



Senate Fiscal Agency  
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## BILL ANALYSIS



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House Bill 4052 (Substitute S-1 as passed by the Senate)  
Sponsor: Representative Earl Poleski  
House Committee: Commerce and Trade  
Senate Committee: Michigan Competitiveness

Date Completed: 6-15-15

### **CONTENT**

**The bill would enact the "Local Government Labor Regulatory Limitation Act" to prohibit a local governmental body from adopting, enforcing, or administering an ordinance, policy, or resolution that imposed certain requirements or regulations on an employer, including a requirement to pay more than the minimum hourly wage, provide paid or unpaid leave time, or provide benefits that imposed a cost on the employer, or that regulated the employment relationship in way that exceeded State or Federal requirements.**

The bill would take effect 90 days after enactment.

### **Legislative Finding & Declaration**

The bill contains the following statement: "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."

### **Definitions**

"Local governmental body" would mean any local government or its subdivision, including a city, village, township, county, or educational institution; a public authority, agency, board, commission, or other 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.

"Employer" would mean a person or entity engaging in or intending to engage in a commercial activity, enterprise, or business in this State, but would not include a local governmental body or an educational institution (a school district, intermediate school district, public school academy, or community college).

### **Prohibited Regulations**

A local governmental body would be prohibited from adopting, enforcing, or administering an ordinance, local policy, or local resolution regulating the employment relationship between an employer and its employees or potential employees if the regulation contained requirements exceeding those imposed by State or Federal law. This would not prohibit an ordinance, policy, or resolution requiring a criminal background check for an employee or employee in connection with the receipt of a license or permit from a local governmental body.

A local governmental body also would be prohibited from adopting, enforcing, or administering an ordinance, local policy, or local resolution regulating either of the following:

- Information an employer or potential employer was required to request or require on, or exclude from, an employment application from an employee or potential employee.
- Work stoppage or strike activity of employers and their employees or the means by which employees could organize.

A local governmental body also could not adopt, enforce, or administer an ordinance, local policy, or local resolution regulating hours and scheduling that an employer was required to provide to employees. This would not prohibit an ordinance, policy, or resolution that limited the hours a business was allowed to operate.

#### Prohibited Requirements

A local governmental body would be prohibited from adopting, enforcing, or administering an ordinance, local policy, or local resolution requiring an employer to do any of the following:

- Pay to an employee a wage higher than the State minimum hourly wage rate determined under the Workforce Opportunity Wage Act or, if applicable to the employer, the minimum wage provisions of the Fair Labor Standards Act, unless those Federal minimum wage provisions would result in a lower minimum hourly wage than provided under State law.
- Pay to an employee a wage or fringe benefit based on wage and fringe benefit rates prevailing in the locality (except with respect to State projects subject to the prevailing wage law).
- Provide an employee with paid or unpaid leave time.
- Provide to an employee any specific fringe benefit or any other benefit for which the employer would incur an expense.

A local governmental body also would be prohibited from adopting, enforcing, or administering an ordinance, policy, or resolution requiring an employer or its employees to participate in any educational apprenticeship or apprenticeship training program that was not required by State or Federal law.

In addition, a local governmental body could not adopt, enforce, or administer an ordinance, policy, or resolution regulating or creating administrative or judicial remedies for wage, hour, or benefit disputes.

#### Scope of the Act

The proposed Act would not prohibit a local governmental body from adopting or enforcing an ordinance, policy, or resolution prohibiting employment discrimination.

The proposed Act also would not prohibit a local governmental body from adopting, enforcing, or administering an ordinance, local policy, or local resolution that provided for the terms and conditions of an 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. This provision would be subject to sections of the Act that would prohibit local governmental bodies from requiring an employer to pay a minimum hourly wage, pay a wage or fringe benefit prevailing in the locality, provide leave time, participate in an educational apprenticeship or apprenticeship training program, or provide fringe or other benefits that would cost the employer, and sections that would prohibit local governmental bodies from regulating work stoppage or strike activity, or hours and scheduling.

### Severability

If any parts of the proposed Act were found to be in conflict with the State Constitution, the United States Constitution, or Federal law, the Act would have to be implemented to the maximum extent permitted by the State Constitution, the U.S. Constitution, or Federal law. Any provision held invalid or inoperative would be severable from the remaining portions of the Act.

Legislative Analyst: Suzanne Lowe

### **FISCAL IMPACT**

The bill would have an unknown fiscal impact on State and local government. While the bill would prevent local spending for adopting, administering, and enforcing regulations on nonpublic employee/employer relationships, it also would prevent the use of those regulations as a policy tool by a local government that wished to address local concerns, which might include, for example, mitigation of poverty and associated local costs or issues related to public health, workforce development, and quality of life. The fiscal impact of prohibiting policies that might or might not be adopted by a local government in the future is unknown.

Fiscal Analyst: Elizabeth Pratt

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.