; require voting precincts in retirement communities that request them; allow persons to register and vote at polling places on election day.
- **North Carolina:** Revise early voting plans; revise state law on voter ID requirements.
- **South Carolina:** Change voter registration deadlines and primary election dispute provisions.
- **Virginia:** Strengthen registrant security and enhance local security plans; provide that any registered voter may vote by no-excuse absentee ballot in the week prior to election; effort failed to allow folks to register and vote at polling location on election day; effort failed to allow ranked-choice voting for local officials.
- **West Virginia:** Delay implementation of providing automatic voter registration at DMV; increase caps on campaign contributions; provide absentee ballots to persons confined in health care facilities or are prevented from traveling due to health/age reasons.

## **Property Taxes**

### Assessment or Revenue Caps

- **Texas:** 2.5% property tax assessment cap.

### Property Tax Exemptions

- **Arkansas:** Raise homestead exemption tax credit.
- **Maryland:** Allow homesteaded property tax savings to be transferred to first-time home buyers; exempt certain solar energy property from personal property tax.
- **Mississippi:** Seek full county reimbursement for homestead exemption.
- **North Carolina:** Reduce solar energy facility tax exclusion; exempt cemetery property and farm equipment; increase exclusions for disabled veterans, homesteaded properties, surviving

spouses of fallen emergency service personnel and voluntary firefighters; simplify and expand developer tax exemption on improved properties.

- **Virginia:** Provide property tax exemption for surviving spouses of disabled veterans;

#### Vehicles

- **Georgia:** Revise state Title Ad Valorem Tax system to improve valuation of used cars.
- **Virginia:** Clarify taxation on ATVs, mopeds, and off-road motorcycles; expand personal property tax exemption for agricultural vehicles; exempt vehicles of disabled veterans from property tax;

#### Other

- **Arkansas:** Address payment of taxes during property tax appeals.
- **Georgia:** Prohibit other fees from being placed on property tax bills, again.
- **Maryland:** Oppose Income Tax Subtraction Modification legislation and efforts to extend property tax appeal deadlines; allow for an installment payment schedule for real property taxes.
- **Mississippi:** Protect counties in the tax lien property acquisition process.
- **Texas:** Revise state's rollback rate; allow tax to be paid in installments; property tax disaster exemption; sought other means by which to reduce property taxes (including increased sales tax); increase state school funding to relieve property tax burden; require tax assessors to collect property taxes for schools; reform property appraisal process.

## **Internet Sales Tax and Other Fiscal Matters**

### Create or Enhance Internet (Online Marketplace Retailers) Sales Tax

- **Arkansas, Georgia, South Carolina, North Carolina, Texas, Virginia, West Virginia:** Implement or expand collection of online sales taxes. "Marketplace facilitators" and how they collect tax differs among states, both in substance and in legislative passage.

### Communications Service Tax

- **Florida:** Efforts to significantly reform the state and local CST.
- **Georgia:** Sought to establish a CST and utilize state portion to fund rural broadband projects.

### State Intergovernmental Assistance

- **Kentucky:** Tax reform, including limitations on local governments and city/county distributions; ensure that counties continue to receive local bank franchise tax (\$17 million statewide).
- **Mississippi:** Creation of local government Debt Setoff Program.
- **South Carolina:** Create Local Government Fund.

### Discretionary Sales Surtaxes/ Local Option Sales Tax

- **Florida:** County tax must first be approved by 2/3<sup>rd</sup> vote of governing authority, referendum can only take place in general election and must be approved by 2/3<sup>rd</sup> of those voting on the surtax.
- **Georgia, South Carolina:** Efforts to expand or create a Municipal Local Option Sales Tax failed.
- **North Carolina:** Preserve and expand local revenue base; simplify local sales tax distribution.
- **West Virginia:** Sought ability to levy a local 1% sales tax as well as an amusement tax.

#### Other

- **Florida:** Counties must provide additional notice and an additional public hearing before all actions resulting in a tax increase or new debt and maintain a 5-year voting record of all such actions.
- **Florida:** Redesignate several local revenues from being called "fees" to being called "taxes".

