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VIEWPOINT



Planning Under Preemption: State Power and Local Authority in the AI Data Center Era

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ABSTRACT

A new wave of state legislation is fundamentally reshaping American planning by reducing local authority over land use, zoning, and environmental review, particularly for artificial intelligence (AI)-related energy and data center infrastructure. Drawing on recent cases across multiple states, I examine how planning power is being rescaled through statutory overrides, utility governance, fiscal incentives, and procedural constraints. These mechanisms shift decision-making authority upward to state agencies, utilities, and corporate actors, transforming planning from deliberative practice into administrative coordination. This reconfiguration raises critical questions about democratic participation, environmental protection, and planning's role within accelerated infrastructural capitalism.

KEYWORDS

Data centers; infrastructure governance; local planning authority; preemption; state–local relations

A new wave of state legislation is reshaping the foundations of American planning. Across the country, states are effectively removing land use, zoning, and environmental review authority from cities and counties, particularly regarding the interconnected development of data centers and power plants required by artificial intelligence's (AI) immense energy demands. Framed as *streamlining* or *critical infrastructure deployment*, these laws replace local comprehensive plans and public hearings with centralized, state-led siting regimes. This trend is reinforced by federal initiatives, such as the Trump-era AI Action Plan, that condition federal funding on deregulation and direct federal agencies to preempt state and local barriers. Though proponents argue these measures are necessary to ensure consistency and accelerate investment in the converging AI and energy sectors, critics warn they undermine democratic participation, environmental safeguards, and local control (Lynch, 2024; Scharff & Sellers, 2020). As litigation and political contestation continue to evolve this dynamic legal terrain, these shifts may represent a lasting reorganization of planning power that subordinates local governance to the imperatives of industrial acceleration.

This shift is most visible along the urban fringe, where a new wave of construction is transforming farmland and subdivisions into networks of warehouses, substations, and data centers. Inside these windowless facilities, thousands of servers consume electricity and water on the scale of small cities while employing only a few dozen workers. Fueled by billions in state subsidies and trillions in projected investment, their growth is straining regional power grids, water systems, and fiscal frameworks. Communities from Virginia to Arizona have mobilized against what they view as unaccountable industrialization, citing noise, pollution, water depletion, and minimal tax returns. Even where local governments attempt to regulate impacts through zoning or environmental review, their authority is increasingly overridden by state action or constrained through corporate litigation.

These developments demand renewed attention to the institutional settings that define what planners can do and how their work reproduces or resists prevailing power structures (Baer, 1977; Forester, 1980, 2023). Planning decisions are never neutral: They are made within systems that delimit ethical and political choices. Zoning and land use governance remain central arenas where these

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limits are redrawn, especially as state–local relations shift under expanding regimes of preemption (M. Kim et al., 2025). In this Viewpoint I draw attention to how local planning authority is being displaced through overlapping legal, regulatory, and fiscal mechanisms that relocate decision making upward and outward, away from the communities most affected.

Drawing on several recent state–local cases in 2025, I argue that planning authority is being rescaled and redistributed among state agencies, utilities, and corporate actors in ways that unsettle longstanding assumptions about democratic planning. Understanding this transformation is vital not only for evaluating the fiscal and environmental costs of data center and energy expansion—its effects on tax bases, schools, and grids—but also for confronting a larger question: What role can planning play when economic competitiveness and national security increasingly define the purposes of spatial governance?

State Power and the Shifting Boundaries of Planning Authority

Local control has long been a core ideal of American planning, yet as Perlman (2016, p. 189) noted, it rests on a “convenient legal fiction” of home rule. In practice, local governments remain subordinate to state authority, their powers repeatedly reshaped by shifting political agendas and crises that justify higher-level intervention. The COVID-19 pandemic made this visible as states overrode local health measures (McDonald et al., 2020), echoing the centralization of the interstate highway era, when federal funds and engineering standards left cities with little say over routes (Mohl, 2004; Rose, 1986). A similar logic now re-emerges as national security, global competition, and the rapid build-out of energy and AI infrastructure redefine the limits of local planning authority.

