



AN ACT PROHIBITING POLITICAL SUBDIVISIONS FROM REQUIRING EMPLOYERS TO PROVIDE WAGES AND BENEFITS THAT ARE INCONSISTENT WITH STATE AND FEDERAL LAW; AMENDING SECTION 7-1-111, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

WHEREAS, the Legislature finds that any mandate requiring an employer to provide a particular wage or employment benefit to an employee or class of employees in this state is a matter of statewide concern; and

WHEREAS, the enactment of any mandate by a political subdivision in this state requiring an employer to provide an employee or class of employees with a particular wage or employment benefit that is not required by state or federal law or the administration by a political subdivision of a state or federal mandated wage or employment benefit in a manner different than state and federal law would defeat statewide uniformity.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Short title. [Sections 1 through 3] may be cited as the "Political Subdivision Employer Mandate Prohibition Act".

Section 2. Definitions. As used in [sections 2 and 3], the following definitions apply:

(1) "Employee" means a person in this state who is in the service of an employer or engaged in employment as defined in 39-2-101, or under any appointment or contract of hire, written or oral, express or implied.

(2) "Employer" means a person or entity in this state that has one or more employees.

(3) "Employment benefit" means anything of value or any type of compensation, other than wages, provided by an employer to an employee without regard to whether the employer places a monetary value on the benefit or whether the benefit is subject to taxation.

(4) "Political subdivision" means a local government unit, including but not limited to a county, city, or town established under authority of Article XI, section 1 or 6, of the Montana constitution.

Section 3. Prohibitions -- application. (1) A political subdivision may not enact, administer, or otherwise require an employer to provide an employee or class of employees with a wage or employment benefit that is not required by state or federal law.

(2) [Sections 2 and 3] do not apply to a political subdivision affecting a wage or employment benefit for an employee or class of employees of that political subdivision.

Section 4. Section 7-1-111, MCA, is amended to read:

"7-1-111. (Subsection (21) effective October 1, 2021) Powers denied. A local government unit with self-government powers is prohibited from exercising the following:

- (1) any power that applies to or affects any private or civil relationship, except as an incident to the exercise of an independent self-government power;
- (2) any power that applies to or affects the provisions of 7-33-4128 or Title 39, except that subject to those provisions, it may exercise any power of a public employer with regard to its employees;
- (3) any power that applies to or affects the public school system, except that a local unit may impose an assessment reasonably related to the cost of any service or special benefit provided by the unit and shall exercise any power that it is required by law to exercise regarding the public school system;
- (4) any power that prohibits the grant or denial of a certificate of compliance or a certificate of public convenience and necessity pursuant to Title 69, chapter 12;
- (5) any power that establishes a rate or price otherwise determined by a state agency;
- (6) any power that applies to or affects any determination of the department of environmental quality with regard to any mining plan, permit, or contract;
- (7) any power that applies to or affects any determination by the department of environmental quality with regard to a certificate of compliance;
- (8) any power that defines as an offense conduct made criminal by state statute, that defines an offense as a felony, or that fixes the penalty or sentence for a misdemeanor in excess of a fine of \$500, 6

months' imprisonment, or both, except as specifically authorized by statute;

(9) any power that applies to or affects the right to keep or bear arms;

(10) any power that applies to or affects a public employee's pension or retirement rights as established by state law, except that a local government may establish additional pension or retirement systems;

(11) any power that applies to or affects the standards of professional or occupational competence established pursuant to Title 37 as prerequisites to the carrying on of a profession or occupation;

(12) except as provided in 7-3-1105, 7-3-1222, or 7-31-4110, any power that applies to or affects Title 75, chapter 7, part 1, or Title 87;

(13) any power that applies to or affects landlords, as defined in 70-24-103, when that power is intended to license landlords or to regulate their activities with regard to tenants beyond what is provided in Title 70, chapters 24 and 25. This subsection is not intended to restrict a local government's ability to require landlords to comply with ordinances or provisions that are applicable to all other businesses or residences within the local government's jurisdiction.

(14) subject to 7-32-4304, any power to enact ordinances prohibiting or penalizing vagrancy;

(15) subject to 80-10-110, any power to regulate the registration, packaging, labeling, sale, storage, distribution, use, or application of commercial fertilizers or soil amendments, except that a local government may enter into a cooperative agreement with the department of agriculture concerning the use and application of commercial fertilizers or soil amendments. This subsection is not intended to prevent or restrict a local government from adopting or implementing zoning regulations or fire codes governing the physical location or siting of fertilizer manufacturing, storage, and sales facilities.

(16) subject to 80-5-136(10), any power to regulate the cultivation, harvesting, production, processing, sale, storage, transportation, distribution, possession, use, and planting of agricultural seeds or vegetable seeds as defined in 80-5-120. This subsection is not intended to prevent or restrict a local government from adopting or implementing zoning regulations or building codes governing the physical location or siting of agricultural or vegetable seed production, processing, storage, sales, marketing, transportation, or distribution facilities.

(17) any power that prohibits the operation of a mobile amateur radio station from a motor vehicle,

including while the vehicle is in motion, that is operated by a person who holds an unrevoked and unexpired official amateur radio station license and operator's license, "technician" or higher class, issued by the federal communications commission of the United States;

(18) subject to 76-2-240 and 76-2-340, any power that prevents the erection of an amateur radio antenna at heights and dimensions sufficient to accommodate amateur radio service communications by a person who holds an unrevoked and unexpired official amateur radio station license and operator's license, "technician" or higher class, issued by the federal communications commission of the United States;

(19) any power to require a fee and a permit for the movement of a vehicle, combination of vehicles, load, object, or other thing of a size exceeding the maximum specified in 61-10-101 through 61-10-104 on a highway that is under the jurisdiction of an entity other than the local government unit;

(20) any power to enact an ordinance governing the private use of an unmanned aerial vehicle in relation to a wildfire;

(21) any power to prohibit completely adult-use providers, adult-use marijuana-infused products providers, and adult-use dispensaries from being located within the jurisdiction of the local government except as allowed in Title 16, chapter 12; or

(22) any power to require an employer, other than the local government unit itself, to provide an employee or class of employees with a wage or employment benefit that is not required by state or federal law."

Section 5. Codification instruction. [Sections 1 through 3] are intended to be codified as an integral part of Title 7, chapter 1, and the provisions of Title 7, chapter 1, apply to [sections 1 through 3].

Section 6. Effective date. [This act] is effective on passage and approval.

- END -

I hereby certify that the within bill,
SB 301, originated in the Senate.

Secretary of the Senate

President of the Senate

Signed this _____ day
of _____, 2021.

Speaker of the House

Signed this _____ day
of _____, 2021.

SENATE BILL NO. 301

INTRODUCED BY T. MANZELLA, J. ELLSWORTH, C. FRIEDEL, C. GLIMM, C. SMITH, G. VANCE

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