

A Maryland Coalition Fights to ‘Let Our Communities Act Locally’

Maryland is one of several states where a controversial legislative tactic known as “preemption” is gaining ground. Preemption tries to block local governments—such as those in towns, cities and counties—from passing laws that are stronger than state law. Local laws are critical because they are more likely to reflect the priorities of local residents and often lead to important changes in state laws. State laws to create smoke-free environments, for example, often followed city and county laws that did the same.

Industry groups, however, work to pass preemption at the state level to stop or weaken these local laws by ensuring that no lower level of government can pass a law more stringent than the state law. A new, cross-sector coalition has formed in Maryland to counter preemption and protect the ability of elected local officials to pass laws that support healthy families, a clean environment and good jobs.

“Preemption is finding success in many states because most of us, including many legislators, don’t realize it is happening or understand its impact,” said Shawn McIntosh, executive director of Sugar Free Kids Maryland, a statewide advocacy organization whose members are focused on protecting children’s health. “Preemption takes away our right as citizens to advocate for the policies we want to see in our own communities. And, from an equity perspective, it disproportionately hurts people of color who often make up at least half or more of the populations in Maryland’s larger cities and counties.”

That’s why McIntosh and Sugar Free Kids Maryland joined with other groups around the state to form the LOCAL Maryland coalition, which is working to counter preemption in state legislation. In the coalition’s name, LOCAL stands for Let Our Communities Act Locally, and more than 25 advocacy groups have organized under its banner.

“Preemption is like a dangerous virus that easily spreads and has the potential to hurt millions,” said Glenn Schneider, chief program officer of Horizon Foundation, another founding member of the LOCAL Maryland coalition. “We must do all we can to fight preemption when it is introduced or, preferably, prevent it from being introduced in the first place. Just as you cover your cough and get vaccinated to prevent the spread of flu, we must develop and implement practices that will prevent the spread of preemption. That’s what we’re working to do in Maryland.”

Mobilizing Across Sectors for Immediate Action

In Maryland, state laws already preempt local communities from passing certain laws to reduce smoking and gun violence and provide workers with paid sick leave. McIntosh said the tactic caught her attention in 2017, when preemption language was included in a minimum wage bill that ultimately did not pass. Schneider said he encountered preemption many years ago when the tobacco industry attempted to block local smoke-free air ordinances.

Both McIntosh and Schneider said that preemption has been picking up steam across many different legislative issue areas in Maryland. This prompted their respective organizations to apply to the American Heart Association’s Voices for Healthy Kids initiative for additional funds to support a statewide coalition against preemption. They received a grant in November 2018. “Frankly, we and many of the organizations we work with have invested too much time, talent and treasure in passing public health laws at the local level to see them eliminated due to preemption,” said Schneider.

From the start, LOCAL Maryland's leaders recognized that, in addition to encouraging other public health-focused organizations like theirs to join the coalition, they needed to reach out to potential member organizations from other sectors that are also being impacted by preemption. "We knew we needed a large, broad-based, grassroots coalition that spanned multiple sectors because preemption is an issue that affects all of us," said McIntosh. "Beyond public health, we also identified the economic justice and environment as sectors we could work with and that would want to work with us."

They began by reaching out to leaders in those sectors. "We already had a relationship with the SEIU [Service Employees International Union] 1199, and we worked with them to connect with other leaders working in economic justice, including Progressive Maryland and the Maryland Center for Economic Policy. They helped us bring in more partners from their sector," McIntosh said. "Environment was—and still is—more challenging because we had not worked with anyone in the sector before. We reached out to the Maryland Environmental Health Network, and they connected us to the League of Conservation Voters, and now we're working with both to help us engage the environment sector."

LOCAL Maryland launched in late 2018, just in time to jump straight into its first campaign: debate over the state's minimum wage bill (House Bill 166, Senate Bill 280), which sought to raise the state's minimum wage to \$15 per hour. Another coalition of advocacy organizations, called Fight for \$15, was already working to get the minimum wage bill passed. LOCAL Maryland focused its efforts on defeating an attempt by some state lawmakers to add preemption language to the minimum wage bills in the House and Senate.

The proposed preemption language would have prevented cities and counties from passing their own minimum wage laws in the future. For example, Montgomery County, Maryland, already had a law in place to raise the county's hourly minimum wage to \$15 by 2024—faster than the state minimum wage bill was proposing. The preemption language would have prevented all other counties and cities in Maryland from passing a minimum wage law that differed from the state law. Additionally, no city or county in Maryland would ever be able to increase the hourly minimum wage beyond \$15 on their own.

