Act No. 105
Public Acts of 2015
Approved by the Governor
June 30, 2015
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STATE OF MICHIGAN
98TH LEGISLATURE
REGULAR SESSION OF 2015

Introduced by Rep. Poleski

ENROLLED HOUSE BILL No. 4052

AN ACT to limit the powers of local governmental bodies regarding the regulation of terms and conditions of employment within local government boundaries for employees of nonpublic employers.

The People of the State of Michigan enact:

Sec. 1. This act shall be known and may be cited as the "local government labor regulatory limitation act".

Sec. 2. The legislature finds and declares that regulation of the employment relationship between a nonpublic employer and its employees is a matter of state concern and is outside the express or implied authority of local governmental bodies to regulate, absent express delegation of that authority to the local governmental body.

Sec. 3. As used in this act:

(a) "Educational institution" means any of the following:

(*i*) A school district, an intermediate school district, or a public school academy as those terms are defined in sections 4 to 6 of the revised school code, 1976 PA 451, MCL 380.4 to 380.6.

(*ii*) A community college established under the community college act of 1966, 1966 PA 331, MCL 389.1 to 389.195, or under part 25 of the revised school code, 1976 PA 451, MCL 380.1601 to 380.1607.

(b) "Employee" means a person employed in this state by an employer.

(c) "Employer" means a person or entity engaging in or intending to engage in a commercial activity, enterprise, or business in this state, but excludes a local governmental body or an educational institution.

(d) "Local governmental body" means any local government or its subdivision, including, but not limited to, a city, village, township, county, or educational institution; a local public authority, agency, board, commission, or other local governmental, quasi-governmental, or quasi-public body; or a public body that acts or purports to act in a commercial, business, economic development, or similar capacity for a local government or its subdivision. Local governmental body does not include an authority established by interlocal agreement under the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512, to which this state is a party.

(e) "Ordinance, local policy, or local resolution" does not include the terms of an agreement voluntarily offered to a local governmental body by an owner, purchaser, or developer of property.

Sec. 4. A local governmental body shall not adopt, enforce, or administer an ordinance, local policy, or local resolution regulating information an employer or potential employer must request, require, or exclude on an application for employment from an employee or a potential employee. This section does not prohibit an ordinance, local policy, or local resolution requiring a criminal background check for an employee or potential employee in connection with the receipt of a license or permit from a local governmental body.

Sec. 5. A local governmental body shall not adopt, enforce, or administer an ordinance, local policy, or local resolution requiring an employer to pay to an employee a wage higher than the state minimum hourly wage rate determined under section 4 of the workforce opportunity wage act, 2014 PA 138, MCL 408.414, or, if applicable to the employer, the minimum wage provisions of the fair labor standards act of 1938, 29 USC 201 to 219, unless those federal minimum wage provisions would result in a lower minimum hourly wage than provided under state law.

Sec. 6. A local governmental body shall not adopt, enforce, or administer an ordinance, local policy, or local resolution requiring an employer to pay to an employee a wage or fringe benefit based on wage and fringe benefit rates prevailing in the locality. This section does not apply to state projects subject to 1965 PA 166, MCL 408.551 to 408.558.

Sec. 7. A local governmental body shall not adopt, enforce, or administer an ordinance, local policy, or local resolution regulating work stoppage or strike activity of employers and their employees or the means by which employees may organize.

Sec. 8. A local governmental body shall not adopt, enforce, or administer an ordinance, local policy, or local resolution requiring an employer to provide to an employee paid or unpaid leave time.

Sec. 9. A local governmental body shall not adopt, enforce, or administer an ordinance, local policy, or local resolution regulating hours and scheduling that an employer is required to provide to employees. This section does not prohibit an ordinance, local policy, or local resolution that limits the hours a business may operate.

Sec. 10. A local governmental body shall not adopt, enforce, or administer an ordinance, local policy, or local resolution requiring an employer or its employees to participate in any educational apprenticeship or apprenticeship training program that is not required by state or federal law.

Sec. 11. A local governmental body shall not adopt, enforce, or administer an ordinance, local policy, or local resolution requiring an employer to provide to an employee any specific fringe benefit or any other benefit for which the employer would incur an expense, including, but not limited to, those enumerated in sections 6 to 10.

Sec. 12. A local governmental body shall not adopt, enforce, or administer an ordinance, local policy, or local resolution regulating or creating administrative or judicial remedies for wage, hour, or benefit disputes, including, but not limited to, any benefits described in sections 6 to 11.

Sec. 13. If any parts of this act are found to be in conflict with the state constitution of 1963, the United States constitution, or federal law, this act shall be implemented to the maximum extent that the state constitution of 1963, the United States constitution, or federal law permit. Any provision held invalid or inoperative is severable from the remaining portions of this act.

Sec. 14. This act does not prohibit a local governmental body from adopting or enforcing an ordinance, policy, or resolution prohibiting employment discrimination.
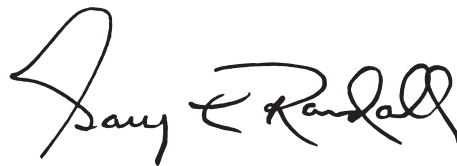
Sec. 15. Subject to sections 5 to 8 and 11, this act does not prohibit a local governmental body from adopting, enforcing, or administering an ordinance, local policy, or local resolution that provides for the terms and conditions of a voluntary agreement between an employer and the local governmental body in connection with the provision of services directly to the local governmental body or in connection with the receipt of a grant, tax abatement, or tax credit from the local governmental body.

Sec. 16. This act does not prohibit a local governmental body from enforcing a written agreement voluntarily entered into and in effect prior to October 1, 2015.

Enacting section 1. This act applies to ordinances, local policies, and local resolutions adopted after December 31, 2014. Nothing in this act shall be considered as an explicit or implicit authorization or recognition of the validity of any ordinance, local policy, or local resolution adopted before January 1, 2015. Nothing in this act authorizes a local governmental body to adopt an ordinance, local policy, or local resolution regulating the employment relationship as to matters described in this act, and nothing in this act shall be construed as an express or implied recognition of any such

authority that may or may not exist elsewhere in state law. Whether a local governmental body had the authority, before January 1, 2015, to adopt an ordinance, local policy, or local resolution regulating the employment relationship as to matters described in this act is a separate question that this act does not address. This act is not intended to be construed to impact the reasoning or outcome of pending litigation in any way, for or against any particular legal position.

This act is ordered to take immediate effect.

Clerk of the House of Representatives

Secretary of the Senate

Approved --

Governor