



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-4052/1
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2017 SENATE BILL 634

December 7, 2017 - Introduced by Senators KAPENGA, CRAIG and STROEBEL, cosponsored by Representatives HUTTON, ROHRKASTE, R. BROOKS, KNODL, KREMER, KUGLITSCH, SANFELIPPO, JACQUE, KATSMAN, SCHRAA, BRANDTJEN, WICHGERS, TUSLER and HORLACHER. Referred to Committee on Labor and Regulatory Reform.

1 **AN ACT to repeal** 104.001 (3), 111.31 (5) and 111.337 (3); **to amend** 111.371
2 (intro.); and **to create** 66.0134, 66.0408 (2) (d), 103.007, 103.12, 103.36, 109.09
3 (3), 111.315 and 947.21 of the statutes; **relating to:** preventing the state or local
4 governments from requiring any person to accept certain collective bargaining
5 provisions or waive its rights under the National Labor Relations Act or state
6 labor law; prohibiting local regulation of employee hours and overtime,
7 employment benefits, wage claims and collections, an employer's right to solicit
8 salary information of prospective employees, employment discrimination, and
9 professions regulated by the state; and providing a criminal penalty.

Analysis by the Legislative Reference Bureau

This bill preempts local governments from enacting or enforcing ordinances related to various employment matters.

Under current constitutional and statutory home rule provisions, a city or village may determine its own local affairs subject only to the Wisconsin Constitution and to any enactment of the legislature that is of statewide concern and that affects every city or village with uniformity. This bill states that all of the following matters are matters of statewide concern requiring uniform enforcement at the state, county, and municipal levels:

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1. Regulations related to employment discrimination.
2. Regulations related to wage claims and collections.
3. Regulation of employee hours and overtime, including scheduling of employee work hours or shifts.
4. The employment benefits an employer may be required to provide to its employees.
5. An employer's right to solicit information regarding the salary history of prospective employees.

As such, the bill prohibits any city, village, town, or county (political subdivision) from enacting or enforcing an ordinance regarding any of those matters.

Under current law, a political subdivision generally may not enact and administer an ordinance establishing a minimum wage. Current law, however, exempts from that prohibition an ordinance that requires a different minimum wage rate for 1) an employee of a political subdivision; 2) an employee who performs work under a contract for the provision of services to a political subdivision; or 3) an employee who performs work that is funded by financial assistance from a political subdivision. The bill eliminates those exemptions.

The bill also prohibits a political subdivision from imposing an occupational licensing requirement on an individual, to whom a state government occupational licensing requirement applies, which is more stringent than the state requirement.

Under the bill, neither the state nor a local governmental unit may enact a statute or ordinance, adopt a policy or regulation, or impose a contract, zoning, permitting, or licensing requirement, or any other condition, that would require any person to accept any provision that is a subject of collective bargaining under state or federal labor laws. The bill defines federal labor laws as the National Labor Relations Act. Finally, the bill prohibits the state and local governments, and their employees, from requiring any person to waive the person's rights under state or federal labor laws as a condition of any other approval by the state or local governmental unit, and violators of that provision would be subject to the penalties that apply to a Class A misdemeanor, which is a fine not to exceed \$10,000 or imprisonment not to exceed 9 months, or both.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 66.0134 of the statutes is created to read:

2 **66.0134 Labor peace agreements prohibited.** (1) **DEFINITIONS.** In this
3 section:

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1 (a) “Federal labor laws” means the federal Labor Management Relations Act,
2 29 USC 141 to 144, and the federal National Labor Relations Act, 29 USC 151 to 169.

3 (b) “Local governmental unit” means a city, village, town, county, school
4 district, including a 1st class city school district, technical college district, sewerage
5 district, drainage district, or any other special purpose district in this state, or any
6 other public or quasi-public corporation, officer, board, or other public body, an
7 agency or corporation of a political subdivision or special purpose district, or a
8 combination or subunit of any of the foregoing.

9 **(2) AGREEMENTS PROHIBITED.** Neither the state nor a local governmental unit
10 may enact a statute or ordinance; adopt a policy or regulation; or impose a contract,
11 zoning, permitting, or licensing requirement, or any other condition including a
12 condition of any regulatory approval; that would require any person to accept any
13 provision that is a mandatory or nonmandatory subject of collective bargaining
14 under state or federal labor laws.

