

From: Joyce Dillard [dillardjoyce@yahoo.com] Sent: Thu 10/28/2010 7:42 PM
To: Comments@acus.gov
Subject: Comments to Preemption Recommendation due 10.28.2010

Preemption is occurring without review of state law especially in California . Intergovernmental consultation would have to include municipalities as they are tasked with execution of Public Health and Safety Codes including Land Use or with School Boards as they are tasked with Public Education.

With State law, the Ralph M. Brown Act would be applicable to meetings as this is legislated. Public Private Partnerships have no place in determining State law or Municipal law implications as the privatization cuts out the citizens' due process rights under the Constitution. Municipal Governments, such as the chartered City of Los Angeles , enact ordinances (laws) continuously.

Direct compliance costs to the Municipality or State is exempted per HUD direction unless it meets the consultation and funding requirements and does not preclude state laws.

Executive Order 13132 “directs agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have ‘federalism implications’ as defined in the Order”.

“Under the Order, an agency that is proposing a regulation with federalism implications, which either preempt State law or impose nonstatutory unfunded substantial direct compliance costs on State and local governments, must consult with State and local officials early in the process of developing the regulation. In addition, the agency must provide to the Director of the Office of Management and Budget a federalism summary impact statement for such a regulation, which consists of a description of the extent of the agency’s prior consultation with State and local officials, a summary of their concerns and the agency’s position supporting the need to issue the regulation, and a statement of the extent to which those concerns have been met. As part of this effort, agencies include in their submissions for the Unified Agenda information on whether their regulatory actions may have an effect on the various levels of government and whether those actions have federalism implications.”

We, citizens, see done of this documentation. The Federal regulations, in essence, trump any State or Local Government laws and regulations.

The documentation must be released at the proposed regulatory stage and references made during any Notice of Funding Availability and of Funding Award. The Local Governments and State Governments must be required to maintain this information during the course of the grant

or program. With the internet age, it should be listed on an applicable public website operated by the Local Government or State Government as well as a hard copy.

For Department of Housing and Urban Development HUD purposes, the Federal preemption is especially difficult. The funding is used in lieu of private debt and is sought after without any regulations being required to disclose all information or report to the monitoring and fulfillment of the commitment by receiving such funds. This involves Section 108 Loans and Community Development Block Grants.

The Community Reinvestment Act which involves the Office of the Comptroller of Currency, the Federal Reserve System and the Office of Thrift Supervision is a federal act that limits our ability to be represented because of the confidentiality of the banking world. We, who qualify in the low-mod census tracts, do not benefit by these plans as the disclosure requirements do not match the State laws and the California Public Records Act. We are used for our geography for high level finance.

For the Department of Labor, a program such as YouthBuild actually violates the California State law for the General Plan and its Elements because this agency has nothing to do with Land Use.

EPA trumps the State of California Department of Water, Department of Conservation and Department of Oil and Gas. These departments shun their responsibilities of enforcement because of the Clean Water Act and permitting under that act. There is a State responsibility to the Public Health and Safety of its citizens, but there is no recourse but a lawsuit when State Departments or Local Departments refuse or ignore their compliance duties. The federal jurisdiction is not always an issue in an individual case (problem), but the State and Local Governments choose to make their jurisdictions subordinate.

The Federal Highway Administration environmental documentation is subordinate to the State of California, but many influential developers are constantly trying to squelch the California Environmental Quality Act CEQA either by waivers or elimination by the State Legislature enacting laws in the middle of the night. This is a problem in due process.

School Boards must comply with State law, but the Federal laws are replacing those duties of the Boards with regulations where we have no ability to be represented. The majority of the California budget goes to Education

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