Preemption—“the use of coercive methods to substitute state priorities for local policymaking” (Goodman et al., 2021, p. 147)—has evolved into a flexible set of mechanisms that reorder the scalar balance of planning power. It spans domains from housing to energy and environmental regulation and operates across legislative, executive, and quasi-regulatory institutions. More than an ideological project, preemption functions as an instrument of statecraft, consolidating competitiveness, disciplining dissenting jurisdictions, and protecting

corporate and industrial interests (Goodman & Hatch, 2023).

At times, preemption has been justified as a corrective to local exclusion or inertia. California’s Senate Bill (SB) 35, for instance, compels localities to fast-track housing when they miss state targets, a measure aimed at overcoming exclusionary zoning (Manville et al., 2020). Yet this *floor* model can also sidestep deliberative planning, privileging developer interests and constraining local negotiation (Barth, 2019; Wielga, 2025). More often, however, preemption operates as a *ceiling*, blocking progressive municipal policies on wages, environmental protection, and fossil-fuel phaseouts (Briffault, 2018; Crosbie et al., 2019; Fowler & Witt, 2019; Y. Kim et al., 2021; Struthers & Ritzler, 2024).

In practice, these measures are increasingly driven by industry and coordinated interest group campaigns. Since the 2010s, state preemption laws have curtailed municipal broadband initiatives under pressure from telecommunications firms (Shen et al., 2025). Similar dynamics have also shaped energy policy (Honig, 2023; Phillips, 2017). North Carolina’s 2023 Energy Choice Act (House Bill [HB] 130) prohibits local electrification or decarbonization mandates, protects natural gas utilities, and aligns with efforts to attract energy-intensive investments such as Amazon’s \$10 billion data center in Richmond County. Comparable statutes in Oklahoma, Arizona, Alabama, Texas, Kentucky, and Kansas show how fuel-source preemption has become a standard tool for aligning local policy with state-led industrial agendas.

Beyond formal statutes, quasi-preemptive mechanisms pervade economic and infrastructural governance. State authorization determines how municipalities deploy tax abatements, enterprise zones, and incentive programs that drive competition for mobile capital (Peters & Fisher, 2004; Wilder & Rubin, 1996). Though local officials appear autonomous, they operate within fiscal and legal frameworks that prioritize state-defined growth goals (Stokan, 2018). This dynamic encourages subsidy races and regulatory leniency, often deepening inequality and environmental strain (Saywitz & Switzer, 2023; Yang & Berg, 2022). Likewise, state utility commissions and quasi-public authorities control decisions over energy generation, grid expansion, and water allocation, which are core determinants of land use that remain largely beyond municipal oversight. This framework can fragment accountability, forcing planners to work

within dispersed systems where authority is diffuse but power is increasingly centralized.

The cumulative effect is a reconfiguration of planning's institutional architecture. Preemption and its analogs have shifted from exceptional interventions to more routine (often preexisting) governance tools, redefining how and at what scale planning decisions occur. Their impact depends on the political economy of the sectors they target and the mechanisms—legal, fiscal, or regulatory—used to pursue industrial priorities. As industrial policy for AI data centers, semiconductor fabrication, and energy infrastructure expands, land use and environmental review are reframed as issues of *national competitiveness* and *critical infrastructure*, narrowing local discretion and rendering planning increasingly administrative and reactive.

AI Data Centers, Energy Infrastructure, and the Legal Nexus

Preemption today is not a single, uniform regime. Instead, it manifests as a shifting assemblage of statutes, procedural reforms, and sectoral consolidations that systematically relocate planning and decision-making authority. Though communities continue to respond with protests and tactical zoning, local planning systems now operate within parameters set increasingly elsewhere. I outline this shift through three recurring modalities and a fourth, provisional category: (1) direct statutory overrides, (2) infrastructural preemption through utility and grid governance, (3) fiscal and procedural discipline, and (4) an emerging horizon of federal intervention, where the durability of residual local powers remains uncertain. These modalities are neither exhaustive nor discrete but rather trace a continuum through which AI-era infrastructure is reorganizing the foundations and practical reach of local planning authority.

