LOCAL GOVERNMENT LABOR REGULATORY LIMITATION ACT
Act 105 of 2015

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.

History: 2015, Act 105, Imd. Eff. June 30, 2015.

Compiler's note: Enacting section 1 of Act 105 of 2015 provides:

"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."

The People of the State of Michigan enact:

123.1381 Short title.

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

History: 2015, Act 105, Imd. Eff. June 30, 2015.

Compiler's note: Enacting section 1 of Act 105 of 2015 provides:

"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."

123.1382 Legislative findings and declarations.

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.

History: 2015, Act 105, Imd. Eff. June 30, 2015.

Compiler's note: Enacting section 1 of Act 105 of 2015 provides:

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123.1383 Definitions.

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

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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.

History: 2015, Act 105, Imd. Eff. June 30, 2015.

Compiler's note: Enacting section 1 of Act 105 of 2015 provides:

"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."

123.1384 Information employer must request, require, or exclude on employment application or during interview process; regulation by local governmental body prohibited.

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 or during the interview process 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.

History: 2015, Act 105, Imd. Eff. June 30, 2015;—Am. 2018, Act 84, Eff. June 24, 2018.

Compiler's note: Enacting section 1 of Act 105 of 2015 provides:

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123.1385 Payment of wage higher than state minimum wage; requirement by local governmental body prohibited.

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.

History: 2015, Act 105, Imd. Eff. June 30, 2015.

Compiler's note: Enacting section 1 of Act 105 of 2015 provides:

"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."

123.1386 Payment of wage or fringe benefit based on local prevailing rates; requirement by local governmental body prohibited.

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.

History: 2015, Act 105, Imd. Eff. June 30, 2015.

Compiler's note: Enacting section 1 of Act 105 of 2015 provides:

"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,

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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."

123.1387 Work stoppage or strike activity of employers and employees; organization by employees; regulation by local governmental body prohibited.

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.

History: 2015, Act 105, Imd. Eff. June 30, 2015.

Compiler's note: Enacting section 1 of Act 105 of 2015 provides:

"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."

123.1388 Providing employee paid or unpaid leave time; requirement by local governmental body prohibited.

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.

History: 2015, Act 105, Imd. Eff. June 30, 2015.

Compiler's note: Enacting section 1 of Act 105 of 2015 provides:

"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."

123.1389 Regulation of hours and scheduling provided by employer to employees; regulation by local governmental body prohibited.

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.

History: 2015, Act 105, Imd. Eff. June 30, 2015.

Compiler's note: Enacting section 1 of Act 105 of 2015 provides:

"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."

123.1390 Participation in educational apprenticeship or apprenticeship training program; requirement by local governmental body prohibited.

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.

History: 2015, Act 105, Imd. Eff. June 30, 2015.

Compiler's note: Enacting section 1 of Act 105 of 2015 provides:

"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,

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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."

123.1391 Providing employee with specific fringe benefit; requirement by local governmental body prohibited.

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.

History: 2015, Act 105, Imd. Eff. June 30, 2015.

Compiler's note: Enacting section 1 of Act 105 of 2015 provides:

"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."

123.1392 Wage, hour, or benefit dispute; administrative or judicial remedies; regulation by local governmental body prohibited.

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.

History: 2015, Act 105, Imd. Eff. June 30, 2015.

Compiler's note: Enacting section 1 of Act 105 of 2015 provides:

"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."

123.1393 Severability of invalid or inoperative provision.

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.

History: 2015, Act 105, Imd. Eff. June 30, 2015.

Compiler's note: Enacting section 1 of Act 105 of 2015 provides:

"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."

123.1394 Employment discrimination; prohibition by local governmental body.

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

History: 2015, Act 105, Imd. Eff. June 30, 2015.

Compiler's note: Enacting section 1 of Act 105 of 2015 provides:

"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

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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."

123.1395 Voluntary agreement between employer and local governmental body.

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.

History: 2015, Act 105, Imd. Eff. June 30, 2015.

Compiler's note: Enacting section 1 of Act 105 of 2015 provides:

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123.1396 Voluntary written agreement in effect prior to October 1, 2015.

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.

History: 2015, Act 105, Imd. Eff. June 30, 2015.

Compiler's note: Enacting section 1 of Act 105 of 2015 provides:

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