

SENATE BILL NO. 241

INTRODUCED BY R. WEBB

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4 A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING POLITICAL SUBDIVISIONS FROM REQUIRING  
5 EMPLOYERS TO PROVIDE WAGES AND BENEFITS THAT ARE INCONSISTENT WITH STATE AND  
6 FEDERAL LAW; AMENDING SECTION 7-1-111, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

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

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

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

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

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

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

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

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

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

4            (2) [Sections 2 and 3] do not apply to a political subdivision affecting ~~an~~ A WAGE OR employment benefit  
 5 for an employee or class of employees of that political subdivision.

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 7            **SECTION 4. SECTION 7-1-111, MCA, IS AMENDED TO READ:**

8            **"7-1-111. Powers denied.** A local government unit with self-government powers is prohibited from  
 9 exercising the following:

10            (1) any power that applies to or affects any private or civil relationship, except as an incident to the  
 11 exercise of an independent self-government power;

12            (2) any power that applies to or affects the provisions of 7-33-4128 or Title 39 (labor, collective  
 13 bargaining for public employees, unemployment compensation, or workers' compensation), except that subject  
 14 to those provisions, it may exercise any power of a public employer with regard to its employees;

15            (3) any power that applies to or affects the public school system, except that a local unit may impose an  
 16 assessment reasonably related to the cost of any service or special benefit provided by the unit and shall exercise  
 17 any power that it is required by law to exercise regarding the public school system;

18            (4) any power that prohibits the grant or denial of a certificate of public convenience and necessity;

19            (5) any power that establishes a rate or price otherwise determined by a state agency;

20            (6) any power that applies to or affects any determination of the department of environmental quality with  
 21 regard to any mining plan, permit, or contract;

22            (7) any power that applies to or affects any determination by the department of environmental quality  
 23 with regard to a certificate of compliance;

24            (8) any power that defines as an offense conduct made criminal by state statute, that defines an offense  
 25 as a felony, or that fixes the penalty or sentence for a misdemeanor in excess of a fine of \$500, 6 months'  
 26 imprisonment, or both, except as specifically authorized by statute;

27            (9) any power that applies to or affects the right to keep or bear arms, except that a local government  
 28 has the power to regulate the carrying of concealed weapons;

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

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

4 (12) except as provided in 7-3-1105, 7-3-1222, or 7-31-4110, any power that applies to or affects Title  
5 75, chapter 7, part 1 (streambeds), or Title 87 (fish and wildlife);

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

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

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

18 (16) any power that prohibits the operation of a mobile amateur radio station from a motor vehicle,  
19 including while the vehicle is in motion, that is operated by a person who holds an unrevoked and unexpired  
20 official amateur radio station license and operator's license, "technician" or higher class, issued by the federal  
21 communications commission of the United States;

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

26 (18) any power to require an employer, other than for the political subdivision itself, to provide an  
27 employee or class of employees with a wage or employment benefit that is not required by state or federal law."

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29 NEW SECTION. SECTION 5. CODIFICATION INSTRUCTION. [SECTIONS 1 THROUGH 3] ARE INTENDED TO BE  
30 CODIFIED AS AN INTEGRAL PART OF TITLE 7, CHAPTER 1, AND THE PROVISIONS OF TITLE 7, CHAPTER 1, APPLY TO

1 [SECTIONS 1 THROUGH 3].

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3 NEW SECTION. **Section 6. Effective date.** [This act] is effective on passage and approval.

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