HOUSE BILL NO. 1241

1   AN ACT TO PROVIDE THAT THE REGULATION OF THE EMPLOYMENT
2 RELATIONSHIP BETWEEN A NONPUBLIC EMPLOYER AND ITS EMPLOYEES IS A
3 MATTER OF STATE CONCERN AND OUTSIDE THE EXPRESS OR IMPLIED
4 AUTHORITY OF LOCAL GOVERNMENTAL BODIES TO REGULATE, ABSENT EXPRESS
5 DELEGATION OF THAT AUTHORITY TO THE LOCAL GOVERNMENTAL BODY; TO
6 BRING FORWARD SECTION 17-1-51, MISSISSIPPI CODE OF 1972, WHICH
7 PROVIDES THAT NO COUNTY, BOARD OF SUPERVISORS OF A COUNTY,
8 MUNICIPALITY OR GOVERNING AUTHORITY OF A MUNICIPALITY MAY
9 ESTABLISH A MANDATORY, MINIMUM LIVING WAGE RATE AND MINIMUM NUMBER
10 OF VACATION OR SICK DAYS, FOR THE PURPOSE OF POSSIBLE AMENDMENT;
11 AND FOR RELATED PURPOSES.

12   BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

13   **SECTION 1.** (1) The Legislature finds that regulation of the

14 employment relationship between a nonpublic employer and its

15 employees is a matter of state concern and is outside the express

16 or implied authority of local governmental bodies to regulate,

17 absent express delegation of that authority to the local

18 governmental body.

19   (2) The following words and phrases shall have the meanings

20 as defined in this subsection unless the context clearly indicates

21 otherwise:

22   (a) "Employee" means a person employed in this state by
23 an employer.

24   (b) "Employer" means a person or entity engaging in or
25 intending to engage in a commercial activity, enterprise or
26 business in this state, but excludes a local governmental body or
27 an educational institution.

28   (c) "Local governmental body" means any local
29 government or its subdivision, including, but not limited to, a
30 city, village, township, county or educational institution; a
31 local public authority, agency, board, commission or other local
32 governmental, quasi-governmental, or quasi-public body; or a
33 public body that acts or purports to act in a commercial,
34 business, economic development or similar capacity for a local
35 government or its subdivision.

36   (d) "Ordinance, local policy or local resolution" does
37 not include the terms of an agreement voluntarily offered to a
38 local governmental body by an owner, purchaser or developer of
39 property.

40 (3) A local governmental body shall not adopt, enforce or
41 administer an ordinance, local policy or local resolution
42 regulating work stoppage or strike activity of employers and their
43 employees or the means by which employees may organize.

44 (4) A local governmental body shall not adopt, enforce or
45 administer an ordinance, local policy or local resolution

46 requiring an employer to provide to an employee paid or unpaid

47 leave time.

48 　　　(5)　A local governmental body shall not adopt, enforce or

49 administer an ordinance, local policy or local resolution

50 regulating hours and scheduling that an employer is required to

51 provide to employees. This subsection (5) does not prohibit an

52 ordinance, local policy or local resolution that limits the hours

53 a business may operate.

54 　　　(6)　A local governmental body shall not adopt, enforce or

55 administer an ordinance, local policy or local resolution

56 requiring an employer to provide to an employee any specific

57 fringe benefit or any other benefit for which the employer would

58 incur an expense.

59 　　　(7)　A local governmental body shall not adopt, enforce or

60 administer an ordinance, local policy or local resolution

61 regulating or creating administrative or judicial remedies for

62 wage, hour or benefit disputes.

63 　　　(8)　If any parts of this act are found to be in conflict

64 with the Mississippi Constitution, the United States Constitution,

65 or federal law, this act shall be implemented to the maximum

66 extent that the Mississippi Constitution, the United States

67 Constitution, or federal law permit. Any provision held invalid

68 or inoperative is severable from the remaining portions of this

69 section.

70   (9) This section does not prohibit a local governmental body

71 from adopting or enforcing an ordinance, policy or resolution

72 prohibiting employment discrimination.

73   (10) This section does not prohibit a local governmental

74 body from adopting, enforcing or administering an ordinance, local

75 policy or local resolution that provides for the terms and

76 conditions of a voluntary agreement between an employer and the

77 local governmental body in connection with the provision of

78 services directly related to the local governmental body or in

79 connection with the receipt of a grant, tax abatement or tax

80 credit from the local governmental body.

81   **SECTION 2.** Section 17-1-51, Mississippi Code of 1972, is

82 brought forward as follows:

83   17-1-51. (1) No county, board of supervisors of a county,

84 municipality or governing authority of a municipality is

85 authorized to establish a mandatory, minimum living wage rate,

86 minimum number of vacation or sick days, whether paid or unpaid,

87 that would regulate how a private employer pays its employees.

88 Each county, board of supervisors of a county, municipality or

89 governing authority of a municipality shall be prohibited from

90 establishing a mandatory, minimum living wage rate, minimum number

91 of vacation or sick days, whether paid or unpaid, that would

92 regulate how a private employer pays its employees.

93   (2) The Legislature finds that the prohibitions of

94 subsection (1) of this section are necessary to ensure an economic

95 climate conducive to new business development and job growth in

96 the State of Mississippi. We believe that inconsistent

97 application of wage and benefit laws from city to city or county

98 to county must be avoided. While not suggesting a state minimum

99 wage or minimum benefit package, any debate and subsequent action

100 on these matters should be assigned to the Mississippi Legislature

101 as provided in Section 25-3-40, and not local counties or

102 municipalities.

103   (3) The Legislature further finds that wages and employee

104 benefits comprise the most significant expense of operating a

105 business. It also recognizes that neither potential employees or

106 business patrons are likely to restrict themselves to employment

107 opportunities or goods and services in any particular county or

108 municipality. Consequently, local variations in legally required

109 minimum wage rates or mandatory minimum number of vacation or sick

110 leave days would threaten many businesses with a loss of employees

111 to local governments which require a higher minimum wage rate and

112 many other businesses with the loss of patrons to areas which

113 allow for a lower wage rate and more or less vacation or sick

114 days. The net effect of this situation would be detrimental to

115 the business environment of the state and to the citizens,

116 businesses and governments of the local jurisdictions as well as

117 the local labor markets.

118   (4) The Legislature concludes from these findings that, in

119 order for a business to remain competitive and yet attract and

120 retain the highest possible caliber of employees, and thereby

121 remain sound, an enterprise must work in a uniform environment

122 with respect to minimum wage rates, and mandatory minimum number

123 of vacation or sick leave days. The net impact of local

124 variations in mandated wages and mandatory minimum number of

125 vacation or sick leave days would be economically unstable and

126 create a decline and decrease in the standard of living for the

127 citizens of the state. Consequently, decisions regarding minimum

128 wage, living wage and other employee benefit policies must be made

129 by the state as provided in Section 25-3-40, so that consistency

130 in the wage market is preserved.

131   **SECTION 3.** This act shall take effect and be in force from

132 and after June 30, 2018.

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ST: Employment laws; revise those that may be
adopted by a local governmental body.