15 **(3) WAIVER PROHIBITED.** Neither the state nor a local governmental unit, nor any
16 of its employees, may require any person to waive the person’s rights under state or
17 federal labor laws, or compel or attempt to compel a person to agree to waive the
18 person’s rights under state or federal labor laws as a condition of any regulatory
19 approval or other approval by the local governmental unit.

20 **(4) AGREEMENTS VOID.** Any agreement entered into, renewed, modified, or
21 extended on or after the effective date of this subsection [LRB inserts date],
22 between any person and any labor organization in violation of this section is void.

23 **SECTION 2.** 66.0408 (2) (d) of the statutes is created to read:

24 66.0408 **(2) (d)** With regard to the areas in which any department of state
25 government may impose occupational licensing requirements on any profession, a

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1 political subdivision may not impose any occupational licensing requirements on an
2 individual who works in that profession that are more stringent than the
3 requirements imposed by the department that regulates that profession.

4 **SECTION 3.** 103.007 of the statutes is created to read:

5 **103.007 Local regulation of hours of labor and overtime; statewide**
6 **concern; uniformity.** (1) The legislature finds that employee hour and overtime
7 requirements that are uniform throughout the state is a matter of statewide concern
8 and that the enactment of an ordinance by a city, village, town, or county regulating
9 employee hours or overtime would be logically inconsistent with, would defeat the
10 purpose of, and would go against the spirit of the employee hour and overtime
11 requirements. Therefore, the employee hour and overtime requirements shall be
12 construed as an enactment of statewide concern for the purpose of providing
13 employee hour and overtime requirements that are uniform throughout the state.

14 (2) In this section, “employee hour and overtime requirements” means the
15 requirements set forth in ss. 103.01 to 103.03, 103.24, 103.38, 103.65 (2), 103.66 (2),
16 103.67 (1), 103.68, 103.85, 103.915 (4) (b), 103.93 (4), 103.935, and 104.045 (3) and
17 in the rules promulgated under those sections.

18 (3) (a) Subject to par. (c), no city, village, town, or county may enact or enforce
19 an ordinance that regulates employee hours or overtime, including scheduling
20 employee work hours or shifts.

21 (b) Subject to par. (c), if a city, village, town, or county has in effect on the
22 effective date of this paragraph [LRB inserts date], an ordinance that regulates
23 employee hours or overtime, including scheduling employee work hours or shifts, the
24 ordinance does not apply and may not be enforced.

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1 (c) Nothing in this section prohibits a city, village, town, or county from
2 enacting or enforcing any of the following ordinances:

3 1. An ordinance that limits the hours that a business may operate.

4 2. An ordinance described in s. 103.34 (14) (b) that regulates hours or overtime
5 of a traveling sales crew worker, as defined in s. 103.34 (1) (f).

6 **SECTION 4.** 103.12 of the statutes is created to read:

7 **103.12 Local regulation of employment benefits; statewide concern;**
8 **uniformity.** (1) The legislature finds that each employer in this state should be
9 allowed to determine the employment benefits the employer provides to its
10 employees without interference by local governments. The legislature finds that the
11 absence of such local regulations is a matter of statewide concern and that the
12 enactment of an ordinance by a city, village, town, or county regulating the
13 employment benefits an employer provides to its employees would be logically
14 inconsistent with, would defeat the purpose of, and would go against the spirit of the
15 legislature's intent to allow each employer to determine the employment benefits the
16 employer provides to its employees. Therefore, this section shall be construed as an
17 enactment of statewide concern for the purpose of providing uniform regulation
18 throughout the state regarding the employment benefits an employer may be
19 required to provide to its employees.

20 (2) In this section, "employment benefit" means anything of value, other than
21 wages and salary, that an employer makes available to an employee, including a
22 retirement, pension, profit sharing, insurance, or leave benefit.

23 (3) (a) Except as provided in ss. 103.10 (1m) (d) and 103.11 (2) (d), no city,
24 village, town, or county may enact or enforce an ordinance requiring an employer to
25 provide certain employment benefits to its employees, to provide a minimum level

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1 of employment benefits to its employees, or to prescribe the terms or conditions of
2 employment benefits provided to its employees.

