

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; providing
7 applicability; conforming provisions to changes made
8 by the act; voiding certain ordinances, regulations,
9 or policies that are preempted by the act; providing
10 an effective date.

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

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

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

25 WHEREAS, allowing a local government to impose its

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

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

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

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

41 218.077 Wage and conditions of employment ~~benefits~~
 42 requirements by political subdivisions; restrictions.-

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

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

51 employee benefits such as retirement, profit-sharing, health,
52 disability, death, and insurance benefits.

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

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

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

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

74 (e) "Federal minimum wage" means a minimum wage required
75 under federal law, including the federal Fair Labor Standards

76 Act of 1938, as amended, 29 U.S.C. ss. 201 et seq.

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

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

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

91 (3) This section does not:

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

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

101 3. For the employees of an employer receiving a direct tax
102 abatement or subsidy from the political subdivision, as a
103 condition of the direct tax abatement or subsidy.

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

107 (c) Apply to an otherwise valid ordinance, order, rule, or
108 policy adopted by a political subdivision, which prohibits
109 discrimination in the conditions of employment based upon a
110 prospective or actual employee's race, color, religion, national
111 origin, ancestry, sex, sexual orientation, gender identity or
112 expression, age, disability, pregnancy, genetic information,
113 familial status or marital status, or veteran status.

114 (d) Apply to an otherwise valid ordinance, order, rule, or
115 policy adopted by a political subdivision before January 1,
116 2019, which establishes an alternative dispute resolution
117 mechanism to resolve an employee's claim against an employer for
118 unpaid wages and may provide for the recovery of liquidated
119 damages, costs, and civil penalties for repeated violations.

120 (4) If it is determined by the officer or agency
121 responsible for distributing federal funds to a political
122 subdivision that compliance with this act would prevent receipt
123 of those federal funds, or would otherwise be inconsistent with
124 federal requirements pertaining to such funds, then this act
125 does not apply, but only to the extent necessary to allow

126 receipt of the federal funds or to eliminate the inconsistency
127 with such federal requirements.

128 (5) This section does not prohibit a federally authorized
129 and recognized tribal government from establishing conditions of
130 employment for any ~~requiring employment benefits for a person~~
131 employed within a territory over which the tribe has
132 jurisdiction.

133 Section 2. Any existing ordinance, regulation, or policy
134 of a political subdivision that is preempted by this act is
135 void.

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