

Who Is in Charge? A Pandemic Primer on Government Authority

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In times of emergency, the functions of different levels of government can often become cloudy. Figuring out which governmental unit has the authority to take a particular action can be confusing at such times. While this alert applies to the COVID-19 pandemic, it is equally applicable to other more common disasters such as hurricanes and earthquakes.

All states distribute government power to many different regional or local governmental bodies, but each does so in its own unique way. Using Florida as an example, the state distributes government power to many levels. Florida employs county-based school districts to oversee its schools, each subject to regulation by both the state and federal governments but operating independently. Connecticut, on the other hand, typically organizes school districts by town.

Although each county may have many different cities within it, a portion of the population may not live in a city and would look to their county commission for direction, as opposed to residents of cities, who may turn first to their local mayor. While your mailing address may say “Tampa,” it is possible you actually reside in unincorporated Hillsborough County and not within the city limits of the city of Tampa. This is true in many parts of the state where jurisdictional borders are complex.

Untangling governmental authority is further complicated in Florida when one takes into consideration the various kinds of special districts authorized by Florida law, including water management districts, fire service districts, and even an “improvement district” with jurisdiction over the territory of Walt Disney World. In cases of emergency, there is often overlapping authority assigned to each of these many layers of government, which can result in confusion as to who is in the lead at any particular moment.

So what is the easiest way to determine what rules apply to you or your business? Simple; look at your property tax bill (or the property tax bill for the property you are leasing). Once you have determined which governmental entities have jurisdiction over your property, a quick visit to the website for those entities may be sufficient to give you a good guess regarding which issues are within which entity's purview, or at least give you a good start regarding where to look next for more information.

For example, using a resident of Palm Beach, Florida, as a sample case, let's assume his tax bill lists the following agencies as taxing authorities applicable to his property:

Ad Valorem Taxes

Town of Palm Beach

Palm Beach County

So Fla Water Management District

PBC Schools

PBC Children's Services Council

F.I.N.D.

PBC Health Care District

How should you translate this list of agencies?

- The property is within the town of Palm Beach, within Palm Beach County.
- The property is also within the jurisdictional area of the South Florida Water Management District, the regional governmental agency that manages water resources in the southern half of the state and sets limits as basic as when you can water your lawn.
- The property is also subject to the Florida Inland Navigation District (FIND), which is responsible for the Atlantic Intracoastal Waterway.
- The Palm Beach County Children's Services Council and the Palm Beach County Health Care District are special taxing districts dedicated to specific local needs.

Using this property as an example, during an emergency, who can issue orders?

- The South Florida Water Management District and the Florida Inland Navigation District may issue orders dealing with the use of water, emergency permit actions, and the use of the waterways in South Florida.
- The school district can decide whether to close schools, or limit access to them.

- The town of Palm Beach, per its town charter, authorizes the chief of police to declare a state of emergency and impose limitations. To go longer than 72 hours, the town council must take an action to extend it.
- Palm Beach County has granted its chair and the vice chair of the county commission, as well as the county administrator, the ability to declare a state of emergency, with full commission ratification within seven days, unless the governor issues a state of emergency. Other counties use a joint city-county group for emergencies, such as the Emergency Policy Group in Hillsborough County.
- In addition, the governor of the state of Florida has the authority to issue an executive order or proclamation to declare a state of emergency for the entire state, or a portion of it. The governor's emergency order lasts up to 60 days unless renewed.
- The president of the United States has the authority to issue a national emergency declaration, as was done for the virus pandemic, and issue state-by-state disaster declarations, which trigger additional assistance resources from the Federal Emergency Management Agency (FEMA).

This list is by no means exclusive, as there are many federal, state, and local laws that may be triggered in an emergency, and there are many regulatory matters to consider for each business. By using simple tools, however, such as the property tax bill, you can determine what immediately impacts your business and your home and help refine what questions to ask next. Please feel free to reach out to any member of the Carlton Fields team to discuss any questions you have about governmental authority, or any other legal issues related to this current pandemic.

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