

# **WEST VIRGINIA LEGISLATURE**

**2017 REGULAR SESSION**

**Engrossed**

**Committee Substitute**

**for**

**Committee Substitute**

**for**

**Senate Bill 399**

BY SENATORS FERNS, BLAIR AND TRUMP

[Originating in the Committee on the Judiciary;

reported on March 27, 2017]



1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,  
2 designated §21-5I-1, §21-5I-2 and §21-5I-3, all relating to prohibiting political subdivisions  
3 from enacting any ordinance, regulation, local policy, local resolution or other legal  
4 requirement regulating certain areas of the employer-employee relationship; establishing  
5 a short title; establishing areas where political subdivisions are prohibited from enacting  
6 or promulgating ordinances, local policies or local regulations; and providing for  
7 exceptions and applicability.

*Be it enacted by the Legislature of West Virginia:*

1 That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new  
2 article, designated §21-5I-1, §21-5I-2 and §21-5I-3, all to read as follows:

**ARTICLE 5I. LOCAL GOVERNMENT LABOR REGULATORY LIMITATION ACT.**

**§21-5I-1. Short title.**

1 This article shall be known and cited as the Local Government Labor Regulatory Limitation  
2 Act.

**§21-5I-2. Prohibited areas of regulation.**

1 A political subdivision, as defined in section three-c, article twelve-a, chapter twenty-nine  
2 of this code, shall not adopt, enforce or administer an ordinance, regulation, local policy, local  
3 resolution or other legal requirement regarding any of the following specific areas:

4 (a) Regulating information an employer or potential employer must request, require or  
5 exclude on an application for employment from an employee or a potential employee: *Provided,*  
6 That this section does not prohibit an ordinance, local policy or local resolution requiring a criminal  
7 background check for an employee or potential employee in connection with the receipt of a  
8 license or permit from a local governmental body;

9 (b) Requiring an employer to pay to an employee a wage higher than any applicable state  
10 or federal law;

11 (c) Requiring an employer to pay to an employee a wage or fringe benefit based on wage  
12 and fringe benefit rates prevailing in the locality;

13 (d) Regulating work stoppage or strike activity of employers and their employees or the  
14 means by which employees may organize;

15 (e) Requiring an employer to provide to an employee paid or unpaid leave time;

16 (f) Requiring an employer or its employees to participate in any educational apprenticeship  
17 or apprenticeship training program that is not required by state or federal law; or

18 (g) Regulating hours and scheduling that an employer is required to provide to employees:  
19 Provided, That this section does not prohibit an ordinance, local policy or local resolution that  
20 limits the hours a business may operate.

**§21-5I-3. Exceptions; applicability.**

1 (a) Nothing in this article shall be construed so as to prohibit a political subdivision from  
2 enforcing a written agreement voluntarily entered into and in effect prior to the effective date of  
3 this article.

4 (b) Any ordinance, regulation, local policy, local resolution or other legal requirement  
5 enacted or adopted prior to the effective date of this article that would be prohibited under section  
6 two of this article is void upon the effective date of this article.

7 (c) Section two of this article does not apply to the employees of a political subdivision and  
8 is not intended to prohibit a political subdivision from adopting, enforcing or administering an  
9 ordinance, regulation, local policy, local resolution or other legal requirement applicable to its own  
10 employees regarding any of the specific areas described in subsections (a) through (g), inclusive,  
11 thereof.

12 (d) Nothing in this article shall be construed as prohibiting or limiting a political subdivision  
13 from complying with the West Virginia Drug and Alcohol Free Workplace Act, set forth in article  
14 one-d, chapter twenty-one of this code, or otherwise requiring similar drug and alcohol policies  
15 and testing of a political subdivision's vendors.