

By Senator Gruters

23-00195B-20

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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 which are  
7       not otherwise required by state or federal law;  
8       specifying that the regulation of conditions of  
9       employment is expressly preempted to the state;  
10      revising exceptions to the preemption; providing  
11      applicability; providing an effective date.

12  
13       WHEREAS, the needs and expectations of job applicants and  
14      employees must be appropriately balanced with the needs and  
15      expectations of employers, who are operating businesses that  
16      must respond to the demands of a dynamic and rapidly changing  
17      economy at the local, state, national, and international levels,  
18      and

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

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

27       WHEREAS, allowing the multitude of local governments in  
28      this state to each impose requirements on the employment  
29      relationship could reasonably be expected to drive businesses

23-00195B-20

20201126\_\_

30 out of those communities and out of this state in search of a  
31 more consistent and predictable operating environment, thus  
32 disrupting Florida's economy and threatening the public welfare,  
33 and

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

39 WHEREAS, nothing in this act is intended to alter any state  
40 law prohibiting employment discrimination or to affect any local  
41 ordinance, order, rule, or policy prohibiting employment  
42 discrimination, NOW, THEREFORE,

43  
44 Be It Enacted by the Legislature of the State of Florida:

45  
46 Section 1. Section 218.077, Florida Statutes, is amended to  
47 read:

48 218.077 Wage and conditions of employment required ~~benefits~~  
49 ~~requirements~~ by political subdivisions; restrictions.-

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

51 (a) "Conditions of employment" means those terms that form  
52 the basis of the relationship between an employer and a  
53 prospective or actual employee, including: preemployment  
54 screening; job classification; job responsibilities; hours of  
55 work; scheduling and schedule changes; wages; payment of wages;  
56 leave; paid or unpaid days off for holidays, illness, vacations,  
57 and personal necessity; and employee benefits, such as  
58 retirement, profit-sharing, health, disability, death, and

23-00195B-20

20201126\_\_

59 insurance benefits.

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

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

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

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

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

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

87 (g) "Wage" means that compensation for employment to which

23-00195B-20

20201126\_\_

88 any state or federal minimum wage applies.

89 (2) Except as otherwise provided in subsection (3), a  
90 political subdivision may not establish, mandate, or otherwise  
91 require an employer to pay a minimum wage, other than a state or  
92 federal minimum wage, to apply a state or federal minimum wage  
93 to wages exempt from a state or federal minimum wage, or to  
94 offer other conditions of employment which are provide  
95 ~~employment benefits~~ not otherwise required by state or federal  
96 law, the regulation of all such matters being expressly  
97 preempted to the state.

98 (3) This section does not:

99 (a) Limit the authority of a political subdivision to  
100 establish a minimum wage other than a state or federal minimum  
101 wage or to require conditions of employment ~~provide employment~~  
102 ~~benefits~~ not otherwise required under state or federal law:

- 103 1. For the employees of the political subdivision;  
104 2. For the employees of an employer contracting to provide  
105 goods or services for the political subdivision, or for the  
106 employees of a subcontractor of such an employer, under the  
107 terms of a contract with the political subdivision; or  
108 3. For the employees of an employer receiving a direct tax  
109 abatement or subsidy from the political subdivision, as a  
110 condition of the direct tax abatement or subsidy.

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

113 (4) If it is determined by the officer or agency  
114 responsible for distributing federal funds to a political  
115 subdivision that compliance with this act would prevent receipt  
116 of those federal funds, or would otherwise be inconsistent with

23-00195B-20

20201126\_\_

117 federal requirements pertaining to such funds, then this act  
118 does not apply, but only to the extent necessary to allow  
119 receipt of the federal funds or to eliminate the inconsistency  
120 with such federal requirements.

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

126 Section 2. Any ordinance, regulation, or policy of a  
127 political subdivision which is preempted by this act and which  
128 existed before, on, or after the effective date of this act is  
129 void.

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