Direct Statutory Overrides

At one end of the continuum are explicit legal preemptions that remove or replace local planning authority altogether. West Virginia provides a dramatic example. The 2025 Power Generation and Consumption Act (HB 2014) and its companion Permitting Efficiency Act (HB 2002) established a new legal category of *high-impact data center and microgrid districts*. These districts are exempt from all county and municipal zoning, building, and noise

ordinances. Under the law, counties no longer have the right to review or condition projects, and property tax revenues that would normally support local budgets are instead diverted to state funds. A one-stop permitting process guarantees project approvals within 30 months, consolidating authority within a newly created state office.

The effects were immediate. In Tucker County, residents of Davis and Thomas discovered a 10,000-acre gas-fired data center project through a redacted air permit notice rather than a local planning agenda. With no formal review process available, community opposition turned to petitions, town hall meetings, and eventually appeals through state environmental review procedures. Yet because the statute explicitly removed local jurisdiction, opposition shifted from planning hearings to administrative channels and national media. The West Virginia case illustrates the complete substitution of the municipal planning apparatus by a state-centered development regime in which permitting becomes procedural rather than deliberative.

Louisiana has taken a parallel but more targeted approach through project-specific statutory design. To secure Meta's \$10 billion Hyperion campus, the state government combined fiscal, land use, and energy interventions that effectively rezoned an entire site for data center use. Legislators rewrote portions of the tax code (Act No. 730) to create data center exemptions and converted an existing broadband rebate into an upfront sales and use tax break for data center equipment. The project was located on a precertified industrial *megasite* whose zoning and environmental clearances had been secured years earlier, eliminating the need for new municipal review. In parallel, Entergy Louisiana received authorization from the Public Service Commission to construct three dedicated gas plants and a publicly funded transmission corridor. The Public Service Commission process was expedited, and public hearings in unincorporated Richland Parish were limited in scope.

Unlike West Virginia's blanket removal of municipal powers, Louisiana's model uses state precertification and fiscal engineering to produce what functions as an entitlement zone for data center development. Yet, the outcome is similar as large projects proceed under state coordination with limited local scrutiny. Both cases illustrate the upper boundary of preemptive governance, where state action directly or indirectly replaces the institutions of local planning.

Infrastructural Preemption Through Utility and Sectoral Governance

A second form of preemption operates through the recentralization of infrastructural authority. Though transmission and interconnection have long fallen under state and grid oversight, the massive energy expansion required for AI is increasingly subsuming broader land use decisions into this technical sphere. As data center development becomes indistinguishable from energy systems planning, local siting and environmental impacts are effectively governed by the commissions and operators managing these privatized, corporate-shaped systems (Ashton et al., 2012).

Texas exemplifies the most entrenched form of this displacement. With no statewide planning agency and most counties lacking zoning powers, electricity governance lies with the Electric Reliability Council of Texas and the Public Utility Commission. Senate Bill 6 (2025) further consolidated control by allowing the Public Utility Commission to dictate where large electrical loads, including data centers and crypto mines, may connect to the grid. These entities operate through market logics, balancing reliability mandates with incentives for investor-owned utilities, leaving communities with little formal recourse. In Hood County, residents facing noise and emissions from a 300-megawatt bitcoin mine sought incorporation merely to gain zoning powers. In Hays County, residents have mobilized against a proposed data center paired with onsite natural gas generation, a fight that underscores how the new wave of large-load and co-location strategies can shift the most immediate impacts onto places with the least land use authority.

Northern Virginia's Data Center Alley now hosts more than 300 data centers, making it the largest concentration of such facilities in the world. Key decisions about the high-voltage transmission lines that serve these sites rest with the State Corporation Commission rather than county boards, leaving local governments with limited authority over the grid infrastructure that enables continued expansion. In the 2025 legislative session alone, at least 33 bills addressing data center impacts, renewable energy use, siting, and tax incentives were introduced. Nearly all failed, many without a hearing, amid aggressive lobbying by utilities and technology companies. The most ambitious oversight bill (HB 1601/SB 1449)—requiring noise and environmental impact studies for large facilities—passed

both chambers but was vetoed by the governor, who argued it “limits local discretion and creates unnecessary red tape” and could “chill investment and hinder economic development” (Youngkin, 2025, p. 1).