3 (b) Except as provided in ss. 103.10 (1m) (d) and 103.11 (2) (d), if a city, village,
4 town, or county has in effect on the effective date of this paragraph [LRB inserts
5 date], an ordinance requiring an employer to provide certain employment benefits
6 or to provide a minimum level of employment benefits to its employees, the ordinance
7 does not apply and may not be enforced.

8 **SECTION 5.** 103.36 of the statutes is created to read:

9 **103.36 Employer right to solicit salary information of prospective**
10 **employees; statewide concern; uniformity.** (1) An employer may solicit
11 information regarding the salary history of prospective employees.

12 (2) The legislature finds that the provision of an employer right to solicit salary
13 information that is uniform throughout the state is a matter of statewide concern and
14 that the enactment of an ordinance by a city, village, town, or county that prohibits
15 an employer from soliciting salary information would be logically inconsistent with,
16 would defeat the purpose of, and would go against the spirit of this section.
17 Therefore, this section shall be construed as an enactment of statewide concern for
18 the purpose of providing an employer right to solicit salary information that is
19 uniform throughout the state.

20 (3) (a) No city, village, town, or county may enact or enforce an ordinance
21 prohibiting an employer from soliciting information regarding the salary history of
22 prospective employees.

23 (b) If a city, village, town, or county has in effect on the effective date of this
24 paragraph [LRB inserts date], an ordinance prohibiting an employer from

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1 soliciting information regarding the salary history of prospective employees, the
2 ordinance does not apply and may not be enforced.

3 **SECTION 6.** 104.001 (3) of the statutes is repealed.

4 **SECTION 7.** 109.09 (3) of the statutes is created to read:

5 109.09 (3) (a) The legislature finds that the provision of a wage claim and
6 collection law that is uniform throughout the state is a matter of statewide concern
7 and that the enactment of a wage claim or collection ordinance by a city, village, town,
8 or county would be logically inconsistent with, would defeat the purpose of, and
9 would go against the spirit of this section. Therefore, this section shall be construed
10 as an enactment of statewide concern for the purpose of providing a wage claim and
11 collection law that is uniform throughout the state.

12 (b) No city, village, town, or county may enact or enforce an ordinance that
13 regulates wage claims or collections.

14 (c) If a city, village, town, or county has in effect on the effective date of this
15 paragraph [LRB inserts date], an ordinance that regulates wage claims or
16 collections, the ordinance does not apply and may not be enforced.

17 **SECTION 8.** 111.31 (5) of the statutes is repealed.

18 **SECTION 9.** 111.315 of the statutes is created to read:

19 **111.315 Statewide concern; uniformity. (1)** The legislature finds that the
20 provision of employment discrimination regulations that are uniform throughout
21 the state is a matter of statewide concern and that the enactment of an ordinance by
22 a city, village, town, or county regulating employment discrimination would be
23 logically inconsistent with, would defeat the purpose of, and would go against the
24 spirit of the employment discrimination regulations in this subchapter. Therefore,
25 the employment discrimination regulations in this subchapter shall be construed as

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1 an enactment of statewide concern for the purpose of providing employment
2 discrimination regulations that are uniform throughout the state.

3 **(2)** (a) No city, village, town, or county may enact or enforce an ordinance
4 related to employment discrimination.

5 (b) If a city, village, town, or county has in effect on the effective date of this
6 paragraph [LRB inserts date], an ordinance related to employment
7 discrimination, the ordinance does not apply and may not be enforced.

8 **SECTION 10.** 111.337 (3) of the statutes is repealed.

9 **SECTION 11.** 111.371 (intro.) of the statutes is amended to read:

10 **111.371 Local ordinance; collective bargaining agreements.** (intro.)

11 ~~Section~~ Sections 111.315 and 111.37 ~~does do~~ not do any of the following:

12 **SECTION 12.** 947.21 of the statutes is created to read:

13 **947.21 Labor peace agreements prohibited.** Anyone who knowingly
14 violates s. 66.0134 (3) is guilty of a Class A misdemeanor.

15 **SECTION 13. Initial applicability.**

16 (1) The treatment of section 947.21 of the statutes first applies to a violation
17 that occurs on the effective date of this subsection.

18 (END)