## Healthcare and Rural Healthcare

- **Georgia:** CON reforms, bed tax renewal, and allow Governor to apply for Medicaid waivers - mostly aimed at improving rural health care. Require insurers to cover telemedicine services; allow out-of-state physicians to engage in telemedicine services.
- **Maryland:** Strengthen prescription drug monitoring program; create state-level Prescription Drug Affordability Board.
- **North Carolina:** Expand Medicaid and close Medicaid coverage gap.
- **South Carolina:** Rural health initiative.
- **Virginia:** Insurers must cover medically-necessary telemedicine services.

## Behavioral Health and Opioids

### Increase Behavioral Health Funding

- **Georgia, South Carolina, Maryland, North Carolina, Texas,** among others.

### Other

- **Georgia:** Establish Behavioral Health Reform and Innovation Commission.
- **Maryland:** Inmates with mental illness receive treatment in state facilities rather than local jails; expand state grant program for behavioral health facilities.
- **South Carolina:** Create “Therapeutic Transport Fund”.
- **Texas:** Create Texas Mental Health Care Consortium to coordinate mental health services; establish network of child psychiatry access centers.
- **Virginia:** Sheriffs may petition court to authorize medical or mental health treatment for prisoners who are incapable of giving informed consent. Require behavioral health screening and assessment for all folks committed to local jails (and much more).
- **West Virginia:** Establish a court and drug treatment program for military members to address service-related mental health issues.

### Opioids and Drug Issues

- **Maryland:** Create statewide system of medication-assisted treatment in local jails; ensure that profits from state opioid litigation are used to confront opioid epidemic.
- **South Carolina:** State funding to counties for opioid treatment.
- **West Virginia:** Create statewide, central repository to track drug overdose incidents.

## Water, Wastewater and Other Environmental

### Dam and Reservoir Safety and Funding

- **South Carolina, Texas,**

### Water, Wastewater, Septic Systems and Stormwater

- **Florida:** Remove county restrictions on which revenues can be used for water quantity and quality projects; incentivize infrastructure investment for reclaimed water; revise state oversight of septic tank program (to include additional water quality regulatory requirements); expand notice requirements and fines for sewer spills.
- **Georgia:** Mandate a water customer bill of rights; authorize private providers to inspect and issue land disturbance (E&S) permits.
- **Maryland:** Require repair or replacement of failing on-site sewage disposal systems.

- **North Carolina:** Authorize private soil samplers to perform septic system evaluations, plans and reports; identify and assist water and sewer systems that face persistent challenges.
- **Virginia:** Require state to develop plan for onsite sewage treatment system management; study if and how to use rainwater for drinking and other purposes; locals may create stormwater management funds; state grants available for instillation of certain wastewater conveyance infrastructure; counties gain some exceptions from state stormwater mandates.

#### Pollution

- **Florida:** Increase funding for water quality improvement projects; provide state match for local funds to restore impaired waters.
- **Maryland:** Require local E&S issuing authorities to annually report violations to state; constitutional amendment establishing that everyone has a right to a clean and healthy environment; examine how to prevent debris from entering storm drains.
- **Virginia:** Revise wetlands mitigation rules; authorize locals to regulate lawn fertilizer; require state to produce hazardous waste site inventory.

#### Solid Waste and Other

- **Florida:** Increase amount counties must pay a “displaced” solid waste hauler as well as other mandates to subsidize the private hauler; establish criteria for ranking beach and inlet sand management projects; expand wetland mitigation opportunities.
- **Florida, Georgia, Virginia:** Prohibit or restrict offshore oil and gas exploration/leasing.
- **Georgia:** Prohibit state budget makers from raiding environmental trust funds; attempts to strengthen coal ash disposal regulations.
- **Kentucky:** Require county judge/executive to be notified of a declared environmental emergency or violation to a landfill within seven days.
- **Mississippi:** Increase funding for the Beaver Control Assistance Program (BCAP).
- **Virginia:** New or expanding landfills must get approval from all local governments within a 5-mile radius; locals must conduct a traffic impact analysis in zoning for a new landfill; expand ability for counties to enact tree ordinances; charge additional fee on waste going into landfills for greenhouse gas reduction program.

## Transportation

- **Arkansas:** Pursue long term highway funding.
- **Georgia:** Create freight and logistics infrastructure study committee; create statewide transit agency.
- **Kentucky:** Seek transportation infrastructure funding; revised gas tax structure/rates.
- **Maryland:** Increase transportation funding in state budget; state to develop guidelines for a range of traffic calming devices.
- **Mississippi:** Increase funding and flexibility for Local Systems Bridge Program; revise Emergency Road and Bridge Repair Fund. Discretion to reject state highways as part of county road system.
- **North Carolina:** Efforts to increase state funding and revise state funding formula; require developers to post maintenance bonds on new construction for subdivision roads; revise how state DOT accepts subdivision roads; require counties to develop and maintain a “County Public Street Information Database”.