Pennsylvania is advancing similar mechanisms through proposed legislation. The Reliable Energy Siting and Electric Transition Act and Data Center Siting and Permitting Act (SB 991) would establish a state siting board to fast-track energy projects greater than 25 megawatts and predesignate at least 15 *approved* data center sites, many at retired power plants. The Department of Environmental Protection would complete state-funded environmental reviews and issue certificates of *reliable energy supply*. Though municipalities would retain nominal zoning authority, these certificates would compress permitting timelines and restrict grounds for denial. Under Pennsylvania precedent, where localities cannot ban lawful land uses, such measures would relegate them from decision makers to consultees.

Fiscal and Procedural Discipline

A third modality operates not through overt preemption but through fiscal and legal architectures that make resistance costly. Local governments retain formal zoning powers, yet their autonomy is constrained by the structure of incentives and by exposure to litigation.

In Indiana, the Data Center Gross Retail and Use Tax Exemption offers sales and electricity tax relief for up to 50 years on projects exceeding \$750 million. These exemptions, intended to attract capital-intensive facilities, reshape local decision making by reframing refusal as economically irrational. When Google proposed a 460-acre data center campus in Franklin Township, residents mobilized through petitions and social media to oppose rezoning. The city-county council ultimately rejected the project, and Google withdrew. Local persistence, not structural capacity, carried the day as ordinary zoning allowed a denial, yet the incentive regime still pushes counties toward future approvals. Fiscal preemption functions by altering the calculus of governance: Municipalities compete for developments that may erode their regulatory discretion.

Georgia shows how the data center boom turns zoning into a contested legal arena, as both developers and residents weaponize procedure even while tax incentives and lawsuits narrow the room

for local officials to resist projects. In Monroe County, a developer seeking to rezone 900 acres of forest for a billion-dollar data center promised jobs and tax revenues. Residents organized to block the rezoning, and both the planning commission and county board denied the request. The developer subsequently sued, alleging arbitrary denial and improper zoning procedure. In Twiggs County, local approval of a \$2 billion facility despite public opposition led residents to sue the county for violating its own notice and hearing requirements. Georgia has not enacted statutory preemption for data centers, but its combination of tax incentives and developer litigation constrains how far local officials can oppose projects without legal or political backlash.

Resistance in the Face of Federal Preemption?

Despite an increasingly preemptive regulatory environment, some jurisdictions demonstrate adaptive resistance. By leveraging certain powers—water rights, annexation, and service provision—municipalities retain significant, though contingent, bargaining power (Weber, 2007). This dynamic is currently playing out in Arizona, where local governments attempted to use water governance to check the expansion of AI infrastructure.

The case of Project Blue, a proposed \$3.6 billion AI data center near Tucson, initially depended on annexation to access Tucson Water, placing final approval in the hands of the city council. Following public outcry over secrecy, energy intensity, and water demand, the council rejected the annexation and subsequently enacted stricter water conservation ordinances for industrial users. However, the limits of local resistance were quickly exposed: The developer bypassed the city entirely, securing approval from the Pima County Board of Supervisors by shifting to energy-intensive air-cooling systems. Although the project is moving forward, the contentious split vote highlighted the enduring friction between municipal goals and regional development pressures.

Yet, the threat of preemption looms large as this terrain continues to shift. An October 2025 Chandler City Council meeting regarding a proposed AI data hub in the Price Corridor—an area long reserved for high-wage, water-efficient employers like Intel—presaged a larger jurisdictional fight. Former Senator Kyrsten Sinema, now founder and representative of the AI Infrastructure Coalition, framed the

local land use dispute as a matter of national security and Arizona's role in the AI economy. She characterized AI data centers as the "Lamborghinis" of digital infrastructure, warning the Council that rejecting the project would leave the site empty "until federal pre-emption comes, which is coming, and it is coming soon" (Chandler City Council, 2025). Despite these warnings, the Council unanimously rejected the rezoning request on water supply grounds. This vote has since garnered national attention, fueling calls from more than 200 environmental groups and several legislators for a national data center moratorium. These disputes are unfolding in the shadow of federal executive orders and legislation¹ aimed at preempting even *state* authority to fast-track infrastructure for the AI build-out.

