

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 861 Session of 2017

INTRODUCED BY GROVE, BLOOM, PHILLIPS-HILL, ORTITAY, DUNBAR, IRVIN, RYAN, MCGINNIS, ROTHMAN, MOUL, COX, ZIMMERMAN AND STAATS, MARCH 16, 2017

AS REPORTED FROM COMMITTEE ON LABOR AND INDUSTRY, HOUSE OF REPRESENTATIVES, AS AMENDED, OCTOBER 1, 2018

AN ACT

1 Amending Title 53 (Municipalities Generally) of the Pennsylvania
2 Consolidated Statutes, in preemptions, providing for employer
3 mandates by municipalities.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Title 53 of the Pennsylvania Consolidated
7 Statutes is amended by adding a section to read:

8 § 305. Employer mandates by municipalities.

9 (a) Regulation or enforcement prohibited.--Notwithstanding
10 any other law to the contrary, a municipality may not in any
11 manner regulate employer policies or practices or enforce any
12 mandate regarding employer policies or practices.

13 (b) Applicability.--This section shall not apply to a <--
14 mandate enacted by a municipality affecting an employee or class
15 of employees of the municipality itself. ANY OF THE FOLLOWING: <--

16 (1) A MANDATE ENACTED BY A MUNICIPALITY AFFECTING AN
17 EMPLOYEE OR CLASS OF EMPLOYEES OF THE MUNICIPALITY ITSELF.

1 (2) AN ORDINANCE AUTHORIZED BY THE ACT OF OCTOBER 27,
2 1955 (P.L.744, NO.222), KNOWN AS THE PENNSYLVANIA HUMAN
3 RELATIONS ACT.

4 (3) THE TERMS AND CONDITIONS OF COLLECTIVE BARGAINING
5 AGREEMENTS.

6 (c) Effect.--

7 (1) This section shall not be construed to invalidate an
8 ordinance, rule or policy enacted by a municipality prior to
9 January 1, 2015.

10 (2) An ordinance, rule or policy enacted by a
11 municipality on or after January 1, 2015, in violation of
12 subsection (a) is void.

13 (d) Relief.--If, on or after January 1, 2015, a municipality
14 enacts an ordinance, rule or policy in violation of subsection
15 (a), a person adversely affected may seek declaratory or
16 injunctive relief and actual damages in an appropriate court.

17 (e) Reasonable expenses.--

18 (1) The court shall award reasonable expenses to a
19 person adversely affected by a violation of subsection (a) in
20 any of the following circumstances:

21 (i) A final determination is granted by the court in
22 favor of the person adversely affected.

23 (ii) The underlying ordinance, rule or policy is
24 rescinded, repealed or otherwise abrogated after an
25 action has been filed under subsection (d) but before the
26 final determination by the court.

27 (2) If a person eligible for relief under subsection (d)
28 provides at least 30 days' written notice to the municipality
29 of the intention to file an action under subsection (d) and
30 the municipality subsequently takes steps to provide relief

1 to the person, the person shall also be eligible for
2 reasonable expenses.

3 (f) Definitions.--As used in this section, the following
4 words and phrases shall have the meanings given to them in this
5 subsection unless the context clearly indicates otherwise:

6 "Employee." An individual employed by an employer.

7 "Employer." Any individual, partnership, association,
8 corporation, business trust or any person or group of persons
9 acting, directly or indirectly, in the interest of an employer
10 in relation to an employee.

11 "Employer policies or practices." Policies or practices that
12 include, but are not limited to, any of the following topics:

13 (1) Wages, other compensation or benefits.

14 (2) Hiring or termination of employees.

15 ~~(3) The workplace.~~ <--

16 ~~(4) The relationship between employers and employees.~~

17 ~~(5) Sick and vacation leave for an employee.~~

18 (3) THE MANAGEMENT OF THE WORKPLACE, INCLUDING <--

19 SCHEDULING AND WORKPLACE PROCEDURES.

20 (4) THE RELATIONSHIP BETWEEN EMPLOYERS AND EMPLOYEES,
21 INCLUDING EMPLOYEE DISCIPLINE.

22 (5) PAID OR UNPAID EMPLOYEE LEAVE.

23 (6) THE TERMS AND CONDITIONS OF EMPLOYMENT.

24 "Municipality." A county, city, borough, incorporated town,
25 township, home rule charter, optional charter or optional plan
26 municipality, school district or a similar general purpose unit <--
27 of government that may be created by the General Assembly.

28 "REASONABLE EXPENSES." THE TERM INCLUDES, BUT IS NOT LIMITED <--
29 TO, ATTORNEY FEES, EXPERT WITNESS FEES, COURT COSTS AND
30 COMPENSATION FOR LOSS OF INCOME.

1 "Wages." As defined in section 3(d) of the act of January
2 17, 1968 (P.L.11, No.5), known as The Minimum Wage Act of 1968.
3 Section 2. This act shall take effect immediately.