

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Committee Substitute

for

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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.

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