Equity and the Reconstitution of Planning

Preemption in the AI era represents not the erosion of planning but its reconstitution within new regimes of authority. Power is shifting upward and outward—from local deliberation to state legislatures, utility commissions, and corporate boardrooms—turning planning into a mechanism for managing the territorial expansion of digital and energy infrastructure. Zoning, permitting, and fiscal analysis are increasingly repurposed to serve industrial policy and grid coordination rather than community goals. As a result, many planners confront not a loss of relevance but a displacement of purpose, as their work is refracted through the logics of competitiveness, reliability, and economic growth.

The politics of preemption redefine both who governs and how governance operates under accelerated infrastructural capitalism. Traditional planning once mediated between private development and collective interest through hearings, regulation, and environmental review. Today, those mediations often occur within frameworks built to expedite strategic industries: AI data centers, semiconductor fabs, and energy facilities deemed essential to national security. As these priorities rise, local governments' authority to determine whether projects proceed has been curtailed, leaving planners focused largely on managing impacts. Resistance has thus migrated from formal deliberation to legal appeals, resource governance battles, and community activism. Planning's institutional forms endure, but their substantive power is increasingly determined elsewhere.

The controversy over data center and energy siting captures these tensions. Proponents promise jobs and tax revenue, while critics point to water depletion, energy strain, noise, and lost opportunities for housing or ecological restoration. Such disputes reveal how development's fiscal architecture channels public value toward private accumulation. The question is not whether data centers are sound investments, but what territorial and institutional orders they reproduce and who bears their long-term costs. Planners now operate at the intersection of administrative procedure and industrial strategy, navigating mandates that privilege infrastructure acceleration over local consent. These dynamics raise ethical questions: Whose interests are served when local review is curtailed, and how can planners uphold procedural and distributive justice within these limits? Addressing them requires broadening planning education and practice to engage infrastructure and industrial development not as peripheral issues but as central forces in spatial governance.

To navigate this landscape, the profession must confront a systemic realignment of power. Planning adapted in the interstate highway era to the combination of massive federal investment, rapid landscape transformation, and public backlash. It now faces an analogous shift under AI-driven build-outs, where large loads, water demands, and financing structures bind local places to distant corporate strategies and global production networks. The point is not to romanticize local control but to track how fiscal dependency, state/federal preemption, and utility governance delimit what local governments can do and how equity commitments get narrowed by those constraints.

That recognition should sharpen, not abandon, planning's tools. Zoning, environmental review, and cost-benefit analysis still matter, but they are increasingly used to operationalize priorities set elsewhere, often without commensurate responsibility for local risks and long-term costs. A renewed planning ethics therefore begins by asking where authority is produced now—through tariffs, interconnection rules, water allocations, and permitting regimes—and how planners can intervene so those arrangements serve public obligations rather than simply legitimating extraction.

Practically, this means integrating water and energy governance into the core work of land use and economic development. Planners need working knowledge of utility and water provider institutions,

system constraints, and the fiscal exposure that large infrastructure and load growth can impose on local and regional governments. They can also translate commission proceedings and technical filings into the land use, budgetary, and environmental consequences communities will live with. And they should engage state legislatures and agencies to strengthen oversight, clarify permitting and cost allocation responsibilities, and require credible impact assessments for large new loads and water-intensive development. Taken together, these moves shift planning from reactive accommodation to informed negotiation, treating host communities not as interchangeable sites for land, water, and grid capacity but as publics with enforceable claims on how the new economy is built.

Note

1. Trump's December 11, 2025, AI National Framework Executive Order directs the Federal Communications Commission, the Federal Trade Commission, and Department of Justice to preempt or litigate against conflicting state AI laws. Parallel bills—HR 4776 (SPEED), HR 3898 (PERMIT), and HR 5927—aim to expedite permitting, narrow the reach of the Clean Water Act, and fast-track AI energy infrastructure.

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