LOCAL Maryland quickly swung into action. Its members developed and disseminated educational materials, met with legislators, testified before legislative committees, made phone calls and rallied community members to do the same. And they won. The minimum wage bill was adopted without preemption language.

Strategizing for Future Fights and Sharing Lessons Learned

With the 2019 legislative session in Maryland now wrapped up, LOCAL Maryland is regrouping. "We had to hit the ground running by launching right before the start of legislative session and Fight for \$15," said McIntosh. "It worked out for us, but we had very little time to prepare. Now, we're going to take the time we have before the 2020 session to build up our coalition membership and work on things like monitoring, messaging and strategy."

In addition to strategizing to ensure future success fighting preemption efforts, McIntosh and Schneider also are reflecting on what they've learned so far. When asked what advice they would offer to organizations in other states interested in forming a coalition to fight preemption, they made the following suggestions.

1. **Start early.** LOCAL Maryland leaders advise that a coalition to fight preemption be launched at least 9-12 months before the start of the state legislative session. That means initial planning and recruiting of founding members should happen even earlier.

2. **Set up a reliable legislative monitoring system.** Now that they have the time to strategize and strengthen their coalition, LOCAL Maryland's leaders plan to develop a more systematic and reliable monitoring system to track legislation that includes—or could be amended to include—preemption language. “We had a couple of really great, hardworking people tracking things for us,” said Schneider, “but we didn’t have a formal monitoring system in place. Preemption can be introduced any time, any place—it can get added to bills in back rooms or in the dark of night—so you need to have a system in place that identifies it immediately and alerts the coalition.”
3. **Hone messaging.** LOCAL Maryland developed some initial preemption messaging with the American Heart Association and other partners. Based on national polling, the messages focused on educating audiences about preemption and its effects on local democracy. But their messaging also evolved in real time. During debate over the state minimum wage bill, Gerald Stansbury, president of the Maryland State Conference of the National Association for the Advancement of Colored People (NAACP), a LOCAL coalition member, talked about the particularly damaging effects of preemption on local communities of color. LOCAL Maryland quickly discovered that these equity-focused messages resonated even more strongly with legislators and community members across the state. Schneider and McIntosh suggest that coalitions regularly test and refine their messaging to ensure that they are connecting effectively with their different audiences.
4. **Build a cross-sector coalition, but choose sectors strategically.** Creating a cross-sector coalition is valuable because it sends an important message to legislators and the public that preemption affects everyone, regardless of issue area. McIntosh and Schneider recommend concentrating a coalition's limited resources on sectors that already have a strong base of advocacy organizations behind them as well as significant support in local communities. “Preemption is happening in almost every legislative issue,” said Schneider, “but LOCAL Maryland doesn’t have the capacity to fight it in every bill that includes it. We knew we wanted the coalition to cut across sectors, but also knew we had to be strategic in selecting the issue areas in which we could take on preemption.”
5. **Collaborate even more broadly when it makes sense.** Beyond the public health, economic justice, and environment sectors, LOCAL Maryland considers working with other sectors on a case-by-case basis. While the coalition was opposing preemption in the minimum wage bills, for example, it also added its voice to another preemption threat related to cell phone tower legislation—a topic outside of the coalition's priority areas. “The preemption language in the cell phone tower legislation was so broad and onerous that we decided to engage,” said McIntosh. “The bill had the potential to affect everyone, to strip away local governments’ power to make zoning and other decisions while still placing a financial burden on them.”
6. **Assume legislators and their staff need to be educated about preemption, even former local-level champions.** It may be natural to assume that state legislators who began their political careers in city or county government can be counted on to carry that local government perspective to the state level, but that is not always the case. According to Schneider, coalitions focused on preemption “should not bank on support from former local champions who have moved up to the state legislature. Their perspectives change, there are pressures on them to see things differently. We learned that, along with all other state legislators and the general public, it is best to assume that they need to be educated about local issues.”

“ LOCAL Maryland got off to a good start. We were able to keep preemption out of the state minimum wage law. We have a win under our belt. Now we’re looking forward to growing and formalizing our coalition,” said McIntosh. “Preemption is not a hard fight to sell once people realize what it is, how it impacts them and that it can happen anywhere at any time. Our rallying cry should be ‘if it can happen to one of us, it can happen to all of us.’”