## Small Cell, Telecommunications and Other Right of Way Access

- **Florida:** Extend current small cell mandates to all communications equipment in ROW; provide small cell exceptions to local undergrounding requirements and prohibit counties from conditioning new pole approval on inability to collocate on existing poles.
- **Georgia:** Passed comprehensive small cell compromise bill.
- **Maryland:** Small cell legislation again defeated.
- **South Carolina:** Small cell bill introduced. Association sought state funding for utility relocation.
- **West Virginia:** Small cell bill legislation passed.

## Rural Broadband

- **Georgia, Mississippi, North Carolina, Virginia:** Authorize EMCs, electric utilities, and/or rural telephone coops to provide broadband. GA and NC authorize use of EMC easements for broadband infrastructure.
- **Georgia:** Reduce private provider pole attachment rates on EMC poles.
- **North Carolina:** Increase funding to expand to rural areas; authorize counties to partner with private providers, invest in broadband infrastructure and accept state/federal funding.
- **South Carolina:** Study on rural broadband accessibility; provide grants directly to providers for serving rural areas.
- **Texas:** Create state broadband office and establish grant program (funding unclear at this time); facilitate broadband infrastructure in state ROW and state facilities.
- **Virginia:** \$15 million for Virginia Telecommunication Initiative; authorize counties to contract with private providers to provide service to unserved areas; establish process by which providers may seek approval to use railroad ROW for fiber optic lines.
- **West Virginia:** State PSC shall work with electric providers to study if it is feasible for the latter to provide broadband services.

## Law Enforcement, Courts and Sentencing Reform

### Prohibit restraining pregnant inmates

- **Georgia, South Carolina, Virginia**

### Asset Forfeiture Reform

- **Georgia, Texas**

### Bail Reform or Diversion

- **Maryland:** Create Youth Crime Prevention and Diversion Fund.
- **Texas:** Develop statewide pretrial risk assessment system.
- **West Virginia:** Expand supervised release program.

### Jails, Incarceration and Sheriffs

- **Florida:** Prohibit cell phones or communication device on grounds of any county jail.
- **Kentucky:** Corrections, particularly local spending and unfunded mandates; allow sheriffs to appoint deputies who reside outside the state; revise criteria for revoking the certification of a peace officer and reporting requirements for peace officer agencies.
- **Mississippi:** Preference of county regional jails over private facilities to house state inmates.
- **North Carolina:** Revisions to “Safekeeper” Program; address inmate healthcare costs; require sheriffs to cooperate with Immigration and Customs Enforcement (ICE) detainer requests.

- **Texas:** Enhance jailer training, including on firearms;
- **Virginia:** Increase state compensation to local jails housing convicted felons.
- **West Virginia:** Provide identification cards to those released from prison.

#### Courts and Fees

- **Florida:** Sheriffs must develop a court security plan.
- **Georgia:** Created statewide business court system, funded by the state.
- **Kentucky:** Increase sheriff service-of-process fee.
- **Mississippi:** Intervention courts = mental health courts and veteran courts.
- **North Carolina:** Revise administration of drug treatment courts.
- **Texas:** Court fees must be used for legitimate criminal justice purpose.
- **West Virginia:** Establish pilot program for Family Drug Treatment Court.

#### Crimes and Offenses

- **Florida:** Change texting while driving prohibition from secondary to primary offense.
- **Georgia:** Kratom – those under 18 cannot purchase; felony to use drone to deliver contraband to, or take photo of, correctional facility;
- **Georgia, Texas, Virginia and others:** Strengthen laws on human trafficking.
- **West Virginia:** Expand folks’ ability to expunge certain convictions; create “Blue Alert Plan” to alert when law enforcement officers are missing in the line of duty.

