Where Oil is King – When State and Local Fracking Rules Clash

The rise of local bans on hydraulic fracturing, or "fracking," by local governments has sparked a recent backlash in carbon-producing states, writes **Kristen Van de Biezenbos** of Texas Tech University School of Law in an article posted on the **Social Science Research Network**.

"In 2015, Texas, Oklahoma, and North Carolina passed laws that forbid any city, town, or other municipal body from banning fracking or passing certain regulations on the practice, by popular vote or otherwise. Other states are likely to follow suit," she writes.

In an abstract, she says her article is the first to propose that cities and towns in those states could incorporate and enforce existing state environmental laws. "By doing so, those municipalities may be able to ensure compliance with those environmental regulations by oil and gas companies and minimize some of the environmental harms associated with fracking, even when they cannot enact outright bans on the practice. Further, this Article explains why the incorporation and enforcement of state environmental laws by cities and towns – and particularly cities and towns in states that have taken away local power to enact fracking bans – should not be expressly or impliedly preempted by those laws. Indeed, taking this approach would also further important policy goals inherent in federalism and help restore voter confidence in the democratic process."

Read the article.