

By Senator Gruters

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1 A bill to be entitled
2 An act relating to employment conditions; amending s.
3 218.077, F.S.; revising, adding, and deleting defined
4 terms; prohibiting a political subdivision from
5 establishing, mandating, or otherwise requiring an
6 employer to offer conditions of employment not
7 otherwise required by state or federal law; specifying
8 that certain requirements related to minimum wage and
9 other conditions of employment are expressly preempted
10 to the state; revising exceptions to the preemption;
11 providing for retroactive application; providing an
12 effective date.

13
14 WHEREAS, the needs and expectations of job applicants and
15 employees must be appropriately balanced against the needs and
16 expectations of employers, who are operating businesses that
17 must respond to the demands of a dynamic and rapidly changing
18 economy at the local, state, national, and international level,
19 and

20 WHEREAS, promoting the economic growth and prosperity of
21 Florida residents is an important objective of state government,
22 and this economic growth and prosperity depends upon maintaining
23 a stable business climate that will attract new employers to the
24 state and allow existing employers to expand, and

25 WHEREAS, government should insert itself into the
26 relationship between employer and employee only if a need for
27 regulation has been clearly demonstrated, and

28 WHEREAS, allowing the multitude of local governments in
29 this state to each impose requirements on the employment

23-00452-19

2019432__

30 relationship could reasonably be expected to drive businesses
31 out of those communities and out of the state in search of a
32 more consistent and predictable operating environment, thus
33 disrupting Florida's economy and threatening the public welfare,
34 and

35 WHEREAS, in light of these negative impacts, federal and
36 state governments must be relied upon to adopt uniform
37 regulations governing the employment relationship which strike
38 an appropriate balance between the needs and expectations of
39 employees and employers, NOW, THEREFORE,

40

41 Be It Enacted by the Legislature of the State of Florida:

42

43 Section 1. Section 218.077, Florida Statutes, is amended to
44 read:

45 218.077 Wage and other employment conditions required
46 ~~benefits requirements~~ by political subdivisions; restrictions.-

47 (1) As used in this section, the term:

48 (a) "Conditions of employment" means those terms that form
49 the basis of the relationship between an employer and a
50 prospective or actual employee, including, but not limited to:
51 preemployment screening; job classification; job
52 responsibilities; hours of work; scheduling and schedule
53 changes; wages; payment of wages; leave; paid or unpaid days off
54 for holidays, illness, vacations, and personal necessity; and
55 employee benefits, such as retirement, profit-sharing, health,
56 disability, death, and insurance benefits.

57 (b)-(a) "Employee" means any natural person who is employed
58 in this state by an employer entitled under state or federal law

23-00452-19

2019432__

59 ~~to receive a state or federal minimum wage.~~

60 (c) ~~(b)~~ "Employer" means any person who is engaged in any
61 activity, enterprise, or business in this state and employs at
62 least one employee required under state or federal law to pay a
63 state or federal minimum wage to the person's employees.

64 (d) ~~(e)~~ "Employer contracting to provide goods or services
65 for the political subdivision" means a person contracting with
66 the political subdivision to provide goods or services to, for
67 the benefit of, or on behalf of, the political subdivision in
68 exchange for valuable consideration, and includes a person
69 leasing or subleasing real property owned by the political
70 subdivision.

71 ~~(d) "Employment benefits" means anything of value that an~~
72 ~~employee may receive from an employer in addition to wages and~~
73 ~~salary. The term includes, but is not limited to, health~~
74 ~~benefits; disability benefits; death benefits; group accidental~~
75 ~~death and dismemberment benefits; paid or unpaid days off for~~
76 ~~holidays, sick leave, vacation, and personal necessity;~~
77 ~~retirement benefits; and profit-sharing benefits.~~

78 (e) "Federal minimum wage" means a minimum wage required
79 under federal law, including the federal Fair Labor Standards
80 Act of 1938, as amended, 29 U.S.C. ss. 201 et seq.

81 (f) "Political subdivision" means a county, municipality,
82 department, commission, district, board, or other public body,
83 whether corporate or otherwise, created by or under state law.

84 (g) "Wage" means that compensation for employment to which
85 any state or federal minimum wage applies.

86 (2) Except as otherwise provided in subsection (3), a
87 political subdivision may not establish, mandate, or otherwise

23-00452-19

2019432__

88 require an employer to pay a minimum wage, other than a state or
89 federal minimum wage;; to apply a state or federal minimum wage
90 to wages exempt from a state or federal minimum wage;; or to
91 offer other conditions of employment ~~provide employment benefits~~
92 not otherwise required by state or federal law, the regulation
93 of such matters being expressly preempted to the state.

94 (3) This section does not:

95 (a) Limit the authority of a political subdivision to
96 establish a minimum wage other than a state or federal minimum
97 wage or to require conditions of employment ~~provide employment~~
98 ~~benefits~~ not otherwise required under state or federal law:

99 1. For the employees of the political subdivision;

100 2. For the employees of an employer contracting to provide
101 goods or services for the political subdivision, or for the
102 employees of a subcontractor of such an employer, under the
103 terms of a contract with the political subdivision; or

104 3. For the employees of an employer receiving a direct tax
105 abatement or subsidy from the political subdivision, as a
106 condition of the direct tax abatement or subsidy.

107 (b) Apply to a domestic violence or sexual abuse ordinance,
108 order, rule, or policy adopted by a political subdivision.

109 (4) If it is determined by the officer or agency
110 responsible for distributing federal funds to a political
111 subdivision that compliance with this act would prevent receipt
112 of those federal funds, or would otherwise be inconsistent with
113 federal requirements pertaining to such funds, then this act
114 does not apply, but only to the extent necessary to allow
115 receipt of the federal funds or to eliminate the inconsistency
116 with such federal requirements.

23-00452-19

2019432__

117 (5) This section does not prohibit a federally authorized
118 and recognized tribal government from establishing conditions of
119 employment for any ~~requiring employment benefits for a~~ person
120 employed within a territory over which the tribe has
121 jurisdiction.

122 Section 2. Any ordinance, regulation, or policy of a
123 political subdivision which is preempted by this act and which
124 existed before or on the effective date of this act is void.

125 Section 3. This act shall take effect upon becoming a law.