## 911

- **Arkansas, Mississippi:** Sought additional 911 funding or funding reform.
- **Florida:** Mandate counties provide text-to-911 service; provide for direct radio communication between each PSAP and first responders outside the PSAP’s normal service area.
- **Maryland:** Reform next-generation 911, better call locating, text/video content, overflow calls.
- **Mississippi:** Greater transparency and accountability in wireless 911 funding.
- **North Carolina:** Provide greater flexibility for counties in expending 911 surcharge funds.
- **South Carolina:** Create a statewide 911 system.
- **Virginia:** \$15 million in state budget to accelerate next generation 911 service.
- **West Virginia:** Dispatchers must take course for telephonic cardiopulmonary resuscitation.

## Other Public Safety and First Responder Issues

#### Coverage Mandates

- **Florida:** Firefighters Bill of Rights provides specific rights to firefighters who are under investigation for an act which could lead to disciplinary action.
- **Florida, North Carolina:** Cover line-of-duty cancer/disease workers compensation benefits;
- **Maryland:** Add bladder, kidney and renal cancer to workers comp occupational disease presumptions for firefighters and rescue squad members; modify when these two groups can qualify for workers comp disease presumption; require local governments to offer certain minimum disability pension to public safety officers injured in line of duty.
- **Mississippi:** Require counties to insure volunteer and professional firefighters and law enforcement – tied to occupational hazards.
- **North Carolina:** Increase firefighters and first responders’ retirement benefits.
- **South Carolina:** Cover first responders’ PTSD benefits as an occupational disease.

- **Virginia:** Add colon, brain and testes cancers to workers comp occupational diseases. Effort failed to cover first responders' PTSD as an occupational disease and covered by workers' comp.

#### Other

- **Georgia:** Allow private/volunteer fire departments to levy property lien for unpaid bills; create offense of injury to first responder when transmitting a false alarm.
- **Maryland:** Study how to address volunteer fire department shortages.
- **Mississippi:** Increased funding for rural fire truck acquisition.
- **Virginia and Georgia:** Prohibit the use of foam containing PFAS chemicals in firefighter training.
- **West Virginia:** Authorize state auditor to conduct regular audits of volunteer fire departments.

### **Medical Marijuana and Industrial Hemp**

- **Florida, Georgia, South Carolina:** Allow or expand medical marijuana usage.
- **Georgia, North Carolina, Virginia, West Virginia:** Authorize or expand farming of industrial hemp.
- **Maryland:** Prohibit all employers from enforcing zero tolerance workplace drug policies.
- **West Virginia:** Establish banking services for those legally operating under state's Cannabis Act.

### **Public Works, Building, Planning and Permitting**

- **Florida:** Limit building code enforcement budget balances; reduce the amount of payment retainage counties can hold from public construction projects; make impact fees harder to implement.
- **Florida, Georgia, North Carolina:** Requirements and/or shot clocks on plan review and permitting processes.
- **Florida, Georgia:** Allow/expand private third-party review of plans and inspections.
- **Maryland:** Require safety plans be submitted during public bid process; establish state public/private smart growth investment fund.
- **Virginia:** Locals may require developers to build sidewalks in some instances; require counties to provide written explanation when denying a permit and allow a cure period; revise writs of possession and eviction law; revise transfer of development rights law; revise conditional zoning provisions; revise zoning process for "family day homes"; allow counties to require the decommissioning of solar equipment in plan review; efforts to facilitate use of impact fees.

### **Alcohol, Animal Control and Guns**

- **Arkansas:** Sought to revise gun/stand-your-ground laws.
- **Georgia:** Allow tastings of distilled spirits at place of sale; expand duration to renew gun licenses for military personnel returning from active duty.
- **Kentucky:** Those 21 and older may carry concealed firearms or other deadly weapons without a license in the same locations permitted by those with valid licenses.
- **Maryland:** Allow counties to recoup costs of sheltering animals in animal cruelty cases.
- **North Carolina:** Revise or end state (ABC) control of the sale of distilled spirits (spirituous liquor in NC); authorize Sunday liquor sales.

- **Virginia:** Increase penalties in cruelty to animal cases; possible deferral of proceedings in dangerous dog cases; hunting dogs exempted from local “running at large” ordinances; locals can adopt regulations on companion animals.
- **Virginia:** Statewide authorization for the sale of mixed alcoholic beverages in restaurants unless a referendum is held, and a majority of voters vote against it; allow locals to issue special events alcohol licenses.
- **West Virginia:** Authorize retail liquor stores to sell alcohol on Sunday.

