

HOUSE SUBSTITUTE FOR SENATE SUBSTITUTE FOR
HOUSE BILL NO. 4052

A bill 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:

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

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

1 Sec. 3. As used in this act:

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

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

6 (ii) A community college established under the community
7 college act of 1966, 1966 PA 331, MCL 389.1 to 389.195, or under
8 part 25 of the revised school code, 1976 PA 451, MCL 380.1601 to
9 1607.

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

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

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

27 (e) "Ordinance, local policy, or local resolution" does not

1 include the terms of an agreement voluntarily offered to a local
2 governmental body by an owner, purchaser, or developer of property.

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

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

21 Sec. 6. A local governmental body shall not adopt, enforce, or
22 administer an ordinance, local policy, or local resolution
23 requiring an employer to pay to an employee a wage or fringe
24 benefit based on wage and fringe benefit rates prevailing in the
25 locality. This section does not apply to state projects subject to
26 1965 PA 166, MCL 408.551 to 408.558.

27 Sec. 7. A local governmental body shall not adopt, enforce, or

1 administer an ordinance, local policy, or local resolution
2 regulating work stoppage or strike activity of employers and their
3 employees or the means by which employees may organize.

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

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

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

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

25 Sec. 12. A local governmental body shall not adopt, enforce,
26 or administer an ordinance, local policy, or local resolution
27 regulating or creating administrative or judicial remedies for

1 wage, hour, or benefit disputes, including, but not limited to, any
2 benefits described in sections 6 to 11.

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

10 Sec. 14. This act does not prohibit a local governmental body
11 from adopting or enforcing an ordinance, policy, or resolution
12 prohibiting employment discrimination.

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

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

24 Enacting section 1. This act applies to ordinances, local
25 policies, and local resolutions adopted after December 31, 2014.
26 Nothing in this act shall be considered as an explicit or implicit
27 authorization or recognition of the validity of any ordinance,

1 local policy, or local resolution adopted before January 1, 2015.
2 Nothing in this act authorizes a local governmental body to adopt
3 an ordinance, local policy, or local resolution regulating the
4 employment relationship as to matters described in this act, and
5 nothing in this act shall be construed as an express or implied
6 recognition of any such authority that may or may not exist
7 elsewhere in state law. Whether a local governmental body had the
8 authority, before January 1, 2015, to adopt an ordinance, local
9 policy, or local resolution regulating the employment relationship
10 as to matters described in this act is a separate question that
11 this act does not address. This act is not intended to be construed
12 to impact the reasoning or outcome of pending litigation in any
13 way, for or against any particular legal position.