

1 A bill to be entitled
2 An act relating to preemption of conditions of
3 employment; amending s. 218.077, F.S.; defining
4 "condition of employment"; revising definitions;
5 preempting to the state the right to regulate the
6 conditions of employment by an employer; conforming
7 provisions to changes made by the act; voiding certain
8 ordinances, regulations, or policies that are
9 preempted by the act; providing an effective date.

10
11 WHEREAS, the needs and expectations of job applicants and
12 employees must be appropriately balanced against the needs and
13 expectations of employers, who operate businesses that must
14 respond to the demands of a dynamic and rapidly changing economy
15 at the local, state, national, and international levels, and

16 WHEREAS, promoting the economic growth and prosperity of
17 Florida citizens is an important objective of state government,
18 and this economic growth and prosperity depends upon maintaining
19 a stable business climate that will attract new employers to the
20 state and allow existing employers to expand, and

21 WHEREAS, a local government should insert itself into the
22 relationship between employer and employee only where a need for
23 regulation has been clearly demonstrated, and

24 WHEREAS, allowing a local government to impose its
25 individual requirements on the employment relationship could

26 | reasonably be expected to drive businesses out of those
 27 | communities and out of the state in search of a more consistent
 28 | and predictable operating environment, thus disrupting Florida's
 29 | economy and threatening the public welfare, and

30 | WHEREAS, in light of these negative impacts, federal and
 31 | state governments must be relied upon to adopt uniform
 32 | regulations governing the employment relationship that strike an
 33 | appropriate balance between the needs and expectations of
 34 | employees and employers, NOW, THEREFORE,

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 36 | Be It Enacted by the Legislature of the State of Florida:

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 38 | Section 1. Section 218.077, Florida Statutes, is amended
 39 | to read:

40 | 218.077 Wage and conditions of employment ~~benefits~~
 41 | requirements by political subdivisions; restrictions.—

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

43 | (a) "Condition of employment" means those terms that form
 44 | the basis of a relationship between an employer and a
 45 | prospective or actual employee, including preemployment
 46 | screenings; job classification determinations; job
 47 | responsibilities; hours of work; schedules and schedule changes;
 48 | wages; payment of wages; leave; paid or unpaid days off for
 49 | holidays, illness, vacation, and personal necessity; and
 50 | employee benefits such as retirement, profit-sharing, health,

51 disability, death, and insurance benefits.

52 (b)~~(a)~~ "Employee" means any natural person who is employed
53 by an employer ~~entitled under state or federal law to receive a~~
54 ~~state or federal minimum wage.~~

55 (c)~~(b)~~ "Employer" means any person who engages in any
56 activity, enterprise, or business and employs at least one
57 employee ~~is required under state or federal law to pay a state~~
58 ~~or federal minimum wage to the person's employees.~~

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

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

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

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

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

81 (2) Except as otherwise provided in subsection (3), a
 82 political subdivision may not establish, mandate, or otherwise
 83 require an employer to pay a minimum wage, other than a state or
 84 federal minimum wage, to apply a state or federal minimum wage
 85 to wages exempt from a state or federal minimum wage, or to
 86 offer a condition of employment that is ~~provide employment~~
 87 ~~benefits~~ not otherwise required by state or federal law. The
 88 regulation of conditions of employment is expressly preempted to
 89 the state.

90 (3) This section does not:

91 (a) Limit the authority of a political subdivision to
 92 establish a minimum wage other than a state or federal minimum
 93 wage or to require a condition of employment ~~provide employment~~
 94 ~~benefits~~ not otherwise required under state or federal law:

- 95 1. For the employees of the political subdivision;
- 96 2. For the employees of an employer contracting to provide
 97 goods or services for the political subdivision, or for the
 98 employees of a subcontractor of such an employer, under the
 99 terms of a contract with the political subdivision; or
- 100 3. For the employees of an employer receiving a direct tax

101 abatement or subsidy from the political subdivision, as a
 102 condition of the direct tax abatement or subsidy.

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

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

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

119 Section 2. Any political subdivision with an existing
 120 ordinance, regulation, or policy that is preempted by this act
 121 is void.

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