## Torts, Local Liability and Sovereign Immunity

- **Florida:** Counties exposed to myriad frivolous lawsuits; mandate attorneys’ fees and damages be awarded in certain actions when local ordinance is preempted by state law.
- **Georgia:** Sovereign immunity waiver, only in non-monetary claims, for injunction or declaratory judgement if county acts contrary to Constitution, state law or local ordinance; sovereign immunity applies to on-duty county law enforcement in motor vehicle cases; no liability for law enforcement performing duties at scene of emergency.
- **Maryland:** Expand ability for prevailing plaintiffs suing counties to collect attorneys’ fees.
- **North Carolina:** Exempt county health departments from suits regarding septic systems.
- **South Carolina:** Tort Claims Act changes.

## Disaster Preparedness and Response

- **Florida:** More rapid distribution of available recovery funds; increase said funding and provide schools access to help build shelter safe areas in new schools; develop hurricane-proof communications systems and policies; require state to invest in FEMA mitigation projects; provide state and federal assistance in preparing damage assessments and reducing red tape for Immediate Needs Funding; create Hurricane Michael Recovery Task Force.
- **Georgia:** Provide substantial state funding for Hurricane Michael Relief.
- **Maryland:** Increase funding for state flood management grant program.
- **Mississippi:** Allow president of the county board to declare emergency by local proclamation.
- **North Carolina:** Schools in disaster areas must report operational status; several other bills and budget items to improve disaster recovery.
- **Texas:** Flood planning, infrastructure fund; homestead exemptions on uninhabitable dwellings; temporary tax exemptions for properties in declared disaster areas; emergency management and hurricane preparedness proposals; streamlining disaster-related recovery processes; assistance to local governments in disaster response; catastrophic debris management plan; provide courts more flexibility in their proceedings following a disaster; enhanced penalties for crimes in disaster areas.

## Open Meetings and Open Records

- **Kentucky:** Allow a written application to inspect public records to be delivered by mail.
- **Maryland:** Remove exemption of records related to complaint of job-related misconduct made against public employers; prohibit release of victim-identifying information or gruesome images from 911 records; allow access to law enforcement personnel records in misconduct cases.
- **Texas:** Preserve public information maintained on privately-owned devices.

- **Virginia:** Require that state council or local attorney offer, and local elected officials must complete, a training session on the Virginia Freedom of Information Act; increase penalties for intentional violations.

## Housing

- **Florida:** Prohibit state budget makers from raiding affordable housing trust funds; restrict counties' ability to enforce inclusionary housing.
- **Georgia:** Establish "workforce housing" study committee (READ: prohibit local design standards).
- **Maryland:** Establish local housing voucher grant program for homeless veterans and victims of domestic violence; require extensive housing element in county comprehensive plans.
- **North Carolina:** Reinstate affordable housing tax credits.
- **Virginia:** Counties may waive building permit and other fees for affordable housing; effort to make it more difficult to deny zoning requests which contain affordable housing units.

## Eminent Domain

- **Texas:** Revisions to the state's Landowner Bill of Rights; additional measure to aid the property owner; must offer owner more than 145% of market value.
- **Virginia:** Revise state law pertaining to entry upon private property and awarding fees when said property is damaged.

## Public Employee Retirement

- **Georgia:** Require training for boards of public retirements systems.
- **Kentucky:** Revise and make solvent state and local public pension systems; local/district Health Department pension contributions; correct the process public retirees must follow to begin post-retirement employment; elected officials who retire and then reelected to same office within 12 months will have their state retirement voided; expand the options of potential investment selections for local governments.
- **Maryland:** Allow those in law enforcement pension program to claim up to 5 years of service credit in state pension system.

## Other Issues

- **Georgia, North Carolina:** Require school threat assessments.
- **Kentucky:** Restore right of employers to require arbitration agreements as condition of employment; allow counties more options to transfer, trade-in, sell or scrap surplus property.
- **Maryland:** Allow counties more regulatory authority over massage parlors.
- **Mississippi:** Provide 3% pay raise for all county supervisors, but board must vote to approve.
- **North Carolina:** Schools - Provide additional revenue, including state bonds and lottery proceeds, to fund public schools and community colleges; prohibit local school boards from suing counties over appropriations; allow counties to provide capital to charter schools; and other efforts to improve school safety.
- **Texas:** Repeal its Driver Responsibility Program, but to replace its funding for trauma care.